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S. HRG. 112–72, Pt.3

CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

HEARINGS

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JUNE 8, JUNE 22, JULY 13, AND JULY 27, 2011

Serial No. J–112–4

PART 3

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CONTENTS

June 8, 2011

STATEMENTS OF COMMITTEE MEMBERS

	Page
Franken, Hon. Al, a U.S. Senator from the State of Minnesota	1
Grassley, Hon. Chuck, a U.S. Senator from the State of Iowa	2
prepared statement	239

PRESENTERS

Schumer, Hon. Chuck, a U.S. Senator from the State of New York presenting Alison J. Nathan Nominee to be U.S. District Judge for the Southern District of New York and Katherine B. Forrest Nominee to be U.S. District for the Southern District of New York	3
Landrieu, Hon. Mary, a U.S. Senator from the State of Louisiana presenting Stephen A. Higginson Nominee to be U.S. Circuit Judge for the Fifth Circuit and Jane M. Triche-Milazzo Nominee to be U.S. District Judge for the Eastern District of Louisiana	4
Vitter, Hon. David, a U.S. Senator from the State of Louisiana presenting Stephen A. Higginson Nominee to be U.S. Circuit Judge for the Fifth Circuit and Jane M. Triche-Milazzo Nominee to be U.S. District Judge for the Eastern District of Louisiana	7
Boozman, Hon. John, a U.S. Senator from the State of Arkansas presenting Susan O. Hickey Nominee to be U.S. District Judge for the Western District of Arkansas	8
Pryor, Hon. Mark, a U.S. Senator from the State of Arkansas presenting Susan O. Hickey Nominee to be U.S. District Judge for the Western District of Arkansas	8

STATEMENT OF THE NOMINEES

Forrest, Katherine B., Nominee to be U.S. District for the Southern District of New York	127
Questionnaire	128
Hickey, Susan O., Nominee to be U.S. District Judge for the Western District of Arkansas	171
Questionnaire	172
Higginson, Stephen A., Nominee to be U.S. Circuit Judge for the Fifth Circuit	10
Questionnaire	15
Nathan, Alison J., Nominee to be U.S. District Judge for the Southern District of New York	93
Questionnaire	94
Triche-Milazzo, Jane M., Nominee to be U.S. Distrct Judge for the Eastern District of Louisiana	52
Questionnaire	53

QUESTIONS AND ANSWERS

Responses of Katherine B. Forrest to questions submitted by Senator Grassley	210
Responses of Susan O. Hickey to questions submitted by Senator Grassley	212
Responses of Stephen A. Higginson to questions submitted by Senator Grassley	214
Responses of Alison J. Nathan to questions submitted by Senator Grassley	219

Page

Responses of Jane M. Triche-Milazzo to questions submitted by Senator Grassley 224

SUBMISSIONS FOR THE RECORD

American Bar Association, Benjamin H. Hill, III, Chair, Washington, DC:
Katherine Forrest, May 6, 2011, letter 226
Susan Owens Hickey, April 7, 2011, letter 228
Stephen A. Higginson, May 10, 2011, letter 230
Alison J. Nathan, April 1, 2011, letter 232
Anthony Forest Products Co., Aubra Anthony, Jr., President and CEO, ElDorado, Arkansas, June 2, 2011, letter 234
Former Supreme Court Clerks, June 8, 2011, joint letter 235
Gillibrand, Hon. Kirsten E., a U.S. Senator from the State of New York, prepared statement 238
Landrieu, Hon. Mary, a U.S. Senator from the State of Louisiana, prepared statement 246
New York City Bar, Elizabeth Donoghue, Chair, New York, New York:
Katherine Forrest, June 14, 2011, letter 250
Alison J. Nathan, May 10, 2011, letter 250

Wednesday, June 22, 2011

STATEMENTS OF COMMITTEE MEMBERS

Blumenthal, Hon. Richard, a U.S. Senator from the State of Connecticut 253
Grassley, Hon. Chuck, a U.S. Senator from the State of Iowa 254
prepared statement 612

PRESENTERS

Casey, Hon. Robert P., Jr., a U.S. Senator from the State of Pennsylvania presenting Robert D. Mariani, Nominee to be U.S. District Judge for the Middle District of Pennsylvania; Cathy Bissoon, Nominee to be U.S. District Judge for the Western District of Pennsylvania; and Mark R. Hornak, Nominee to be U.S. District Judge for the Western District of Pennsylvania 258
Lieberman, Hon. Joseph, a U.S. Senator from the State of Connecticut presenting Christopher Droney, Nominee to be U.S. Circuit Judge for the Second Circuit 255
Nelson, Hon. Bill, a U.S. Senator from the State of Florida presenting Robert N. Scola Jr., Nominee to be U.S. District Judge for the Southern District of Florida 256
Rubio, Hon. Marco, a U.S. Senator from the State of Florida presenting Robert N. Scola Jr., Nominee to be U.S. District Judge for the Southern District of Florida 257
Toomey, Hon. Patrick J., a U.S. Senator from the State of Pennsylvania presenting Robert D. Mariani, Nominee to be U.S. District Judge for the Middle District of Pennsylvania; Cathy Bissoon, Nominee to be U.S. District Judge for the Western District of Pennsylvania; and Mark R. Hornak, Nominee to be U.S. District Judge for the Western District of Pennsylvania 260
Whitehouse, Hon. Sheldon, a U.S. Senator from the State of Rhode Island presenting Christopher Droney Nominee to be U.S. Circuit Judge for the Second Circuit 261

STATEMENT OF THE NOMINEES

Bissoon, Cathy, Nominee to be U.S. District Judge for the Western District of Pennsylvania 402
Questionnaire 403
Droney, Christopher, Nominee to be U.S. Circuit Judge for the Second Circuit 261
Questionnaire 264
Hornak, Mark R., Nominee to be U.S. District Judge for the Western District of Pennsylvania 458
Questionnaire 459
Mariani, Robert D., Nominee to be U.S. District Judge for the Middle District of Pennsylvania 359
Questionnaire 360

Page

Scola, Robert N., Jr., Nominee to be U.S. District Judge for the Southern District of Florida 517
Questionnaire 518

QUESTIONS AND ANSWERS

Responses of Cathy Bissoon to questions submitted by Senator Grassley 589
Responses of Christopher Droney to questions submitted by Senator Grassley 591
Responses of Mark R. Hornak to questions submitted by Senator Grassley 595
Responses of Robert D. Mariani to questions submitted by Senator Grassley .. 598
Responses of Robert N. Scola, Jr., to questions submitted by Senator Grassley 601

SUBMISSIONS FOR THE RECORD

American Bar Association, Benjamin H. Hill, III, Chair, Washington, DC:
Cathy Bissoon, November 18, 2010, letter 603
Christopher Droney, May 6, 2011, letter 604
Mark Raymond Hornak, December 1, 2010, letter 606
Robert David Mariani, December 1, 2010, letter 608
Robert N. Scola, Jr., May 6, 2011, letter 610
Jayne, Kevin L., New York, New York, February 21, 2011, letter 622
Lieberman, Hon. Joseph, a U.S. Senator from the State of Connecticut 624
Moreno, Federico A., Chief U.S. District Judge, Southern District of Florida, Miami, Florida, July 21, 2011, letter and attachments 630
New York City Bar, Elizabeth Donoghue, Chair, New York, New York, June 14, 2011, letter 635
Rubio, Hon. Marco, a U.S. Senator from the State of Florida, statement 636
Rundle, Katherine Fernandez, State Attorney, Eleventh Judicial Circuit of Florida, Miami, Florida, June 13, 2011, letter 638

Wednesday, July 13, 2011

STATEMENTS OF COMMITTEE MEMBERS

Page

Coons, Hon. Christopher, a U.S. Senator from the State of Delaware 649
Hatch, Hon. Orrin G., a U.S. Senator from the State of Utah 650
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont, prepared statement 980

PRESENTERS

Barrasso, Hon. John, a U.S. Senator from the from the State of Wyoming presenting Scott W. Skavdahl, of Wyoming, Nominee to be District Judge for the District of Wyoming 643
Begich, Hon. Mark, a U.S. Senator from the State of Alaska presenting Morgan Christen, of Alaska, Nominee to be Circuit Judge for the District of Alaska and Sharon L. Gleason, of Alaska, Nominee to be District Judge for the District of Alaska 648
Carper, Hon. Thomas R., a U.S. Senator from the State of Delaware presenting Richard G. Andrews, of Delaware, Nominee to be District Judge for the District of Delaware 643
Enzi, Hon. Michael B., a U.S. Senator from the State of Wyoming presenting Scott W. Skavdahl, of Wyoming, Nominee to be District Judge for the District of Wyoming 642
Feinstein, Hon. Dianne, a U.S. Senator from the State of California presenting Yvonne Gonzalez Rogers, of California, Nominee to be District Judge for the Northern District of California 640
Murkowski, Hon. Lisa, a U.S. Senator from the State of Alaska presenting Morgan Christen, of Alaska, Nominee to be Circuit Judge for the District of Alaska and Sharon L. Gleason, of Alaska, Nominee to be District Judge for the District of Alaska 646

STATEMENT OF THE NOMINEES

Andrews, Richard G., of Delaware, Nominee to be District Judge for the District of Delaware 828

Page

Andrews, Richard G., of Delaware, Nominee to be District Judge for the District of Delaware—Continued
Questionnaire 829
Christen, Morgan, of Alaska, Nominee to be Circuit Judge for the District of Alaska 651
Questionnaire 652
Gleason, Sharon L., of Alaska, Nominee to be District Judge for the District of Alaska 730
Questionnaire 731
Rogers, Yvonne Gonzalez, of California, Nominee to be District Judge for the Northern District of California 780
Questionnaire 781
Skavdahl, Scott W., of Wyoming, Nominee to be District Judge for the District of Wyoming 882
Questionnaire 883

QUESTIONS AND ANSWERS

Responses of Richard G. Andrews to questions submitted by Senator Grassley 940
Responses of Morgan Christen to questions submitted by Senator Grassley 943
Responses of Sharon L. Gleason to questions submitted by Senator Grassley 949
Responses of Yvonne Gonzalez Rogers to questions submitted by Senator Grassley 956
Responses of Scott W. Skavdahl to questions submitted by Senator Grassley 959

SUBMISSIONS FOR THE RECORD

American Bar Association (ABA), Benjamin H. Hill, III, Chair, Washington, DC:
Richard G. Andrews, May 12, 2011, letter 962
Morgan Christen, May 19, 2011, letter 964
Sharon L. Gleason, April 20, 2011, letter 966
Yvonne Gonzales Rogers, May 10, 2011, letter 968
Scott W. Skavdahl, February 17, 2011, letter 970
Anchorage Association of Women Lawyers, Christine V. Williams, President, Anchorage, Alaska, July 8, 2011, letter 972
California Women Lawyers (CWL), Patricia Sturdevant, President, Sacramento, California, June 7, 2011, letter 974
Carper, Hon. Tom, a U.S. Senator from the State of Delaware, prepared statement 976
Boxer, Hon. Barbara, a U.S. Senator from the State of California, prepared statement 977
Gibbons, Hon. Lile R., a U.S. House of Representative from the State of Connecticut, July 5, 2011, letter 978
Kaplan, Diane, President, Rasmuson Foundation, Anchorage, Alaska, July 11, 2011, letter 979
McMillian, Dennis G., former Executive Director, United Way of Anchorage, July 5, 2011, letter 983
Monegan, Walt, former Commissioner, Department of Public Safety, State of Alaska, July 8, 2011, letter 985
O'Neill, Gloria, President/CEO, Cook Inlet Tribal Council, Anchorage, Alaska, July 1, 2011, letter 986
Sturgulewski, Arliss, Former Alaska State Senator, July 7, 2011, letter 988

Wednesday, July 27, 2011

STATEMENTS OF COMMITTEE MEMBERS

Page

Cornyn, Hon. John, a U.S. Senator from the State of Texas, prepared statement 1288
Grassley, Hon. Chuck, a U.S. Senator from the State of Iowa, prepared statement 1305
Kyl, Hon. Jon, a U.S. Senator from the State of Arizona, memberships, activities and awards for Judge Zipps 1313
Schumer, Hon. Charles, a U.S. Senator from the State of New York 989
prepared statement 1319

Page

PRESENTERS

Cornyn, Hon. John, a U.S. Senator from the State of Texas presenting James Rodney Gilstrap, Nominee to be U.S. District Judge for the Eastern District of Texas 991
Hutchison, Hon. Kay Bailey, a U.S. Senator from the State of Texas presenting James Rodney Gilstrap, Nominee to be U.S. District Judge for the Eastern District of Texas 990
Kyl, Hon. Jon, a U.S. Senator from the State of Arizona presenting Jennifer Guerin Zipps, Nominee to be U.S. District Judge for the District of Arizona 993
McCain, Hon. John, a U.S. Senator from the State of Arizona presenting Jennifer Guerin Zipps, Nominee to be U.S. District Judge for the District of Arizona 992
Schumer, Hon. Charles, a U.S. Senator from the State of New York presenting Andrew L. Carter, Jr., Nominee to be U.S. District Judge for the Southern District of New York; Jesse M. Furman, Nominee to be U.S. District Judge for the Southern District of New York; and Edgardo Ramos, Nominee to be U.S. District Judge for the Southern District of New York 994

STATEMENT OF THE NOMINEES

Carter, Andrew L., Jr., Nominee to be U.S. District Judge for the Southern District of New York 1042
Questionnaire 1043
Furman, Jesse M., Nominee to be U.S. District Judge for the Southern District of New York 1086
Questionnaire 1088
Gilstrap, James Rodney, Nominee to be U.S. District Judge for the Eastern District of Texas 1130
Questionnaire 1131
Ramos, Edgardo, Nominee to be U.S. District Judge for the Southern District of New York 996
Questionnaire 997
Zipps, Jennifer Guerin, Nominee to be U.S. District Judge for the District of Arizona 1199
Questionnaire 1200

QUESTIONS AND ANSWERS

Responses of Andrew L. Carter, Jr. to questions submitted by Senators Grassley and Klobuchar 1262
Responses of Jesse M. Furman to questions submitted by Senators Grassley and Klobuchar 1265
Responses of James Rodney Gilstrap to questions submitted by Senators Grassley and Klobuchar 1269
Responses of Edgardo Ramos to questions submitted by Senators Grassley and Klobuchar 1272
Responses of Jennifer Guerin Zipps to questions submitted by Senators Grassley and Klobuchar 1275

SUBMISSIONS FOR THE RECORD

American Bar Association (ABA), Benjamin H. Hill, III, Chair, Washington, DC:
Andrew L. Carter, Jr., May 20, 2011, letter 1278
Jess Furman, June 8, 2011, letter 1280
James Rodney Gilstrap, May 20, 2011, letter 1282
Edgardo Ramos, May 6, 2011, letter 1284
Jennifer Guerin Zipps, June 24, 2011, letter 1286
Law Clerks, former, July 1, 2011, joint letter 1292
Law School Classmates, former, July 6, joint letter 1296
Mukasey, Michael B., New York, New York, July 27, 2011, letter 1314
New York City Bar, Elizabeth Donoghue, Chair, New York, New York:
Andrew Carter, July 13, 2011, letter 1316
Jesse Furman, July 13, 2011, letter 1317
Edgardo Ramos, June 14, 2011, letter 1318

Page

ALPHABETICAL LIST OF NOMINEES

Andrews, Richard G., of Delaware, Nominee to be District Judge for the District of Delaware 828
Bissoon, Cathy, Nominee to be U.S. District Judge for the Western District of Pennsylvania 402
Carter, Andrew L., Jr., Nominee to be U.S. District Judge for the Southern District of New York 1042
Christen, Morgan, of Alaska, Nominee to be Circuit Judge for the District of Alaska 651
Droney, Christopher, Nominee to be U.S. Circuit Judge for the Second Circuit 261
Forrest, Katherine B., Nominee to be U.S. District for the Southern District of New York 127
Furman, Jesse M., Nominee to be U.S. District Judge for the Southern District of New York 1086
Gilstrap, James Rodney, Nominee to be U.S. District Judge for the Eastern District of Texas 1130
Gleason, Sharon L., of Alaska, Nominee to be District Judge for the District of Alaska 730
Hickey, Susan O., Nominee to be U.S. District Judge for the Western District of Arkansas 171
Higginson, Stephen A., Nominee to be U.S. Circuit Judge for the Fifth Circuit 10
Hornak, Mark R., Nominee to be U.S. District Judge for the Western District of Pennsylvania 458
Mariani, Robert D., Nominee to be U.S. District Judge for the Middle District of Pennsylvania 359
Nathan, Alison J., Nominee to be U.S. District Judge for the Southern District of New York 93
Ramos, Edgardo, Nominee to be U.S. District Judge for the Southern District of New York 996
Rogers, Yvonne Gonzalez, of California, Nominee to be District Judge for the Northern District of California 780
Scola, Robert N., Jr., Nominee to be U.S. District Judge for the Southern District of Florida 518
Skavdahl, Scott W., of Wyoming, Nominee to be District Judge for the District of Wyoming 882
Triche-Milazzo, Jane M., Nominee to be U.S. Distrct Judge for the Eastern District of Louisiana 52
Zipps, Jennifer Guerin, Nominee to be U.S. District Judge for the District of Arizona 1199

NOMINATIONS OF STEPHEN A. HIGGINSON, NOMINEE TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT; JANE M. TRICHE-MILAZZO, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA; ALISON J. NATHAN, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; KATHERINE B. FORREST, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; SUSAN O. HICKEY, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS

WEDNESDAY, JUNE 8, 2011

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC

The Committee met, pursuant to notice, at 2:33 p.m., Room 226, Dirksen Senate Office Building, Senator Al Franken, presiding.

Present: Senators Schumer and Grassley.

OPENING STATEMENT OF HON. AL FRANKEN, A U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator FRANKEN. This hearing is called to order.

Before we begin, I'd like to welcome all of you here today to the Senate Judiciary Committee. While the entire Senate must provide their advice and consent to the President on nominations, the Judiciary Committee is uniquely charged with the important duty of evaluating the President's judicial nominees prior to their confirmation by the full Senate.

We are honored today to have these accomplished nominees here with us and look forward to hearing from them.

Today we will consider five nominations: Steven A. Higginson, for U.S. Circuit Judge for the Fifth Circuit; Judge Jane M. Triche-Milazzo, for U.S. District Judge for the Eastern District of Louisiana; Alison J. Nathan, for District Judge for the Southern District of New York; Katherine B. Forrest, for District Judge for the Southern District of New York; Judge Susan O. Hickey, for District Judge for the Western District of Arkansas.

We are fortunate to have some of these nominees home State Senators and Representatives here to introduce them, so we will turn to them shortly. But before we do, I'll turn the floor over to my good friend, the Ranking Member, Senator Grassley, for his opening remarks.

STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. Thank you, Mr. Chairman. I welcome our nominees, as my Chairman has done, and of course, family and friends who are proud of everybody that's been nominated.

Nomination hearings are important events not only for the nominee and for the family, but also for this institution and for the public. The advice and consent function of the Senate is a critical step in the process. This hearing, and other hearings, give Senators further information to consider as we contemplate whether or not to give that consent.

In *Federalist Papers 76*, Alexander Hamilton wrote, "To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon the spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."

In other words, the Senate has a role in preventing the appointment of judges, or simply political favorites of the President, or of those who are not qualified to serve as Federal judges.

So I would remind my colleagues of what then-Senator Obama stated about this duty. Six years ago today, June 8, 2005, in connection with the attempted filibuster of Janice Rogers Brown, he stated: This is Senator Obama: "Now the test for a qualified judicial nominee is not simply whether they are intelligent. Some of us who attended law school or were in business know there are a lot of real smart people out there whom you would not put in charge of stuff. The test of whether a judge is qualified to be a judge is not their intelligence, it is their judgment."

A few months later, on January 26, 2006 when debating the Alito nomination, then-Senator Obama stated: "There are some who believe that the President, having won the election, should have the complete authority to appoint his nominee, and the Senate should only examine whether or not the Justice is intellectually capable and an all-around nice guy. That once you get beyond intellect and personal character, there should be no further question whether a judge should be confirmed."

Senator Obama continued, "I disagree with this view. I believe firmly that the Constitution calls for the Senate to advise and consent. I believe that it calls for meaningful advice and consent that includes an examination of a judge's philosophy, ideology, and record."

So, Mr. Chairman, our inquiry of the qualifications of nominees must be more than intelligence, a pleasant personality, or a prestigious clerkship. At the beginning of this Congress, I articulated my standards for judicial nominees. I want to ensure that the men

and women who are appointed to a lifetime position in the Federal judiciary are qualified to serve. Factors I consider important include intellectual ability, respect for the Constitution, fidelity to the law, personal integrity, appropriate judicial temperament, and professional competence.

In applying these standards, I have demonstrated good faith in ensuring fair consideration of judicial nominees. I have worked with the Majority to confirm consensus nominees. However, as I have stated more than once, the Senate must not place quantity confirmed over quality confirmed. These lifetime appointments are too important to the Federal judiciary and the American people to simply rubber-stamp them.

I am becoming increasingly concerned about some of the judicial nominations being sent to the Senate. In a few individual cases it's very troublesome. Perhaps the White House has grown tired of my observation that, for most of this President's term, a majority of vacancies had no pending nominee. But in their rush to remedy that situation, I would hope that they would not send up nominees who lack appropriate experience or who otherwise fail to meet the standards I previously mentioned.

I am sure it is no surprise to you, but I have a longer statement I am going to put in the record.

Senator FRANKEN. That will be included in the record. I thank the Ranking Member, who is very intelligent and all-around nice guy.

Senator GRASSLEY. Well, thank you.

[Laughter.]

[The prepared statement of Senator Grassley appears as a submission for the record.]

Senator FRANKEN. Now I'd like to recognize my distinguished colleague, also very intelligent and very all-around—I'm not going to—you know I'm going to recognize a lot of Senators, so I'm going to stop this because Senator Landrieu and Senator Vitter are here, all very nice people.

[Laughter.]

Senator GRASSLEY. So far he's been very bipartisan.

[Laughter.]

Senator FRANKEN. And bi-gender, too.

[Laughter.]

Senator FRANKEN. Thanks for pointing that out. OK.

So, Senator Schumer will introduce Ms. Nathan and Ms. Forrest.

PRESENTATION OF ALISON J. NATHAN, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK AND KATHERINE B. FORREST NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK BY HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. Thank you, Mr. Chairman. I appreciate the opportunity to introduce two outstanding nominees. I share another thing in common with my colleague from Iowa. Not only the same first name and the same nickname and the same middle initial, but I have a statement that I'd like read into the record so we can get to the nominees.

Senator FRANKEN. Without objection, that will be included in the record.

Senator SCHUMER. Thank you.

Anyway, we have two fine candidates for the bench at the Southern District of New York. They have different backgrounds, and each in her own way represents the best that the New York Bar has to offer.

First, Alison Nathan is a gifted young lawyer whom New Yorkers would be fortunate to have on the bench, hopefully for a very long time. She's a native of Philadelphia, but has called New York City her home for some time. She graduated at the top of her class from both Cornell University and Cornell Law School, where she was editor-in-chief of the *Cornell Law Review*; worked as a litigator for 4 years at the preeminent firm of Wilmer Hale, and has served in two of the three branches of government.

She clerked for the Ninth Circuit Court of Appeals, Judge Betty Fletcher, and then recently for Supreme Court Justice John Paul Stevens. She served with distinction as Special Assistant to President Obama and as Associate White House Counsel, and now as Special Counsel to the Solicitor General of New York.

Ms. Nathan has had a remarkably varied experience, all of it directly relevant to the breadth of perspective and judgment she'll bring to the bench.

Katherine Forrest is also young, but an extraordinary, accomplished lawyer whose practice has been particularly well-suited to the needs of litigants in the Southern District. Born in New York City, she received her B.A. from Wesleyan, a law degree from New York University Law School, spent the majority of her career in private practice at the prestigious top-line firm, filled with very intelligent, all-around nice guys and gals, of Cravath, Swaine & Moore, where she was on the National A List of Practitioners.

She was named one of American Lawyer's Top 50 Litigators under 45; currently serves as Deputy Attorney General in the Antitrust Division of the Department of Justice, where I know she is very well-regarded and has served with great distinction. I look forward to Ms. Forrest's transition from one position of service to our country to the next, and thank both of these nominees for putting themselves forward to join the Southern District of New York, the bench there.

Senator FRANKEN. Thank you, Senator Schumer.

Now to Senator Landrieu and Senator Vitter, who will introduce Professor Higginson and Judge Triche-Milazzo.

PRESENTATION OF STEPHEN A. HIGGINSON NOMINEE TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT AND JANE M. TRICHE-MILAZZO NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA BY HON. MARY LANDRIEU, A U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator LANDRIEU. Thank you, Mr. Chairman. I really appreciate the opportunity to present such outstanding candidates to you and to the Committee for your consideration today.

I'm going to start by saying I'm going to have to slip out right afterwards, as I'm chairing a hearing in just a few minutes right down the hall.

Senator FRANKEN. And the same for every Senator. I know you've got plenty to do.

Senator LANDRIEU. Thank you so much.

Senator FRANKEN. And I want to thank all Senators who are here to introduce the nominees.

Senator LANDRIEU. Thank you so much.

Let me begin by presenting Mr. Steven Higginson, who is before you today for a nominee—as a nominee to the Fifth Circuit Court of Appeals. Before I begin going into, just briefly, his academic credentials, which are extraordinary, let me say that he's surrounded by a very proud family, including his parents, Charles and Genevra Higginson; his brothers, Timothy and Philip; his children, Christopher, Cadie and Noelle; and his wife, Collete Creppell.

I'm very happy, Mr. Chairman, and I think you and the Ranking Member will be very pleased to hear, that this is not the only special occasion of this family, as extraordinary as it is today. His two girls, two of his three children, have just returned from Germany where they played, and won, the World Championship for the U.S. of A on the Girls U–15 Women's Soccer Club. So can we all give them a hand, please?

[Applause].

Senator LANDRIEU. Their Louisiana teammates represented our United States very well on the field. Their father will represent our country and the constituents that we seek to serve each and every day beautifully on this bench, should your Committee and the Senate approve his nomination.

I'll have to be honest, Mr. Chairman. When I began my search for someone that could replace Judge Jacques Wiener on the Fifth Circuit, who was an outstanding judge, I was not familiar with Mr. Higginson personally. But as my Committee met and reviewed a list of potential nominees that could serve on this very important and historic bench, his academic record and his achievements literally just jumped off the pages to me as I was reviewing them in some detail.

Let me just hit the highlights. He earned his first degree from Harvard summa cum laude. After graduating, he earned a Master's in Philosophy from Cambridge as a Harvard Scholar. With degrees from two of the most prestigious institutions on the planet, he then decided to pursue a J.D. from Yale Law School.

When he graduated 3 years later, Steven had earned the extraordinary distinction of being both editor-in-chief of the *Yale Law Review* and the winner of the Israel H. Perez prize for Best-Written Contribution to the Law Review.

After graduating from Yale Law School, he served as clerk to Hon. Patricia M. Wald, who is with us today, from the U.S. Court of Appeals for the District of Columbia and we are honored to have Honorable Patricia Wald with us today.

He then went on to serve as law clerk to Brian White on the U.S. Supreme Court, Justice Brian White. Since 1993, he's resided in New Orleans, initially serving as Assistant U.S. Attorney for the Eastern District, doing an outstanding job.

Mr. Chairman, after only 2 years in that office he became Chief of Appeals. As Chief of Appeals, he personally handled and supervised all criminal and civil appeals in the District, editing or writ-

ing more than 100 appellate briefs and presenting numerous oral arguments before the Fifth Circuit Court of Appeals, a court he is now being nominated to serve.

Very briefly and in conclusion, he has, in addition to all of this, become a full-time Associate Professor of Law at Loyola University, and earned the honor of Professor of the Year for each of the 3 years of teaching at Loyola. I don't believe I could have found, if I had looked, anyone more qualified. He is a tremendous intellectual asset, great father, great member of our community, and his character is quite apparent in the achievements represented here. I will submit the rest for the record.

[The prepared statement of Senator Landrieu appears as a submission for the record.]

Senator LANDRIEU. Next, I would like to submit an outstanding young woman, Jane Triche-Milazzo, who is already a judge, having been elected a year ago in Louisiana. She is joined by her husband, John Milazzo, her son Richard, her daughter Ann, her stepson Jack, and her godson, Sam. We have very large and extended families in Louisiana.

Unable to join Judge Triche-Milazzo is her son Joe, who was deployed just yesterday with the Louisiana National Guard for a tour in Afghanistan. So in both of these families represented, they are carrying the American flag all over this world, literally, and here this morning in the Committee.

I've known Jane literally my whole life. She's an outstanding individual, a tremendous citizen of our State. She's demonstrated, through her private practice in a small town in Louisiana, in Napoleanville, Louisiana, and as a judge for Louisiana's Twenty-Third District, that she is qualified, energetic, and ready for this position.

She graduated magna cum laude from Nichols State University, a fine university in our State. After graduating, she did not immediately pursue a law degree, which I find very interesting. She thought her first calling might be to teaching, and she got a degree and went into the classroom to teach at the elementary level.

But because she came from a family of outstanding lawyers, she eventually found her way to law school, getting her J.D. from Louisiana State University, and after law school spent 6 years as Associate Attorney at the Napoleanville law firm before being promoted to partner.

She has a long list of accomplishments, including LSU Law School Board of Trustees, American Bar Association, Fifth Circuit Court Bar Association, Judicial Bar Association, Baton Rouge Bar Association, et cetera.

She was, again, elected first female judge in the history of Louisiana's Twenty-Third judicial district.

I am so pleased and honored to present both of these, Mr. Chairman, for your consideration, and the Committee. I know that as you review their resume and see the character that these two people will bring to the bench, Mr. Grassley and Mr. Franken—Senator Grassley and Senator Franken—you will not be disappointed should you see them through to the Senate. Thank you.

Senator FRANKEN. Thank you, Senator Landrieu.

Senator Vitter.

PRESENTATION OF STEPHEN A. HIGGINSON NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE FIFTH CIRCUIT AND JANE M. TRICHE-MILAZZO NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA BY HON. DAVID VITTER, A U.S. SENATOR FROM THE STATE OF LOUISIANA

Senator VITTER. Thank you very much, Mr. Chairman, Ranking Member Grassley. You know, when I was listening to the Ranking Member's comments quoting the *Federalist Papers*, it just struck me, and I hope we all pause occasionally and are properly thrilled and honored about our personal role in things that the Constitution put in place and that the *Federalist Papers* were about. Maybe we're so busy we don't do that often enough, but it struck me at that moment. I'm personally honored and thrilled to be a small part of this process. I know our nominees and their families feel that way, particularly today.

And I think Senator Landrieu and I, being so united and so enthusiastic—and we are—about our two Louisiana nominees, is a great example of how it's supposed to work, as cited in the *Federalist Papers* and how it has worked in practice in this case, and that's a great thing. And so I certainly join Mary in being extremely, not just supportive, but enthusiastic about our nominees.

Steven Higginson. Mary outlined most of his background. He has unbelievable academic and intellectual credentials that are unquestioned. He also has served as an Assistant U.S. Attorney, particularly focusing on appeals. In that role he has gotten high, high praise from every part of the Bar, every part of the bench. He's just won the respect of everyone in the community based on his work ethic, and his honesty, and his integrity, and his dedication to the job.

In that, he has authored over 100 Federal appellate briefs. He's reviewed more than 300 additional Federal appellate briefs. Obviously his academic background, his clerkship with Justice White, other parts of his background, have served him exceedingly well in that regard.

Because of that he also won the Excellence in Law Enforcement award from the New Orleans Metropolitan Crime Commission, and a lot of that has to do with, he was very involved, and a leader, on many of our most important and most difficult recent public corruption cases.

I can tell you, being a Louisiana citizen, his and others' work on those public corruption cases has been an enormous public service that we're all grateful for. So I'm really, really excited to join with Mary in wholeheartedly supporting this nomination.

I also certainly join with her, and I'm extremely supportive of, the nomination of Judge Jane Triche-Milazzo as well. Again, I agree with Mary. I think an interesting and really helpful part of her background is that she didn't go immediately into law. She was a school teacher, elementary school teacher, a very good one before going to LSU Law School. Then she practiced law and has served as a State Court judge on Louisiana's Twenty-Third Judicial District Court for several years and has won everyone's respect there.

I also want to mention the dedication and public service of her family, including her son who is currently in the U.S. Army and was just deployed to Afghanistan. So, we certainly thank Judge

Triche-Milazzo and her family and her son for that dedication and public service and sacrifice of the entire family.

So I'm delighted to join with Mary in strongly endorsing both of these nominees, and thank you all for having this hearing that includes them both.

Senator FRANKEN. Thank you very much, Senator Vitter.

Let's go now to Senator Boozman, who will talk about, I guess, Judge Hickey.

PRESENTATION OF SUSAN O. HICKEY NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS BY HON. JOHN BOOZMAN, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator BOOZMAN. Thank you, Chairman Franken and Ranking Member Grassley, for allowing me to speak at this important hearing today. I am proud to be here and join with my senior Senator from Arkansas, Mark Pryor, to introduce and support Susan Hickey's nomination as U.S. District Judge for the Western District of Arkansas. Her extensive experience and her impressive background unanimously qualify her for the position of District judge.

Born in Dallas, Texas, Susan moved to the State of Arkansas when she was 5 years old. She graduated from Flippin High School and was valedictorian of her class. A fellow Razorback, she attended the University of Arkansas, where she received a bachelor's degree in Psychology. She then continued her education at the University of Arkansas School of Law, where she impressively completed her law degree in only two and a half years.

After law school, Susan moved to South Arkansas and was employed at a private law firm, and later Murphy Oil Corporation. After taking time off to be with her three sons, she clerked at the U.S. District Court in El Dorado, before being appointed by Governor Mike Bebe to fill the position of Circuit Judge for the Thirteenth Judicial District in September of 2010.

One of the most important things that we do in the Senate is the confirmation of judges, the process of selecting people with the right temperament and the right qualifications. I believe that Susan Hickey will do a great job and that we will all be very proud of her future service on the bench. I congratulate her on her nomination and strongly support her confirmation.

Thank you, and I yield back.

Senator FRANKEN. Thank you, Senator.

We'll go to Senator Pryor.

PRESENTATION OF SUSAN O. HICKEY NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS BY HON. MARK PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator PRYOR. Thank you. Thank you, Mr. Chairman and Senator Grassley. Thank you all for having us here today.

I would like to thank the family and friends of Susan who have made the trip to Washington, DC to be with her on this very special day, her husband Joe Hickey, along with her two sons, Patrick and Michael Hickey are here. She also has two special friends in

attendance, Becky and Ernie Cagle. So I want to thank all them for being here.

Mr. Chairman, I am honored to sit before you today and recommend Susan for confirmation as a Federal judge for the Western District of Arkansas. Throughout the confirmation process, I believe this Committee will come to understand why Susan has earned a reputation, in legal circles and around the State of Arkansas, as a hard worker and as a brilliant lawyer.

While this Committee has seen more than its fair share of polarizing nominees, you will find that Susan is not. She is well-respected in Arkansas legal circles and has a strong commitment to a fair, impartial legal system

Susan Hickey is currently a Circuit Judge for the Thirteenth Judicial District in El Dorado, Arkansas, where she has jurisdiction over civil, criminal, juvenile, domestic relations, and probate matters in six counties. She also served as a career judicial clerk to Judge Harry Barnes and the Western District of Arkansas, who she will replace if she's confirmed.

She started her career as a lawyer and a staff attorney at Murphy Oil Corporation in El Dorado from 1981 to 1984. She earned her law degree at the University of Arkansas School of Law in 1980. She received her B.A. from the University of Arkansas in 1977.

As you all know from my background as Attorney General, I have a lot of roots in the Arkansas Bar and Arkansas legal community, and as such have a lot of friends and acquaintances, both personal and professional, who do not hesitate to give me advice and counsel regarding legal issues, especially concerning Federal judgeships.

When Susan's name began to circulate for this nomination, I only received praise from her colleagues. Susan has the smarts, the credentials, the experience, and the judicial temperament to be a great Federal judge. In my mind, she has all the tools, and I believe the members of this Committee will also find that this candidate exemplifies the proper credentials and temperament to do so.

Thank you, Mr. Chairman.

Senator FRANKEN. Thank you, Senator Pryor.

Before we turn to our first panel, Professor Higginson, I would just like to add to the record this letter from Senator Gillebrand offering strong support for the nomination of Ms. Nathan.

[The prepared statement of Senator Gillebrand appears as a submission for the record.]

Senator FRANKEN. OK. Now we will begin our first panel. Professor Higginson, will you take your seat? Well, actually, why don't you not—just stand and raise your right hand. There you go.

[Whereupon, the nominee was duly sworn.]

Senator FRANKEN. Thank you.

Now, is your daughter the soccer player here?

Professor HIGGINSON. Yes. My twin daughters are. They're both here.

Senator FRANKEN. Yes. OK. You can stay seated, or you can stand doing this. I just want to give you—feel free to introduce your family however you want, standing or sitting.

[Laughter.]

STATEMENT OF STEPHEN HIGGINSON, NOMINEE TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

Professor HIGGINSON. I'd like to first thank the Senate, Chairman and Ranking Member, for allowing me to appear before the Senate and this Committee. That's a great honor and I'm grateful.

I'd also like to thank Senator Landrieu for recommending me to the President, and the President for nominating me, and thank Senator Vitter for his support and his kind words today.

Additionally today, thank you, I'm joined by my family. My parents are here, my mother and father in the front row.

Senator FRANKEN. Hi. Welcome.

Professor HIGGINSON. They're not the soccer players.

[Laughter.]

Senator FRANKEN. Oh. They're the grandparents of.

Professor HIGGINSON. The grandparents of the soccer players.

Senator FRANKEN. Yes.

Professor HIGGINSON. The two soccer players, daughters, twins, are Cadie and Noelle here.

Senator FRANKEN. And this is a full team? It's not two people soccer?

[Laughter.]

Professor HIGGINSON. It's a full team.

Senator FRANKEN. Other people won it too, right? Congratulations. Thank you for winning on our behalf.

[Laughter.]

Professor HIGGINSON. And my son Christopher is also a player. I'm very proud of all my children. He's there.

Senator FRANKEN. How are you doing?

Professor HIGGINSON. And my two brothers, Timothy and Phil, have come from Chicago and North Carolina. And also seated here is Judge Patricia Wald, who was my first judicial employer and role model.

I'd like to also thank quite a few friends who have traveled from out of State here.

Senator FRANKEN. OK. Well, welcome to all of you. Again, congratulations to the twins for representing our country so well in Germany.

And Professor Higginson, you have—as you were being introduced, I was—that was—that's a pretty stunning resume there, I must say. And—and also a very bipartisan—did you see that, how bipartisan that was, and how enthusiastic they were? That will make you happy, right?

[Laughter.]

Senator GRASSLEY. Well, you make the Senate look good, too.

Senator FRANKEN. Yes. Yes. Well, I'm saying they do. OK.

You have spent the majority of your career as a Federal prosecutor, dealing with issues from FDA enforcement against criminal drug manufacturers, to accountability for political corruption. You have received some of the Department of Justice's highest awards for your work in this field.

If you are confirmed, how will your perspective on cases change?

Professor HIGGINSON. My perspective on cases, I think, would in some ways be the same, and in other ways different. To elaborate, as an advocate and having had the opportunity to be in the courtroom for 20 years, I feel that I do know the rules and the importance of professional courtesy and the importance of the adversarial process.

Specifically, having been a public servant for the Department of Justice and representing the people of the United States, I do understand that my duty has always been to faithfully apply and take care that laws are executed. Additionally, that the duty of a Federal prosecutor or public servant is to see that justice is done. I think those qualities will transfer well.

On the other hand, of course, a judge has to be impartial, is not a specific advocate. I think the last 15 years of my appellate work specifically might be of assistance to the Fifth Circuit because I'm very familiar with the procedures there and the rules, and I've been in front of that court and I revere it greatly.

Senator FRANKEN. Now, you're a professor. You talked about applying the law, right? And I know you talk to your students about that. So let's talk about applying the law. What extent do you think that life experience enters into that? I know that it's, in theory, you know, not supposed to, but then again it does, I would think. Right? Am I—discuss——

Professor HIGGINSON. Well, Senator, I think—I discuss——

[Laughter.]

Professor HIGGINSON. Life experiences and personal viewpoints stop at the courtroom door. There is no room for them in the role of the judge at all. Now, that said, I do think there are temperamental qualities of a judge that are important. Everybody who walks into a court—I certainly know this having been an attorney—every litigant, every party wants to feel welcome when they walk into a court in the United States.

I also think it's very important for Federal judges at any level to remain humble, to realize that they serve the people and therefore not to be arrogant, because the indispensable quality of a judge is to be open-minded, to consider the law fully, to apply the facts, but exclusively that.

So in terms of life experiences, those have no role in the decision-making of a judge. But I do think that they are important in terms of respecting litigants and opposing views and not pre-judging anything until the parties all feel they've heard. I know, having lost cases, that the most important quality and wonderful quality of our system of justice is that you know you've been heard.

Senator FRANKEN. OK. Well, thank you, Professor Higginson. You just seem unbelievably qualified and I—and your Senators seem to be quite enthusiastic about your nomination. In fact, they said so many times.

[Laughter.]

Senator GRASSLEY. Are you going to swear him in?

Senator FRANKEN. I swore him in.

Senator GRASSLEY. Oh, you did that?

Senator FRANKEN. Yes.

Senator GRASSLEY. How did I miss that? I wasn't sleeping, I'm sure.

Senator FRANKEN. No. I think you were reading something important. I swore you in.

Professor HIGGINSON. Yes, you did.

Senator FRANKEN. Yes, I did. OK.

[Laughter.]

Senator GRASSLEY. I saw him stand up, but you made him sit down right away.

Senator FRANKEN. Well, that's what confused you.

Senator GRASSLEY. OK.

Senator FRANKEN. Thank you. We'll go the Ranking Member.

Senator GRASSLEY. In answer to his question, you seem to be a pretty good person that I think I'd want on the bench, and I don't know much about you yet. But at least I liked that last answer you gave about leaving personal feelings at the courtroom door.

As I'm sure you're well aware, there are currently several constitutional challenges to the Congress' authority under the Commerce Clause to mandate everyone purchase health insurance as required under the Patient Protection and Affordable Care Act. As a Professor of constitutional law—and I'm looking at you in that position right now where you are—I'm interested in learning more about your understanding of Congress' authority under the Commerce Clause and its potential application to an individual mandate.

Several commentators, including Professor Goodwin Liu, have said that *Lopez* and *Morrison* are difficult or incoherent standards in outlining the limitations of the Interstate Commerce Clause. How would you describe the limitations on Congress' power under the Commerce Clause?

Before you answer that, I'd like to say that most people that come here to answer our questions would say something like this in answer to that question: "if confirmed, I'll follow the law and the precedents." That's not really an answer because you're a constitutional law professor and understand the Commerce Clause better than this farmer does, because I'm not a lawyer. And so I'd like to have you answer it from the standpoint as, if I'm one of the students in your class. How far does the Commerce Clause go?

Professor HIGGINSON. Senator Grassley, thank you for that question. All Congress' powers are few and defined, and that includes the enumerated powers which also includes the Commerce Clause. The Commerce Clause has been the basis for many Federal criminal statutes that I've had to enforce, so I'm acutely aware of the limits of the authority of Congress to regulate or prescribe activities.

So being specific, for example, in my practice, arson, Hobbs Act, many crimes we pursue we have to be very sensitive to the limits of Congressional authority. Now, as a judge, separately, I would be very mindful of the fact that Congress makes the law. Judges don't make the law, judges interpret the law.

If Congress exceeds its authority, however, it is the job of the judge to declare an act that is repugnant to the Constitution void. Specifically turning to your Commerce Clause question, it would be important—if I were teaching my students, I would—I would teach at a level of generality that would not face me if I were a judge.

If I were a judge, it would be imperative for me to know the facts and to apply controlling law to those facts, with the benefit of the judicial process. And I want to emphasize that. Whenever I walk into a court I try never to say or write anything that I can't support with a citation to the record or to a citation of controlling or persuasive authority. It is not a judge's responsibility to do anything other than that.

But you've asked me to elaborate my views as a teacher, and the cases you described do cover the terrain of the Commerce Clause scope. *Morrison* and *Lopez* were limitations on Congressional authority. After that, there was another case, the medical marijuana case out of California, *Rake*, which defined further the scope of the Commerce Clause without trying to describe what an outcome might be as to cases that are presently pending in courts and that will work their way to the Supreme Court, which then, if I'm confirmed, I'd be an intermediate court, obligated to follow that law. I will say that Congress' authority to regulate activity is limited to regulating three types of activity. This is spelled out in the cases you described: instrumentalities of commerce, channels of commerce, and activities that substantial affect interstate commerce.

In that context, the question you asked, I would have to define to my students more, well, what is the activity being looked at? Is it economic in nature? Is it purely interstate, in which case Congress and the Tenth Amendment might have fewer powers? So it takes me about 2 weeks, in my constitutional law class, to elaborate an answer to that question. But I hope that gives you some insight.

Senator GRASSLEY. Don't take 2 weeks this time.

Professor HIGGINSON. OK.

[Laughter.]

Senator GRASSLEY. Well, listen. That gets me to something then that I think Congress is doing for the first time, mandating that—saying that Congress can force people to do something that I would call economic inactivity. Under your understanding of the *Lopez* and Supreme Court precedent, does Congress then have the authority to regulate economic inactivity? An example of that is, if I don't want to buy health insurance, does the Federal Government give—can Congress make me buy health insurance? But don't concentrate on the health insurance, concentrate on the inactivity. Can Congress regulate economic inactivity?

Professor HIGGINSON. Senator Grassley, again, if I were confirmed to sit in an intermediate court position I would be obligated to follow the law. There is guiding Supreme Court law on these issues; we've mentioned three cases. But by your reference to the view that Congress could be coercing activity, that does implicate other limitations spelled out by the Supreme Court: the *Prince* decision, *South Dakota* v. *Dole*. There are a legion of cases that you correctly do point out that Congress' authority is limited and those would have to be sensitively applied and considered.

I can assure you that if I were confirmed to be a judge I would assiduously do that, but only in the context of facts presented directly to me. It would be crucial, for me to answer the question you're asking, to be able to look at your piece of legislation, to look at what Congress explicitly has written. I do understand that sev-

eral District Courts have come to different conclusions, so again, this is an issue that there will be guidance on.

Senator GRASSLEY. Well, is there any precedent of any court to force people into economic activity that they might not want to get into?

Professor HIGGINSON. I'm pausing so I don't misspeak. I think that that question is not one that I've studied closely. Again, the cases are——

Senator GRASSLEY. You probably haven't studied it closely because I don't think there's any precedent in that area.

Professor HIGGINSON. Yes. And in that context, if I were in a—if I were honored to be a judge and it were an issue of first impression, I would turn first to the text of the statute, then I would turn to the text of the Commerce Clause and other power-restricting features in the Constitution, and additionally, given your facts, I suppose——

Senator GRASSLEY. Let me ask one more question.

Senator FRANKEN. Take as much time as you'd like.

Senator GRASSLEY. Well, it kind of gets back to this then. Is there any meaningful distinction to be drawn between the Commerce Clause and what Congress says the Commerce Clause can do? Is there any distinction to be drawn between economic activity and economic inactivity?

Professor HIGGINSON. Well, the focus on economic activity has been a salient feature of the Supreme Court decisions, and if confirmed, I would apply and diligently look into that issue, the—the importance of it being economic activity.

Senator GRASSLEY. Under the U.S. Constitution, States are considered to have general police powers that permit them to enact laws for the general welfare, morals, health, and safety of their citizens—in fact, maybe to do some things that even the Federal Government can't do. Do you believe that the Commerce Clause grants Congress a power that is analogous to the general police powers of the States?

Professor HIGGINSON. Absolutely not.

Senator GRASSLEY. I guess that's it, Mr. Chairman.

Senator FRANKEN. Thank you, Senator, Ranking Member.

Senator GRASSLEY. OK.

Senator FRANKEN. Thank you, Professor. You may step down now, and we'll proceed. You're excused, I guess. And we will proceed to our second panel. Thank you very much again, Professor. And thank you to your family for—for being here.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Stephen Andrew Higginson

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

   United States Circuit Judge for the Fifth Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   I have two current office addresses because I hold two employment positions, one as a law professor and the other as a federal prosecutor for the United States Department of Justice:

   Loyola University New Orleans, College of Law
   7214 St. Charles Avenue
   Box 901
   New Orleans, Louisiana 70118

   United States Attorney's Office for the Eastern District of Louisiana
   500 Poydras Street, 2nd Floor
   New Orleans, Louisiana 70130

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

   1961; Boston, Massachusetts

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1984 – 1987, Yale Law School; J.D., 1987

   1983 – 1984, Cambridge University, England; Masters in Philosophy, 1992

   1979 – 1983, Harvard College; A.B. (*summa cum laude*), 1983

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2004 – present
Loyola University New Orleans, College of Law
7214 St. Charles Avenue, Box 901
New Orleans, Louisiana 70118
Associate Professor of Law

1993 – present
United States Attorney's Office for the Eastern District of Louisiana
500 Poydras Street, 2nd Floor
New Orleans, Louisiana 70130
Assistant United States Attorney (part-time since 2004)

2002 – 2003
Tulane University Law School
Weinmann Hall, 6329 Freret Street
New Orleans, Louisiana 70118
Adjunct faculty member (uncompensated)

1989 – 1993
United States Attorney's Office for the District of Massachusetts
Federal Courthouse
1 Courthouse Way
Boston, Massachusetts 02210
Assistant United States Attorney

1999 – 2000
Loyola University New Orleans, College of Law
7214 St. Charles Avenue, Box 901
New Orleans, Louisiana 70118
Lecturer

September 1997 – January 1998
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520
Deputy Director of Special Projects for the Presidential Rule of Law Initiative
(Note: on detail from Department of Justice)

1995 – 1997
Loyola University New Orleans, College of Law
7214 St. Charles Avenue, Box 901
New Orleans, Louisiana 70118
Adjunct faculty member (uncompensated)

1988 – 1989
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543
Judicial clerk to Associate Justice Byron White

1987 – 1988
United States Court of Appeals for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001
Judicial clerk to Chief Judge Patricia Wald

Summer 1987
United States Senate
Washington, D.C. 20510
Summer intern for Senate Select Committee Chief Counsel Arthur Liman

Summer 1986
Bredhoff & Kaiser, P.L.L.C.
805 Fifteenth Street, N.W.
Washington, D.C. 20005
Summer associate

Summer 1985
Shaw Pittman Potts & Trowbridge (now Pillsbury Winthrop Shaw Pittman)
2300 N Street, N.W.
Washington, D.C. 20037
Summer associate

Summer 1985
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Summer intern

Summer 1983
United States Congressman Gus Yatron
2170 Rayburn House Office Building
Washington, D.C. 20515
Summer intern

Other Affiliations (uncompensated):

2006 – present
Local Elementary School
New Orleans, Louisiana
School board member

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I did register for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Professional honors

   United States Department of Justice John Marshall Award for Outstanding Legal Achievement for Trial of Litigation (2003)

   United States Department of Justice Director's Awards for Superior Performance (1996, 2003)

   Special achievement award from former Attorney General Janet Reno (1993)

   Letter of commendation from former FBI Director Louis Freeh for "outstanding prosecutive skills and assistance" to the FBI (1999)

   Department of Health and Human Services, Food and Drug Administration, Commissioner's Special Citation for "outstanding handling of FDA criminal investigations and prosecutions"

   United States Postal Service commendation

   Department of Interior, United States Fish and Wildlife Service recognition for "outstanding contribution to the protection of the Nation's wildlife resources"

Department of Veteran Affairs' certificate of appreciation for "successful prosecution of crimes committed against the VA"

United States Department of Agriculture certificate of appreciation for "dedication to enforcing federal meat and poultry inspection law, and significant contributions to protecting consumers"

Department of Defense certificate of appreciation for investigation and prosecution supporting the Defense Criminal Investigative Service

United States Secret Service commendation for "outstanding assistance and support on behalf of the law enforcement responsibilities of the United States Secret Service"

National Association of Black Narcotics Agents letter of appreciation

Multiple United States Attorney's Office outstanding performance and special achievement awards

Academic honors and recognition as law professor

Loyola University "outstanding teacher" award (2008)

Loyola College of Law graduating students' recognition as "professor of the year" (2005 – 2006, 2006 – 2007, 2008 – 2009)

The Loyola College of Law Moot Court Board Distinguished Faculty Contribution Award (2009 – 2010)

Certificate of appreciation from the A.P. Tureaud Black Students Law Association

Academic honors and recognition

Editor-in-chief of the Yale Law Journal

Yale University's Israel H. Peres Prize (best written contribution to Yale Law Journal) (1987)

Harvard Scholar to Cambridge University (1983 – 1984)

Phi Beta Kappa

Eric Firth Prize for senior thesis (best essay on the subject of the ideals of democracy) (1983)

Civic awards

New Orleans Metropolitan Crime Commission Excellence in Law Enforcement Award (2003)

City of New Orleans certificate of appreciation (2000)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association
Attorney General Advisory Committee, Appellate Chiefs' Working Group
Bar Association of the Fifth Federal Circuit
Boston Bar Association
District of Columbia Bar
Loyola University
    Faculty Senate (law school representative)
    Conciliation Committee (law school representative)
Loyola College of Law
    Budget Committee
    Curriculum Committee
    Dean Search Committee
    Faculty Development Committee
    Petitions Committee
    Tenure Standards Ad Hoc Committee
Massachusetts Bar Association
National Association of Assistant United States Attorneys
The Thomas More-Loyola Law School American Inn of Court
    Executive Committee Member (2009 – present)
The Tulane Law School American Inn of Court

10. **Bar and Court Admission**:

    a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

    Massachusetts, 1989
    District of Columbia, 1990

    There have been no lapses in membership.

    b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the First Circuit, 1990
United States Court of Appeals for the Fifth Circuit, 1994
United States District Court for the Eastern District of Louisiana, 1994
United States District Court for the District of Massachusetts, 1989
Supreme Judicial Court of Massachusetts, 1989

There have been no lapses in membership. However, since my move to Louisiana and the completion of my work for the U.S. Attorney's Office for the District of Massachusetts, I have not appeared in Massachusetts courts.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

American Automobile Association (2009 – present)

Carrollton Boosters Club (approx. 2000 – present)

Chicago Fire Juniors of Louisiana Soccer Club (approx. 2003 – present)

Cohasset, Massachusetts Town Library (approx. 1998 – present)

Cohasset Yacht Club (2006 – present)

Louisiana Soccer Association (approx. 2003 – present)

National Building Museum (2004)

New Orleans Audubon Nature Institute (approx. 1998 – 2005)

Phi Beta Kappa Society (approx. 1983 – 1995)

Tulane University Reily Recreation Center (approx. 1994 – present)

United States Holocaust Memorial Museum (1994 – 1995)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above

currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

The Unworkability Imperative in Criminal Justice Rule-Making, Loyola L. Rev. 249 (2009). Copy supplied.

Thurgood Marshall: Cases in Controversy, 15 George Mason L. Rev. 741 (2008). Copy supplied.

Constitutional Advocacy Explains Constitutional Outcomes, 60 Fla. L. Rev. 857 (2008). Copy supplied.

Letter to the Editor, The American Scholar (2001). Copy supplied.

Using Computers in a Complex Case, Department of Justice (1996) (co-authored with trial co-counsel, then Assistant United States Attorney Michael Loucks). Copy supplied.

Note, *A Short History of the Right To Petition Government for the Redress of Grievances*, 96 Yale L.J. 142 (1986). Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

While serving on the Tenure Standards Ad Hoc Committee at the Loyola College of Law in 2009, I assisted in preparing the "Statement of Standards for Promotion and Tenure," which was adopted by our faculty. Copy supplied.

While serving on the Attorney General Advisory Committee, Appellate Chiefs' Working Group, within the Department of Justice, I assisted in preparing the Department's "Appellate Practices and Supervision in U.S. Attorney's [sic] Offices." Copy supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have given no testimony, official statements or other official communications relating, in whole or in part, to matters of public policy or legal interpretation, which were issued or provided or other presented on my behalf to public bodies or public officials.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

January 18, 2011
Presentation on evidentiary issues for The Thomas More-Loyola Law School American Inn of Court, in New Orleans, Louisiana. Presentation slides supplied.

October 15, 2010
Panel discussion on appellate advocacy at the Louisiana State Bar Association's Seminar "Appeals! Appeals! Appeals! Experts of the Bench & Bar" in New Orleans, Louisiana. Presentation slides supplied.

June 8, 2010
Panel discussion of recent developments in constitutional criminal law at the Louisiana Judicial College/Louisiana Bar Association's Summer School in Destin, Florida. Presentation slides and outline supplied.

April 9, 2010
Panel discussion on white collar criminal law updates for the Louisiana State Bar Association's 2010 White Collar Crime Symposium in New Orleans, Louisiana. Presentation slides supplied.

February 5, 2010
Presentation on best practices for writing legal briefs, sponsored by the New Orleans Chapter of the Federal Bar Association. Presentation slides and NOFBA coverage supplied.

November 20, 2009
Panel discussion on criminal law updates for the Louisiana State Bar Association's White Collar Seminar in New Orleans, Louisiana. Presentation slides supplied.

April 16, 2009
Lunchtime talk about a draft of my article on criminal justice later published as *The Unworkability Imperative in Criminal Justice Rule-Making*, Loyola Law Review 249 (2009), to the Loyola College of Law's Works-in-Progress Workshop in New Orleans, Louisiana. I have no notes, transcript, or recording for this talk, however I have supplied a copy of the published article in response to 12(a). The address of the Loyola University, Loyola College of Law is 7214 St. Charles Avenue, Box 901, New Orleans, Louisiana 70118.

March 13, 2009
Panel discussion and moderator on the role of technology in law at the Loyola Law Review's 2009 Symposium on Technology and the Law, in New Orleans, Louisiana. Talking points supplied.

April 5, 2008
Panel presentation on law and jurisprudence, and specifically, a draft of my article on constitutional advocacy, which was later published as *Constitutional Advocacy Explains Constitutional Outcomes*, 60 Florida Law Review 857 (2008), at the Midwest Political Science Association 66th Annual National Conference in Chicago, Illinois. I have no notes, transcript, or recording for this talk, however I have supplied a copy of the published article in response to 12(a). The address of the Midwest Political Science Association is 320 West Eighth Street, #218, Bloomington, Indiana 47404.

March 12, 2008
Panel discussion on the 75th Anniversary of the Supreme Court's *Powell v. Alabama* decision for the Federal Bar Association, The Greater New Orleans Louis A. Martinet Society and the A.P. Tureaud Chapter of the American Inns of Court. Presentation slides supplied.

January 31, 2007
Joint presentation with Attorney Robert Glass on appellate advocacy to the Extern Enrichment Seminar conducted at Tulane Law School by the Honorable James Dennis and the Honorable Lance Africk, United States Judges and Adjunct Professors. I have no notes, transcript, or recording for this talk. The address of

the Tulane University Law School is Weinmann Hall, 6329 Freret Street, New Orleans, Louisiana 70118.

June 9, 2004
Presentation for the Louisiana State Bar Association on federal criminal and appellate practice at the Summer School for Lawyers in Sandestin, Florida. I have no notes, transcript or recording. The address of the LSBA is 601 St. Charles Avenue, New Orleans, Louisiana 70130.

March 2, 2004
Panel discussion on the 50th Anniversary of *Brown v. Board of Education* for the New Orleans Chapter of the Federal Bar Association. I have no notes, transcript or recording, but NOFBA coverage is supplied. The address of the NOFBA is 500 Poydras Street, Suite B364, New Orleans, Louisiana 70130.

October 29, 2003
Panel discussion in Orono, Maine, at the William Cohen Papers Forum on reporter's privilege caselaw in criminal cases. Presentation slides and press coverage supplied.

August 25, 2003
Forum on the USA Patriot Act hosted by the U.S. Attorney's Office for the Eastern District of Louisiana. Notes and press coverage supplied.

February 26-28, 2003; October 18-20, 2000
Panel discussions and instructorship for the Office of Legal Education on appellate practice and ethics at the Appellate Supervisors and Appellate Contacts Conference at the National Advocacy Center in Columbia, South Carolina. Although I do not have the actual slides that I used that day, I have supplied a slightly revised version of those slides that would be very similar to what I would have presented.

July 25-28, 2000
Presentation and instructorship for the Office of Legal Education on criminal federal practice at the Criminal Federal Practice Seminar at the National Advocacy Center in Columbia, South Carolina. I have no notes, transcript, or recording for this talk. The address of the Office of Legal Education is Executive Office for United States Attorneys, Main Justice Building, Room 2244A, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

March 20-24, 2000
Presentation and instructorship for the Office of Legal Education on evidence at the National Advocacy Center in Columbia, South Carolina. Presentation slides supplied.

February 5, 1999
Panel discussion in New Orleans, Louisiana, at the 14th Annual Fifth Circuit Appellate Practice and Advocacy Seminar on criminal law and sentencing guidelines. Outline supplied.

December 18, 1998
Presentation to the Louisiana State Bar Association White Collar Crime Seminar. Outline supplied.

September 10, 1998
Presentation to the Society of Louisiana CPAs in New Orleans, Louisiana, at the 1998 Louisiana Accounting and Auditing Conference on fraud investigations and prosecutions. Outline supplied.

March 25, 1998
Informal lunchtime talk to law faculty at Louisiana State University Law Center on detail to the Department of State for rule of law initiatives. Outline supplied.

September 7, 1997
Presentation for the Office of Legal Education on appellate practice in Salt Lake City, Utah at the Criminal Federal Practice Seminar. Although I have no notes, transcript or recording, the materials I presented were similar to those supplied for the February 26-28, 2003 event. The address of the Office of Legal Education is Executive Office for United States Attorneys, Main Justice Building, Room 2244A, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

June 10, 1997
Presentation for the Office of Legal Education on appellate advocacy in Washington, D.C. at the Appellate Advocacy Seminar. Although I have no notes, transcript or recording, the materials I presented were similar to those supplied for the February 26-28, 2003 event. The address of the Office of Legal Education is Executive Office for United States Attorneys, Main Justice Building, Room 2244A, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

May 13-16, 1997
Presentation for the Office of Legal Education on trial issues in cases of violence in New Orleans at the Prosecution of Violent Crime and Juvenile Offenders Seminar. I have no notes, transcript, or recording for this talk. The address of the Office of Legal Education is Executive Office for United States Attorneys, Main Justice Building, Room 2244A, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

October, 1996
Presentation to the Attorney General's Advocacy Institute at an Appellate Chiefs Seminar on appellate practices. Although I have no notes, transcript or recording, the materials I presented were similar to those supplied for the February 26-28,

2003 event. The address of the Office of Legal Education is Executive Office for United States Attorneys, Main Justice Building, Room 2244A, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

July 22, 1996
Presentation for the Office of Legal Education on ethics in Salt Lake City, Utah at the Criminal Federal Practice Seminar. I have no notes, transcript, or recording for this talk. The address of the Office of Legal Education is Executive Office for United States Attorneys, Main Justice Building, Room 2244A, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

January 22, 1996
Presentation to the Tulane Inn of Court in New Orleans, Louisiana, on paperless trials. I have no notes, transcript, or recording for this talk. The panel session was held at the United States District Court for the Eastern District of Louisiana, 500 Camp Street, New Orleans, Louisiana 70130.

June 1992
Presentation on criminal investigations and prosecutions in Cape Cod, Massachusetts to United States Fish and Wildlife Service agents. Materials supplied.

May 17, 1992
Presentation in Atlantic City, New Jersey to United States Department of Agriculture investigators on criminal investigations and prosecutions. While I do not have any notes, transcript, or recording of this specific presentation, I believe that it was similar to the June 1992 presentation on criminal investigations and prosecutions for which I supplied materials. The address of the United States Department of Agriculture is 1400 Independence Avenue, S.W., Washington, D.C. 20250.

April 29, 1992
Presentation in Phoenix, Arizona to federal prosecutors about check-kite investigations and prosecutions (which is a presentation I gave also to FBI special agents in training in Quantico, Virginia in spring, 1992). Materials supplied.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Ian Fisher, *Florida Law Review Breaks Ground with Multimedia Article*, FlaLaw Online, Sept. 22, 2008. Copy supplied.

Lois Smith Brady, *Weddings: Vows; Lisa Cohen and Lewis Liman*, New York Times, Jan. 24, 1999. Copy supplied.

Local News/Today's Digest, Worcester Telegram & Gazette, Apr. 7, 1992. Copy supplied.

Local News/Today's Digest, Worcester Telegram & Gazette, Mar. 24, 1992. Copy supplied.

Emilie Astell, *Gun Suspect Out on Bond*, Worcester Telegram & Gazette, Feb. 21, 1992. Copy supplied.

Milt Gun, *Ex-Marlboro Postal Official Admits He Falsified Records*, Worcester Telegram & Gazette, Nov. 28, 1991. Copy supplied.

Fitchburg Woman Indicted in Embezzlement, Worcester Telegram & Gazette, Apr. 5, 1990. Copy supplied.

Elizabeth Neuffer, *Subpoena Hoax Turns Courthouse into Madness*, Boston Globe, Feb. 1, 1990. Copy supplied.

Prankster Subpoenas Boston Residents, United Press International, Feb. 1, 1990. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not served as a judge.

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

i. Of these, approximately what percent were:

jury trials:	___%
bench trials:	___% [total 100%]
civil proceedings:	___%
criminal proceedings:	___% [total 100%]

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I was hired as an Assistant United States Attorney in the District of Massachusetts by United States Attorney Wayne A. Budd in 1989, and the position of Assistant United States Attorney is a public office in which I have been employed ever since, having transferred to the United States Attorney's Office for the Eastern District of Louisiana in 1993.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have held no office and rendered no services, compensated or uncompensated, to any political party or election committee, nor have I ever held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk

I served as a judicial clerk from 1988 to 1989 to Associate Justice Byron White, Supreme Court of the United States. Prior to that, I served as a judicial clerk from 1987 to 1988 to Chief Judge Patricia Wald, United States Court of Appeals for the District of Columbia Circuit.

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

I have not practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1989 – 1993
United States Attorney's Office for the District of Massachusetts
Federal Courthouse
1 Courthouse Way
Boston, Massachusetts, 02210
Assistant United States Attorney

Fall 1997 – January 1998
United States Department of State
2201 C Street, N.W.
Washington, D.C. 20520
Deputy Director of Special Projects for the Presidential Rule of Law Initiative
(Note: on detail from Department of Justice)

1993 – present
United States Attorney's Office for the Eastern District of Louisiana
500 Poydras Street, 2nd Floor
New Orleans, Louisiana 70130
Assistant United States Attorney (part-time since 2004)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

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

My law practice has been on behalf of the United States as a federal prosecutor. In the early part of my career, I practiced in federal district courts in Massachusetts and in the United States Court of Appeals for the First Circuit; in 1993 I transferred to Louisiana, where I continued to practice in federal district courts and in the United States Court of Appeals for the Fifth Circuit. During my first five years, I handled multiple investigations and criminal trials, as well as direct appeals from those cases. After my transfer and a year or two more of investigations and trials, I became chief of appeals for the United States Attorney's Office for the Eastern District of Louisiana. Those responsibilities – supervising or handling the civil and criminal appeals for the Office and extensively involving myself in legal matters occurring in district court – are ones I have held since approximately 1995. I have authored over one hundred federal appellate briefs. Pursuant to Solicitor General guidelines, I have

edited and reviewed over three hundred civil and criminal appeals briefs authored by others. I have conducted over one hundred appellate moots of government attorneys whom I supervise. I have presented approximately twenty-five oral arguments myself in United States Courts of Appeals.

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

My work has been for the United States in criminal prosecutions and civil matters. I have not specialized, although my most complex cases have related to political corruption.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

My work has always involved litigation. I have appeared in court on a daily, weekly or monthly basis my entire career. My appellate civil and criminal responsibilities involve me extensively in litigation that is happening in federal district courts.

i. Indicate the percentage of your practice in:
   1. federal courts: 100%
   2. state courts of record: 0%
   3. other courts: 0%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 15%
   2. criminal proceedings: 85%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

It has been the practice of both United States Attorney's Offices that trials are staffed with co-counsel. As lead counsel – meaning that the investigation and prosecution were my primary responsibility – I have tried approximately one dozen trials to verdict and judgment.

i. What percentage of these trials were:
   1. jury: 100%
   2. non-jury: 0%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. United States v. Edwards, 303 F.3d 606 (5th Cir. 2002) (Higginbotham, Wiener, Benavides) (on appeal from United States Chief District Judge Polozola for the Middle District of Louisiana); United States v. Edwards, 206 F.3d 461 (5th Cir. 2000) (Jones, Duhe, Wiener) (on appeal from United States Chief District Judge Polozola for the Middle District of Louisiana); United States v. Edwards, 442 F.3d 258 (5th Cir. 2006) (King, Barksdale, Prado) (on appeal from United States District Judge Tyson for the Middle District of Louisiana); United States v. Edwards, No. 00-30702 c/w 00030845 (5th Cir. 2000); In re: Hearst Argyle, WWL-TV, Emmis Television, WGNO, Associated Press, Gannett River States Publishing, Louisiana Press, No. 00-30841 (5th Cir. 2000); In re: Times Picayune, Associated Press, Capital City, Hearst Argyle, No. 00-31112 (5th Cir. 2000).

I was an attorney of record for the United States, and the government's lead appellate counsel, responsible for legal filings in district and appellate court for approximately seven years. The case successfully prosecuted corruption at the highest level of Louisiana state government. I authored approximately ten government briefs, comprising approximately five hundred pages of written argument. I handled three oral arguments in the Fifth Circuit. I was responsible for 80 record volumes, including 10,000 pages of written pleadings and four months of trial transcripts. The years of trial and appellate litigation required me to consult often with the Office of the Solicitor General and the Criminal Appellate Section of the Department prior to attaining success on numerous significant issues relating to public corruption, disqualification of defense counsel, trial in absentia of one defendant, the dismissal of a deliberating juror for

misconduct, post-conviction efforts to recuse the trial judge, and issues of statutory and evidentiary complexity. On July 30, 2003, I received the Department of Justice's John Marshall Award for Outstanding Legal Achievement for Trial of Litigation for my efforts in this public corruption case.

Defense and opposition counsel were numerous, including: Alan and Nathan Dershowitz, Dershowitz, Eiger & Adelson, 220 5th Avenue, Suite 300, New York, New York, 10001, 212-889-4009; James M. Cole, Bryan Cave, LLP, 7000 13th Street, NW, #700, Washington, D.C. 20005, 202-508-6000; Rebecca Hudsmith, FPD, WDLA, 102 Versailles Boulevard, Suite 816, Lafayette, Louisiana 70501, 337-262-6336; James Michael Small, 1412 Centre Court Drive, Alexandria, Louisiana 71301, 318-487-8963; Servando Garcia, Garcia & Bishop, 618 East Rutland Street, Covington, Louisiana 70433, 985-635-0055; Michael Fawer, 201 St. Charles Avenue, #3702, New Orleans, Louisiana 70170, 504-525-2200; Patrick Fanning, 3636 I-10 Service Road, West, Suite 206, Metairie, Louisiana 70001, 504-368-7888; Mary Olive Pierson, 8702 Jefferson Highway, Suite B, Baton Rouge, Louisiana 70809, 225-927-6765; Mary Ellen Roy, Phelps Dunbar, 365 Canal Street, Suite 2000, New Orleans, Louisiana 70130, 504-566-1311; James Swanson, Fishman, Haygood, Phelps, Walmsley, Willis & Swanson, 201 St. Charles Avenue #4600, New Orleans, Louisiana 70170, 504-586-5267. Although I was lead appellate counsel for the government, lead trial counsel and attorney of record also throughout this case was current United States Attorney Jim Letten, 500 Poydras Street, 2nd Floor, New Orleans, Louisiana 70130, 504-680-3000.

2. United States v. C.R. Bard, Inc., 848 F. Supp. 287 (D. Mass. 1994) (United States District Judge Mark Wolf), and United States v. Leichter, Cr. No. 93-10276 (D. Mass. 1995) (United States Chief District Judge Joseph Tauro).

I was attorney of record throughout the investigation, prosecution and through the first appeal in this matter. Along with Assistant U.S. Attorney Loucks, I directed the criminal investigation of one of the largest medical device manufacturers in the world, requiring us to interview witnesses, experts and doctors around the country. Our investigation was able to show corporate medical fraud involving the experimental use of changed heart catheter devices on unwitting human patients without FDA approval. I helped negotiate a successful civil and criminal resolution against Bard which, at the time, was the largest amount ever recovered in the history of FDA enforcement cases. The company pleaded guilty to a 391-count indictment and paid $61 million in criminal fines and civil penalties, representing the revenues received by Bard from its sales of offending products. I received the Department of Justice's Director's Award for Superior Performance for my litigation efforts in this corporate medical fraud case.

Defense counsel in the corporate guilty plea matter and at the subsequent trial were the following: Richard Cooper and Gerald Feffer, Williams & Connolly, 725 Twelfth Street, NW, Washington, D.C. 20005, 202-434-5466; William

Kettlewell, Dwyer & Collora, 600 Atlantic Avenue, Boston, Massachusetts 02210, 617-371-1037; Robert Keefe, Wilmerhale, 60 State Street, Boston, Massachusetts 02109, 617-526-6000; Richard Taranto, Farr & Taranto, 1150 18th Street, NW, Washington, DC 20036, 202-775-0184; Andrew Good, Good & Cormier, 3rd Floor, 83 Atlantic Avenue, Boston, Massachusetts 02110, 617-523-5933; Harvey Silverglate, 607 Franklin Street, Cambridge, Massachusetts 02139, 617-661-9156.

I represented the United States along with co-counsel Assistant United States Attorney Michael Loucks, later United States Attorney for the District of Massachusetts and presently with Skadden, One Beacon Street, Boston, Massachusetts 02108, 617-573-4840.

3. United States v. Sylvester, 583 F.3d 285 (5th Cir. 2009) (Higginbotham, Smith, Southwick) (on appeal from United States District Judge Feldman for the Eastern District of Louisiana).

The case presented a significant challenge to the conviction and life sentence of a defendant who killed a federal grand jury witness. The overriding proof of the murder was an admission by the defendant himself during plea negotiations. On behalf of the government, we successfully urged in district court and on appeal that the rationale of United States v. Mezzanatto, 513 U.S. 196 (1995), should be extended to permit a defendant to waive his right to object to the use of plea negotiation statements in the government's case-in-chief because of compelling interests of justice concerns, adequate safeguards against abuse, and the internal logic of the Mezzanatto ruling. The defendant is serving a life sentence.

Opposing counsel was Michael Fawer, 201 St. Charles Avenue, #3702, New Orleans, Louisiana 70170, 504-525-2200.

I was counsel of record on appeal for the government, assisting also with district court litigation Assistant United States Attorney Maurice Landrieu, and filing throughout on behalf of United States Attorney Jim Letten, both of the United States Attorney's Office, 500 Poydras Street, 2nd Floor, New Orleans, Louisiana 70130, 504-680-3000.

4. United States v. Auster, 517 F.3d 312 (5th Cir. 2008) (Higginbotham, Davis, Smith) (on appeal from United States District Judge Lemmon).

I represented the government in this interlocutory appeal of a case-determinative suppression order. The case was significant factually because it involved an explicit and immediate threat of "violent retribution" against a victim. The litigation was challenging because the argument in the United States Court of Appeals for the Fifth Circuit to overturn suppression of the criminal threat diverged from other decisions which had applied the psychotherapist-patient

privilege announced in Jaffee v. Redmond, 518 U.S. 1 (1996). The Government prevailed on appeal.

Opposing counsel was Michael Fawer, 201 St. Charles Avenue, #3702, New Orleans, Louisiana 70170, 504-525-2200.

I was counsel of record on appeal for the government, filing on behalf of United States Attorney Jim Letten, 500 Poydras Street, 2nd Floor, New Orleans, Louisiana 70130, 504-680-3000.

5. United States v. O'Keefe, 128 F.3d 885 (5th Cir. 1997) (Wisdom, Jolly, Garza) (appeal from United States Chief District Judge Sear for the Eastern District of Louisiana); In Re: United States, No. 98-30652 (5th Cir. Sept. 28, 1998) (unpublished mandamus relief obtained); United States v. Schmidt, 229 F.3d 1148 (5th Cir. 2000) (Reavley, Davis, Barksdale) (appeal from United States District Judge Lemmon for the Eastern District of Louisiana).

I represented the United States as counsel of record through three years of complex litigation seeking in successive, successful appellate efforts: (1) to reinstate convictions of multiple defendants who fraudulently misled insured doctors and state regulatory authorities in order to divert millions of dollars to themselves through concealed offshore accounts; (2) to overturn through mandamus relief compulsory review of FBI files; (3) to stay and subsequently overturn a bond pending appeal order obtained by defendants who had been ordered to serve as much as 235 months imprisonment; and (4) to affirm against legal and factual arguments the jury verdicts in this case of international insurance fraud and money laundering. The matters I litigated were especially sensitive because, to reinstate the convictions, I had to demonstrate that veteran prosecutors had not violated Brady and presented false evidence.

Opposing counsel included: Richard Simmons, Hailey, McNamara, Hall, Lamann & Papalle, 1 Galleria Boulevard, Suite 1400, Metairie, Louisiana 70001, 504-836-6500; John R. Martzell (deceased), Martzell & Bickford, 338 Lafayette Street, New Orleans, Louisiana 70130; Bruce Ashley, 700 Camp Street, New Orleans, Louisiana 70130, 504-528-9500; James McPherson, McPherson & McPherson, 2434 Highway 53 South, Poplarville, Mississippi 39470, 601-795-0379.

6. United States v. Brown, 218 F.2d 415 (5th Cir. 2000) (King, Garwood, DeMoss) (on appeal from United States Chief District Judge Polozola for the Middle District of Louisiana); United States v. Brown, 250 F.3d 907 (5th Cir. 2001) (Jolly, Jones, Smith) (on appeal from United States District Judge Edith Brown Clement for the Eastern District of Louisiana); United States v. Brown, 303 F.3d 582 (5th Cir. 2002) (Davis, Garza, Stewart) (on appeal from United States District Judge Edith Brown Clement for the Eastern District of Louisiana).

I represented the United States as counsel of record through four years of appellate litigation in these companion cases as well as in related district court proceedings, which led to the affirmance of convictions of Louisiana's Insurance Commissioner on four counts of making false statements to the FBI relating to a corporate insurance liquidation settlement. I twice successfully defended interlocutory challenges to unique trial court measures made necessary to assure a fair trial against outside pressures in this substantial public corruption case. The final merits appeal resulted in the United States Court of Appeals for the Fifth Circuit ruling in an issue of first impression against automatic turnover to defendants of FBI interview files and rough notes, as well as on issues arising from wiretap interception evidence. I received the Department of Justice's Director's Award for Superior Performance for my work.

Defense as well as media counsel in these successive appeals included: William Jeffress, Jr., Baker Botts, LLP, 1299 Pennsylvania Avenue, NW, Washington, D.C. 20004, 202-639-7751; Mary Ellen Roy, Phelps Dunbar, 365 Canal Street, Suite 2000, New Orleans, Louisiana 70130, 504-566-1311; James Swanson, Fishman, Haygood, Phelps, Walmsley, Willis & Swanson, 201 St. Charles Avenue #4600, New Orleans, Louisiana 70170, 504-586-5267; Lloyd Lunceford, Taylor, Porter, Brooks & Phillips, LLP, P.O. Box 2471, Baton Rouge, Louisiana 70821, 225-387-3221.

Although I was lead appellate counsel for the government, trial co-counsel whom I assisted with authoring pleadings and arguing issues were Assistant United States Attorneys Salvatore Perricone and James Mann, 500 Poydras Street, 2nd Floor, New Orleans, Louisiana 70130, 504-680-3000.

7. United States v. Moore, 995 F.2d 1061 (1st Cir. 1993) (Torruella, Cyr, Boudin).

I represented the United States as counsel of record, from 1991 to 1993, through the investigation, indictment, trial and appeal in this prosecution of a violent felon for drug and gun possession. The defendant was convicted after trial on all counts. The significance of the litigation not only was the serious nature of the felonies, including a police chase and the defendant's aiming a fully-loaded semi-automatic weapon with an obliterated serial number at the pursuing officers, but also was that it is the only trial I have had where the opposing party represented himself. This added complexities to the trial and required heightened sensitivity to pretrial and trial fairness concerns on behalf of the accused. The trial lasted four days and was before the Honorable Rya W. Zobel, United States District Judge for the District of Massachusetts.

Opposing counsel was the defendant, acting pro se.

8. United States v. Mason, 972 F.2d 337 (1st Cir. 1992) (Seyla, Roney and Pieras, D.J.).

I represented the United States as counsel of record, from 1989 to 1992, through the investigation, indictment, trial and appeal in this prosecution of a bank fraud case involving millions of dollars of check-kiting activity. The defendant was convicted after trial on all counts. The amount of financial records in the case as well as the lack of precedent for prosecuting complex check-kiting crimes required the use of expert financial witnesses. Novel legal issues related to the proper unit of prosecution under the bank fraud statutes. The trial, before the Honorable Andrew Caffrey, United States Senior District Judge for the District of Massachusetts, lasted four days and concluded with a successful conviction of the defendant, upheld on appeal. I subsequently was asked to lecture to prosecutors as well as FBI special agents in training on how to investigate and prosecute complex financial fraud cases.

My co-counsel at trial was Assistant United States Attorney Nadine Pelligrini, United States Attorney's Office, 1 Courthouse Way, Suite 9200, Boston, Massachusetts 92110, 617-748-3696.

Opposing counsel at trial was Attorney Albert F. Cullen, Cullen & Cullen, 60 K Street, South Boston, Massachusetts 02127, 617-268-2240.

9. United States v. Smith, 135 F.3d 963 (5th Cir. 1998) (Politz, Higginbotham, DeMoss) (on appeal from United States District Judge Patrick Carr for the Eastern District of Louisiana).

I represented the United States as counsel of record in this interlocutory appeal, authoring the government's briefs appealing a district court suppression order pertaining to the arson of a large regional commercial distribution facility. The appeal was successful and the order quashing the subpoenaed evidence was reversed, eventually contributing to the conviction of the arsonist, as reported at United States v. Smith, 273 F.3d 1095 (5th Cir. 2001). The challenge of the litigation effort was that it required the United States Court of Appeals for the Fifth Circuit to address a consequential question of first impression relating to whether a privilege exists to avoid production of evidence in federal criminal cases. The government litigation approach was marked by procedural sensitivity to media concerns, including an agreed upon dismissal without prejudice to reinstate the government appeal in order to return the matter to the district court for in camera consideration. The United States Court of Appeals for the Fifth Circuit agreed with our position, reconciling media interests by permitting grand jury evidence-gathering after pre-approval from the Attorney General of the United States.

My co-counsel for the oral argument was Liza Collery, an attorney with the Appellate Section of the Criminal Division of the United States Department of

Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530, 202-514-2611. (At the time of oral argument, I was on detail with the Department of State in Washington, D.C.)

Opposing counsel on the appeal was Mary Ellen Roy and Luther Munford, Phelps Dunbar, 365 Canal Street, Suite 2000, New Orleans, Louisiana 70130, 504-566-1311.

10. United States v. Hartenstein, Cr. No. 94-188 (E.D. La. 1994) (United States District Judge Edith Brown Clement).

I represented the United States as lead counsel in this two-day criminal trial of a defendant who threatened to kill his supervisor in a federal workplace context. The prosecution was significant inasmuch as one in six violent crimes occurs in the workplace and also because threat prosecutions, like this one, often require the obtaining and sensitive assessment of psychiatric evaluations of accused persons. The prosecution was successful.

Opposing counsel at trial was Warren DeAgano, Jr., 2900 Energy Centre, 1100 Poydras Street, New Orleans, Louisiana 70163, 504-585-7343.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I have spent much of my career training and assisting other lawyers. I spent approximately five years working on the Attorney General's Advisory Committee, Appellate Working Group, helping to improve appellate standards, procedures, rules, training and other initiatives nationwide; I have volunteered to teach ethics and legal advocacy for the Office of Legal Education across the country. Because I am responsible for civil and criminal appeals in the city where the United States Court of Appeals for the Fifth Circuit sits, I enjoy assisting government attorneys who phone or arrive with issues in cases that are not my own. Similarly, as a law professor, I extend this aspect of my legal activity to all lawyers by volunteering to lecture in state and federal bar programs, as well as to local American Inns of Court.

Related, much of my most meaningful legal activity has been ensuring that the professional standards are followed by lawyers privileged to work for the United States. I have handled many matters when charges of government misconduct were raised. These activities require careful and candid ethical consideration, consultation with the Department of Justice, and steps that that do not always lead to litigation. However, when findings of misconduct occur that are mistaken, I have considered it a privilege to

seek to correct rulings which would mar careers of devoted public servants. I am gratified that I have been successful in all such attempts. I have been entrusted by all United States Attorneys for whom I have worked in the Eastern District of Louisiana to handle issues that go beyond case results to enhance the professionalism of public servants.

Third, I have devoted significant time to negotiating cases to plea resolutions, avoiding protracted litigation yet obtaining outcomes which vindicate government, social and especially victim interests and also are respectful of the diverse circumstances of accused persons and entities. I have done so especially in bankruptcy fraud cases, all aspects of consumer protection cases, a decade-long kickback scheme that defrauded a national company of more than three million dollars, and recently I assisted with a case involving the murder of a federal law enforcement officer. I was lead government counsel throughout the criminal investigation of a national seafood distributor which distributed and sold food product to the Department of Defense and to the public that was fraudulently labeled as American, but in fact was imported from China and was adulterated with saccharin and other chemicals. The investigation later resulted in convictions against the company and its president of 101 charges after I had transferred to the United States Attorney's Office for the Eastern District of Louisiana.

Fourth, my legal work in the immediate aftermath of Hurricane Katrina was significant. I researched jurisdictional, statutory and regulatory issues pertaining to the federal justice system in the aftermath of the Hurricane, as well as federal and state relief efforts. I volunteered to return to the city overnight to assist with the law enforcement imperative in the difficult days after the storm.

I have performed no lobbying activities on behalf of any client or organization.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

As a professor of law at the Loyola College of Law in New Orleans, Louisiana, since 2004, I have taught the following courses:

Spring 2011
Administration of Criminal Justice I (constitutional criminal law and procedure). Syllabus provided.
Administration of Criminal Justice II (the rules of criminal procedure and all steps of a criminal case). Syllabus provided.

Fall 2010
Constitutional Law. Syllabus provided.
Evidence. Syllabus provided.

Spring 2010
Evidence & Appeals Seminar. Syllabus provided.
Administration of Criminal Justice II. Current (2011) version of syllabus provided.

Fall 2009
Evidence. Current (2010) version of syllabus provided.

Spring 2009
Administration of Criminal Justice I. Current version (2011) of syllabus provided.
Administration of Criminal Justice II. Current version (2011) of syllabus provided.

Fall 2008
Constitutional Law. Current version (2010) of syllabus provided.
Evidence. Current version (2010) of syllabus provided.

Spring 2008
Administration of Criminal Justice I. Current version (2011) of syllabus provided.
Criminal Law Seminar. Syllabus provided.

Fall 2007
Evidence. Current version (2010) of syllabus provided.

Spring 2007
Administration of Criminal Justice I. Current version (2011) of syllabus provided.
Administration of Criminal Justice II. Current version (2011) of syllabus provided.

Fall 2006
Constitutional Law. Current version (2010) of syllabus provided.
Evidence. Current version (2010) of syllabus provided.

Spring 2006
Administration of Criminal Justice I. Current version (2011) of syllabus provided.
Constitutional Law. Current version (2010) of syllabus provided.

Spring 2005
Administration of Criminal Justice I. Current version (2011) of syllabus provided.
Criminal Law Seminar. Current version (2008) of syllabus provided.

Fall 2004
Constitutional Law. Current version (2010) of syllabus provided.

Prior to joining the faculty, I taught as an adjunct faculty member and as a lecturer at the Loyola College of Law the following courses:

Spring 2000
Federal Appellate Advocacy. I do not have my syllabus from this course.

Fall 1999
Evidence. Syllabus provided.

Fall 1996
Federal Criminal Law. Notes outlining course coverage provided.

Fall 1995
Federal Criminal Law. Notes outlining course coverage provided.

I also taught a course on criminal procedure at Tulane Law School, New Orleans, Louisiana, in Fall 2002 and again in Fall 2003 as an adjunct professor (co-teaching in the fall of 2003 with the Honorable Lance Africk, United States District Judge for the Eastern District of Louisiana). Draft syllabi provided.

Finally, in July 2008, I was invited to teach a Comparative Criminal Justice Seminar at the University of Vienna Law School and Loyola College of Law's Summer Legal Studies Program, in Vienna, Austria. Syllabus provided.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I will receive payments, upon retirement, from the retirement systems of both current employers, Loyola University and the United States.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no plans, commitments or agreements to pursue outside employment, with or without compensation, during my service with the court. I have enjoyed volunteering to speak to local, state and federal bar associations, as well as in local Inns of Court. Within time limits permitted to judges, I would enjoy continuing those involvements with the legal community.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       The circumstances likely to present potential conflicts-of-interest would be any that involve family, relatives and friends. Also, I likely would face conflicts-of-interest arising from litigation, civil and criminal, pending in the United States Attorney's Office for the Eastern District of Louisiana while I worked there.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       I would address any such conflict with complete adherence to requirements set forth by the Department of Justice for persons leaving employment with the Department. I would adhere to all statutory and judicial rules and guidelines, including the Code of Conduct for United States Judges. I would consult other judges on the bench who have had experience with recusal situations. I have litigated judicial and attorney conflicts-of-interest, and would follow the caselaw from the United States Court of Appeals for the Fifth Circuit and the Supreme Court of the United States. Unbiased judgment is an imperative, and I would adhere to the statutory and ethical requirement that there be no actual conflict of interest or even an appearance of a conflict

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    I value both of my career commitments – as a prosecutor and as a law professor – because of their community and service contribution. At a personal level, I have involved myself in New Orleans' recovery from Hurricane Katrina, which caused citizens great harm and loss. I volunteered and was honored to be one of the two first federal prosecutors back in the city overnight immediately after the hurricane to assist with law enforcement. More recently, but ongoing, I enjoyed joining other citizens at the Mayor's request cleaning up the hurricane ravages that still afflict people here.

I devote myself to children, primarily by volunteer coaching. Before our own children were born, I coached soccer in the Fischer Housing Projects; since then, for almost fifteen years, I have coached softball, basketball and soccer at two large city youth sports clubs which include children from all schools, areas and backgrounds. I have volunteered for the American Red Cross teaching English as a Second Language. I have been an Emergency Medical Technician in Washington, D.C., Massachusetts, and Louisiana. I hope my work in 1997 with rule of law initiatives in China, along with many more significant efforts by others, will improve conditions for persons in that country.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In the fall of 2010, I met twice with an advisory selection committee assisting Sen. Mary Landrieu with recommendations to the President for federal judicial office. On October 15, 2010, I was interviewed by Sen. Landrieu and thereafter was told that the Senator intended to recommend me, along with others, to the President for consideration for federal judicial office. Because of my employment by the Department of Justice, I was instructed to notify the Department and promptly did so.

On January 6, 2011, I was contacted by the White House Counsel's Office, and since January 14, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On February 15, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 9, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Higginson, Stephen A.	Fifth Circuit	05/09/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5a. Report Type** (check appropriate type)	**6. Reporting Period**
Circuit Judge	☑ Nomination, Date 05/09/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 05/04/2011
7. Chambers or Office Address	**8.** On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Loyola University, Loyola College of Law 526 Pine Street, Office 409 New Orleans, LA 70118	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Associate Professor of Law	Loyola University, Loyola College of Law
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 6	Name of Person Reporting Higginson, Stephen A.	Date of Report 05/09/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2011	Loyola University Loyola College of Law -- teaching	$52,421.00
2. 2010	Loyola University Loyola College of Law -- teaching	$171,906.00
3. 2009	Loyola University Loyola College of Law -- teaching	$167,149.00
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2011	Tulane University -- university architect
2. 2010	Tulane University -- university architect
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 6	Name of Person Reporting	Date of Report
	Higginson, Stephen A.	05/09/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 6

Name of Person Reporting	Date of Report
Higginson, Stephen A.	05/09/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Regions Bank accounts	B	Interest	L	T	Exempt				
2. LA Start Savings Program accounts	D	Interest	M	T	Exempt				
3. Merrill Lynch Cash Money account	A	Dividend	K	T	Exempt				
4. BlackRock Balanced Mutual Fund	A	Dividend	J	T	Exempt				
5. Computer Associates stock	A	Dividend	J	T	Exempt				
6. Fidelity Contrafund	A	Dividend	J	T	Exempt				
7. Judicial & Justice Federal Credit Union account	A	Dividend	J	T	Exempt				
8. CREF Money Market		None	L	T	Exempt				
9. TIAA-Cref Lifecycle 2025-Retirement		None	L	T	Exempt				
10. TIAA Real Estate		None	J	T	Exempt				
11. CREF Stock		None	K	T	Exempt				
12. CREF Social Choice		None	J	T	Exempt				
13. CREF Bond Market		None	J	T	Exempt				
14. CREF Global Equities		None	J	T	Exempt				
15.									
16.									
17.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 5 of 6	Name of Person Reporting Higginson, Stephen A.	Date of Report 05/09/2011

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

FINANCIAL DISCLOSURE REPORT Page 6 of 6	Name of Person Reporting Higginson, Stephen A.	Date of Report 05/09/2011

IX. CERTIFICATION.

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

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

Signature Stephen Andrew Higginson

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		69	654	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		68	408	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		169	088
Real estate owned – personal residence		460	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		25	000	- Pledged charitable giving			200
Cash value-life insurance							
Other assets itemize:							
- Louisiana START Saving Program Acct (529 College Savings Plan)		102	194				
- Retirement Holdings – see schedule		519	500				
				Total liabilities		169	288
				Net Worth	1	075	468
Total Assets	1	244	756	Total liabilities and net worth	1	244	756
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)	No		
Legal Claims				Are you defendant in any suits or legal actions?	No		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	No		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
BlackRock Balanced Fund	$13,512
Computer Associates, Inc. stock	3,594
Fidelity Contrafund	7,010
Merrill Lynch Cash Money Account	44,292
Total Listed Securities	$68,408

Retirement Holdings	
TIAA-CREF Retirement Accounts	$202,000 (est)
Thrift Savings Plan Account	$317,500 (est)
Total Retirement Holdings	$519,500 (est)

State of Louisiana
Parish of Orleans

AFFIDAVIT

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

5/2/2011
(DATE)

Stephen Andrew Higginson
(NAME)
Stephen Andrew Higginson
Louisiana Driver's License 006560224

Pamela A. Occhipinti
(NOTARY)
PAMELA A. OCCHIPINTI
Louisiana Notary Public License
Number 88661
My commission expires at death

We will now proceed to the second panel, Ms. Forrest, Judge Hickey, Ms. Nathan, and Judge Triche-Milazzo. Will you all place take your seats on the panel?

OK. I'm sorry. Actually, I would now ask you to stand and be sworn.

[Whereupon, the witness was duly sworn.]

Senator FRANKEN. Thank you.

Now I'd like to invite you, and we'll start with Judge Triche-Milazzo, then going down the table. I'd like you all to introduce any friends and family that you have attending.

STATEMENT OF JUDGE JANE M. TRICHE-MILAZZO, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

Judge TRICHE-MILAZZO. OK. Thank you, Senator. First, I'd like to thank the Committee for inviting me here today to consider my nomination. I certainly want to thank President Obama for the honor of this nomination, and Senator Landrieu's recommendation of me to the President and her very, very kind words today, as well as those of Senator Vitter. I appreciate his support during this process.

I have with me my husband John, son Richard, a daughter, Anne, son Jack, my nephew Sam, and somebody's not happy to be here.

[Laughter.]

Judge TRICHE-MILAZZO. And dear friends, Crissy Chaney, Jennifer Walsh, and some other friends. Three of my children could not be here. Jerome and Jennifer are watching it on webcast, along with my father. My youngest son Joseph actually left today for Afghanistan. He's with the unit—Combat Engineering Unit out of Baker, Louisiana. He's with me in spirit, and I am with him. Thank you very much.

Senator FRANKEN. Thank you. Your son is Joe, right?

Judge TRICHE-MILAZZO. Joe.

Senator FRANKEN. Yes. Well, thank Joe for us, would you?

Judge TRICHE-MILAZZO. I will. I will.

Senator FRANKEN. OK. Thank you.

Judge TRICHE-MILAZZO. Thank you very much.

Senator FRANKEN. Ms. Nathan.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Jane Margaret Triche-Milazzo (formerly Jane Margaret Triche, Jane M. Triche Perque)

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

   United States District Judge for the Eastern District of Louisiana

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Twenty-third Judicial District Court, Division D
   Post Office Drawer 268
   110A Franklin Street
   Napoleonville, Louisiana 70390

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

   1957; Napoleonville, Louisiana

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1989 – 1992, Louisiana State University Paul M. Hebert Law Center; J.D., 1992

   1985 – 1986, Nicholls State University; no degree

   1974 – 1977, Nicholls State University; B.A. (*magna cum laude*), 1977

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2008 – Present
Twenty-third Judicial District Court, Division D
Post Office Drawer 268
110A Franklin Street
Napoleonville, Louisiana 70390
District Judge

1986 – 2008
Law Office of Risley Triche, LLC (and predecessor firm)
Post Office Drawer 339
Napoleonville, Louisiana 70390
Partner (1998 – 2008)
Associate (1992 – 1998)
Law Clerk (1989 – 1992)
Paralegal (1986 – 1989)

1983 – 1986
St. Elizabeth School
Post Office Drawer M
Paincourtville, Louisiana 70391
Elementary School Teacher

1979 – 1982
Perque Interiors
Business now dissolved
Paincourtville, Louisiana 70391
Assistant

1977 – 1978
State Farm Insurance Agency
Payless Shopping Center
Highway 1
Paincourtville, Louisiana 70391
Administrative Assistant

Other Affiliations (uncompensated except as noted):

2010 – Present
Louisiana Fifth Circuit Judges' Association
101 Derbigny Street
Gretna, Louisiana 70053
Secretary

2009 – Present
Louisiana District Judges' Association
Louisiana Supreme Court
Office of Judicial Administrator
400 Royal Street
New Orleans, Louisiana 70130
Member, Executive Committee

2007 – Present
Lake Verret Property Owner's Association
5184 Highway 308
Napoleonville, Louisiana 70390
Secretary & Treasurer

2000 – Present
Paul M. Hebert Law Center
Louisiana State University
Law Center Building
Baton Rouge, Louisiana 70803
Trustee

1998 – Present
MJ Holding Company
Post Office Drawer 339
Napoleonville, Louisiana 70390
Partner (compensated)

2006
JAAN, LLC
5184 Highway 308
Napoleonville, Louisiana 70390
Partner (no activity was ever initiated)

1998 – 1999; 2005 – 2007
Twenty-third Judicial Bar Association
1212 East Worthy Street, Suite B
Gonzales, Louisiana 70737
Vice President (1998 – 1999; 2006 – 2007)
President (2005 – 2006)

1997
Mid City Dance Project
Post Office Box 82628
Baton Rouge, Louisiana 70895
Director

1996 – 1997
Assumption Parish Bar Association
Post Office Box 100
Pierre Part, Louisiana 70339
President

1994 – 1995
St. Anne / Assumption Catholic Church
Post Office Drawer 99
Napoleonville, Louisiana 70390
Church council member

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military, nor have I registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Mock Trial Appreciation, Twenty-third Judicial District Court (2003)
   Mock Trial Appreciation, Assumption School Board (2002)
   Ben Miller Scholarship, LSU Paul M. Hebert Law Center (1992 – 1993)
   American Jurisprudence Award, Litigation Clinic (1992)
   Who's Who in American Colleges and Universities (1975 – 1976)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   American Bar Association
   Assumption Parish Bar Association
   - President (1996 – 1997)

   Baton Rouge Bar Association
   Fourth and Fifth Circuit Judges' Association
   Louisiana Association for Justice
   Louisiana District Judges' Association
   - Member, Executive committee (2010 – Present)
   - DOC Liaison Committee (2008 – Present)
   - Elderly Law Committee (2008 – Present)
   - Family and Juvenile Law Committee (2008 – Present)

   Louisiana Fifth Circuit Judges' Association
   - Secretary (2010 – Present)

Louisiana State Bar Association
Chair, Legislative Committee (2007 – 2008)
Member, Legislative Committee (2006 – 2008)
Member, House of Delegates (2006 – 2008)
Louisiana State Bar Foundation
National Association of Women Judges
New Orleans Bar Association
St. Thomas More Association
Twenty-third Judicial District Bar Association
Vice President (2006 – 2007 & 1998 – 1999)
President (2005 – 2006)
Scholarship Committee (2006)
Mock Trial Coach (2002 – 2003)
Mock Trial Chairman (2003)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Louisiana, 1992

There has been no lapse in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United State Court of Appeals for the Fifth Circuit, 1992
United States District Court for the Eastern District of Louisiana, 1992
United States District Court for the Middle District of Louisiana, 1992
United States District Court for the Western District of Louisiana, 1992
Louisiana Supreme Court, 1992

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Lake Verret Property Owners' Association
Secretary/Treasurer (2007 – Present)
Louisiana State University Alumni Association (1997 – Present)
Louisiana State University Presidential Search Committee (2006 – 2007)
Mid City Dance Project (1997)
Director (1997)
Nicholls State University Alumni Association (1997 – Present)
Paul M. Herbert Law Center (2000 – Present)
Trustee (2000 – Present)
St. Anne/Assumption Catholic Church
Member, Church Council (1994 – 1995)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, neither of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

I have no recollection of having written or edited any published material.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

From 2006 to January 2008, I served on the Legislative Committee of the Louisiana Bar Association. The mission of the Legislative Committee is to review and study proposed Louisiana state legislation affecting the practice of law and to make recommendations to the Board of Governors whether the State Bar

should support the legislation. The Legislative Committee did not prepare formal reports of its recommendations. Attached are summaries of the 2006 and 2007 positions taken by the Legislative Committee while I was a member.

As a member of the Louisiana State Bar Association, I am a signatory to its Statement of Diversity Principles. Copy supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have no recollection of having issued or provided any testimony, official statements or other communication to public bodies or public officials.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

This list represents the speeches and talks I have identified through searches of my files and Internet databases. I have tried my best to list all such events, although there may be some that I have not been able to identify or locate.

December 2, 2010: Twenty-third Judicial District Bar Association (Gonzales, Louisiana). I gave a speech entitled, "The Zealous Advocate: An Ethical Briar Patch?" Presentation slides supplied.

September 17, 2010: Louisiana State Bar Association. I gave a presentation on communities and citizenship to a fourth-grade class at Romeville Elementary School during a Constitution Day event. I have no notes, transcript or recording. The address of the school is 9156 Central School Street, Convent, Louisiana 70723.

March 18, 2010: LSU Paul M. Hebert Law Center, Louisiana State University (Baton Rouge, Louisiana). At the request of Professor Harry "Skip" Phillips, I spoke to his Professionalism Class regarding the importance of civility in the courtroom and preparedness. A question and answer session followed. I have no notes, transcripts or recordings. The address of the Law Center is 1 East Campus Drive, Baton Rouge, Louisiana 70808.

December 2, 2009: Lafourche Parish Bar Association (Thibodaux, Louisiana). I taught a Continuing Legal Education course entitled, "Professionalism, A View from the Bench," that discussed civility in the adversarial system, ex parte communication, candor to the court, and the importance of being prompt and prepared for court. I have no notes, transcripts or recordings. The address of the Association is 103 Maronge Street, Suite A, Thibodaux, Louisiana 70301.

October 30, 2009: Labadieville Middle School (Labadieville, Louisiana). I spoke to the entire middle school upon their graduation from "Life on Drugs is No Life." I have no notes, transcripts or recordings. The address of the middle school is 2741 Highway 1, Labadieville, Louisiana 70372.

September 17, 2009: New Orleans Association of Women Attorneys (New Orleans, Louisiana). I taught the Continuing Legal Education segment entitled, "Professionalism, A View from the Bench" at an Annual AWA Ethics and Professionalism CLE course. I have no notes, transcripts or recordings. The address of the Association is Post Office Box 52076, New Orleans, Louisiana 70152.

August 6, 2008: Twenty-third Judicial District Court (Napoleonville, Louisiana). I gave an investiture speech. Transcript supplied.

May 9, 2008: Assumption High School (Assumption, Louisiana). I spoke to the entire parish middle school gathering upon their graduation from a "Dare" drug awareness program sponsored by the Assumption Parish Sheriff's Office. I have no notes, transcripts or recordings. The address of the Assumption Parish Sheriff's Office is 112 Franklin Street, Napoleonville, Louisiana 70390.

Since becoming a judge in 2008, I have on multiple occasions sworn in volunteers for Child Advocacy Services. On one occasion, I also spoke to a group of volunteers. I do not recall the dates of these events, nor do I have any notes, transcripts or recordings. The address of Child Advocacy Services is Hammond Regional Office, 1504 West Church Street, Hammond, Louisiana 70401.

While campaigning for my current position from January 2008 to July 2008, I gave several speeches to groups at individual homes in my Judicial District. During such speeches, I generally discussed my experiences practicing law and made two promises: (1) that I would work hard; and (2) that I would be guided by the law and serve with integrity. I have no notes, transcripts or recordings.

December 8, 2006: Twenty-third Judicial District Bar Association (Donaldsonville, Louisiana). I taught a Continuing Legal Education course entitled, "Recent developments in Louisiana Civil Procedure," which dealt with recent statutory and jurisprudential changes in the law. I have no notes, transcripts or recordings. The address of the Association is 1212 East Worthy Street, Suite B, Gonzales, Louisiana 70737.

May 17, 2006: Assumption High School (Napoleonville, Louisiana). I presented the Twenty-third Judicial District Bar Association scholarship to the recipient at Assumption High School Seniors Award Night. I have no notes, transcripts or recordings. The address of the Association is 1212 East Worthy Street, Suite B, Gonzales, Louisiana 70737.

May 20, 1998: Assumption High School (Napoleonville, Louisiana). I presented the Assumption Parish Bar Association scholarship to the recipient at the Assumption High School Seniors Award Night. I have no notes, transcripts or recordings. The address of the Association is Post Office Box 100, Pierre Part, Louisiana 70339.

Mid-1990s: St. Philomena School, Labadieville, Louisiana. I spoke to this elementary school on the occasion of their graduation from the "Dare" drug awareness program sponsored by the Assumption Parish Sheriff's Office. St. Philomena School is no longer in operation and I have no notes, transcripts or recordings. The address of the Assumption Parish Sheriff's Office is 112 Franklin Street, Napoleonville, Louisiana 70390.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

David Reynaud, *Jane Triche-Milazzo Takes Oath of Office*, Assumption Pioneer, August 14, 2008, at 1. Copy supplied.

John McMillan, *Triche-Milazzo Will Be Judge*, Baton Rouge Advocate, July 16, 2008, at B5. Copy supplied.

Running for Office, Baton Rouge Advocate, Jan. 14, 2008. Copy supplied.

Dennis Camire, *La. Delegates Back Kerry on Education and Health Insurance*, Gannett News Services, July 26, 2004. Copy supplied.

Chris Cillizza, *Mobilizing Begins in Louisiana 3rd: Both Parties to Run Top-Tier Contenders for Open-Seat Race*, Roll Call, Jan. 28, 2004. Copy supplied.

Randy McClain, *The Same-Sex Harassment Issue: Legal Opinions on Wisdom of Oncale Decision are Split*, Baton Rouge Advocate, Mar. 22, 1998. Copy supplied.

Vicki Ferstel, *Plea Bargain Ends Five-Year-Old Poisoning Case*, Baton Rouge Advocate, Aug. 31, 1994. Copy supplied.

Vicki Ferstel, *Body of Motorist Found Submerged in Overturned Car*, Baton Rouge Advocate, Apr. 21, 1994. Copy supplied.

In the early 1990s, I was interviewed by Channel 4, WWL, regarding a client of mine, Dr. Manolito Seludo, and the circumstances surrounding his poisoning. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

On August 1, 2008, I was sworn in as a Louisiana State District Court Judge for Division D of the Twenty-third Judicial District Court. The Twenty-third Judicial District covers Assumption, Ascension, and St. James Parishes. I have jurisdiction over felony and civil matters in all three parishes. I additionally have jurisdiction over misdemeanor matters in Assumption and St. James Parishes only. Finally, as Division D judge, I also hear juvenile matters in Assumption Parish.

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

I have presided over approximately 80 trials.

i. Of these, approximately what percent were:

jury trials:	25%
bench trials:	75%
civil proceedings:	65%
criminal proceedings:	35%

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

The opinions I have written as a District Court Judge are not published and cannot be found in any official reporter or any commercially available database.

The following is a list of my unpublished opinions:

ANPAC La. Ins. Co. v. Murphy, Docket No. 94,249 (La. 23rd Jud. Dist., Parish of Ascension 2011).
Williams v. Ring, Docket No. 92,296 (La. 23rd Jud. Dist., Parish of Ascension 2010).
Ogden v. Ware, Docket No. 91,517 (La. 23rd Jud. Dist., Parish of Ascension 2010).
Mack v. State of Louisiana, Docket No. 79,849 (La. 23rd Jud. Dist., Parish of Ascension 2010).

MIE Properties-LA, LLC v. Victory Physical Therapy, LLC, Docket No. 93,565 (La. 23rd Jud. Dist., Parish of Ascension 2010).

Carrier Constr. LLC v. Sugar Hill, LLC, Docket No. 31,729 (La. 23rd Jud. Dist., Parish of St. James 2010).

Martinez v. Gboloo, Docket No. 84,454 (La. 23rd Jud. Dist., Parish of Ascension 2010).

Bass v. Washington, Docket No. 89,913 (La. 23rd Jud. Dist., Parish of Ascension 2010).

Bradford v. Wong, Docket No. 96,009 (La. 23rd Jud. Dist., Parish of Ascension 2010).

Matassa v. Jasmine, Docket No. 34,051 (La. 23rd Jud. Dist., Parish of St. James); aff'd, 42 So. 3d 1157 (La. App. 1 Cir. 2010); writ denied 39 So. 3d 599 (La. 2010).

State v. James, Docket No. 402 (La. 23rd Jud. Dist., Parish of Ascension 2010), rev'd, Docket No. 2010 KW 0463 (La. App. 1 Cir. June 17, 2010).

Trouillet v. Frechou, Docket No. 31,288 (La. 23rd Jud. Dist., Parish of Assumption, 2010).

Hougas v. Am. Commercial Barge Line, LLC, Docket No. 27,541 (La. 23rd Jud. Dist., Parish of St. James, 2010).

State v. Smith, Docket No. 5629 (La. 23rd Jud. Dist., Parish of St. James, 2010).

Hill v. St. James Stevedoring, LLC, Docket No. 33,018 (La. 23rd Jud. Dist., Parish of St. James, 2010).

Lightell v. KC Boat Co., Docket No. 33,582 (La. 23rd Jud. Dist., Parish of St. James, 2010).

Lowery v. Ascension Catholic Primary Sch., Docket No. 80,313 (La. 23rd Jud. Dist., Parish of Ascension 2009).

Savoie v. Achord, Docket No. 30,646 (La. 23rd Jud. Dist., Parish of Assumption 2009).

Marchand v. Monceaux, Docket No. 31,769 (La. 23rd Jud. Dist., Parish of Assumption 2009).

Bassett v. United Commc'n Servs., Docket No. 89,997 (La. 23rd Jud. Dist., Parish of Ascension 2009).

Kinler v. Ill. Cent. R.R., Docket No. 30,041 (La. 23rd Jud. Dist., Parish of St. James 2009).

Cointment v. Canatella, Docket No. 92,785 (La. 23rd Jud. Dist., Parish of Ascension 2009).

Guyon v. Waguespack, Docket No. 29,980 c/w 30,070 (La. 23rd Jud. Dist., Parish of Assumption 2009).

Roddy v. Louisiana State Penitentiary, Docket No. 14,222 (La. 23rd Jud. Dist., Parish of Ascension, 2009).

Whitmore v. Carter, Docket No. 60,359 (La. 23rd Jud. Dist., Parish of Ascension, 2009).

Flowers v. Miller, Docket No. 87,405 (La. 23rd Jud. Dist., Parish of Ascension, 2009)

Ryan v. Foote, Docket No. 89,526 (La. 23rd Jud. Dist., Parish of Ascension 2009).

Joseph v. Joseph, Docket No. 28,325 (La. 23rd Jud. Dist., Parish of St. James 2008)

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1) Matassa v. Jasmine, Docket No. 34,051 (La. 23rd Jud. Dist., Parish of St. James); aff'd, 42 So. 3d 1157 (La. App. 1 Cir. 2010); writ denied 39 So. 3d 599 (La. 2010). Opinion supplied.

Madeline Jasmine, a Louisiana District Court Judge, filed a notice of candidacy to be a judge on the Louisiana Fifth Circuit Court of Appeal for the Second District, Division A. The plaintiffs filed an objection to her candidacy. The parties stipulated that Jasmine's residence was not within the geographical confines of Division A (*i.e.*, she could not vote for herself) but that it was within the geographical confines of the Fifth Circuit Court of Appeal. I ruled that Jasmine was not qualified to be a candidate for the position she sought. After recusal by the entire Louisiana Fifth Circuit Court of Appeal, the First Circuit Court of Appeal affirmed the judgment.

Counsel for plaintiffs were Matthew Pryor and Barbara Irwin, Pujol and Pryor, 12320 Highway 44, Building 4, Suite C, Gonzales, Louisiana 70737; telephone (225) 644-0607. Counsel for Judge Jasmine was Ernest Jones, 4215 South Claiborne Avenue, New Orleans, Louisiana 70121; telephone (504) 251-1005. Counsel for Secretary of State was William Crawford, Post Office Box 94125, Baton Rouge, Louisiana 70821; telephone (225) 922-2880. Counsel for St. John Parish Registrar of Voters was William Paul Bryan, III, Post Office Box 94005, Baton Rouge, Louisiana 70804; telephone (225) 326-6000. Counsel for Intervenors were Daniel Becnel, Jr. and Salvadore Christina, Jr., 106 West Seventh Street, Post Office Drawer H, Reserve, Louisiana 70084; telephone (985) 651-6101.

2) State v. Nicholas, Docket No. 23,209 (La. 23rd Jud. Dist., Parish of Ascension 2009).

Arthur Nicholas was indicted in 2007 and charged with the first-degree murder of Mark Waddell. The indictment was amended on March 19, 2009 to second-degree murder. Nicholas waived his right to trial by jury and proceeded to trial before the bench. After a three-day trial, Nicholas was found guilty of second-degree murder. The case is currently pending before the Louisiana First Circuit Court of Appeal.

Counsel for the State was Charles "Chuck" Long, 316 Chetimaches Street, Post Office Box 312, Donaldsonville, Louisiana 70346; telephone (225) 473-9215. Counsel for defendant was Raymond Gautreau, 410 Houmas Street, Post Office Box 426, Donaldsonville, Louisiana 70346; telephone (225) 474-8100.

3) Octave v. Martin, Docket No. 28,752 (La. 23rd Jud. Dist., Parish of St. James 2009).

On January 25, 2002, plaintiff was seriously injured when he was shot during the execution of a "no knock" search warrant at his home. As a result of those injuries, he filed a petition for damages. Resolution of this case centered on whether the sheriff's officers used "excessive force" in the execution of the warrant and whether the execution of a "no knock" warrant during the very early morning hours, i.e. 2 am, was reasonable. The plaintiff testified that he was asleep at the time that the officer's entered the home and that he was shot while reaching for his gun. At the conclusion of the plaintiff's presentation of evidence, I ruled against the plaintiff and dismissed his petition. No appeal was taken.

Counsel for plaintiff was Peter Q. John, 12011 Bricksome Avenue, Suite D, Baton Rouge, Louisiana 70816; telephone (225) 293-6234. Counsel for defendants was Fred Schroeder, 1615 Poydras Street, Suite 1250, New Orleans, Louisiana 70112; telephone (504) 592-4600.

4) State v. James, Docket No. 402 (La. 23rd Jud. Dist., Parish of Ascension 2010), rev'd, Docket No. 2010 KW 0463 (La. App. 1 Cir. June 17, 2010). Opinion supplied.

James was convicted of second-degree murder on July 12, 1983. On January 4, 2008, he filed an application for Post Conviction Relief based on newly discovered exculpatory evidence. At the evidentiary hearing, the State conceded that James's claim rested on facts not previously disclosed to him. At the conclusion of the hearing, I found that the suppressed evidence was exculpatory and that the cumulative effect of the newly discovered evidence undermined the faith in the jury's verdict and ordered a new trial. The Louisiana First Circuit Court of Appeal granted the state's writ and reversed, holding that the claim was untimely, and the suppressed information was not material. Writs to the Louisiana Supreme Court were denied.

Counsel for Petitioner was Blaine Hebert, 1331 Barataria Boulevard, Marrero, Louisiana 70072; telephone (504) 348-3217. Counsel for the State was Kurt Wall and Terry Lacy, Louisiana Attorney General, Criminal Division, Post Office Box 94005, Baton Rouge, Louisiana 70804; telephone (225) 326-6200.

5) State v. Stephans, Docket No. 12,717 (La. 23rd Jud. Dist., Parish of Ascension, 2009).

The defendant was indicted for the aggravated rape of MJC, who was eight-years old at the time of the offense. Prior to trial, the State filed a preliminary motion to introduce evidence of other bad acts. I found that the prior acts showed a "lustful disposition toward children" pursuant to Louisiana Code of Evidence 412.2 and thus were admissible. Writs were taken to the First Circuit Court of Appeal and the Supreme Court; writs were denied in both courts. After trial, Stephans was found guilty of attempted aggravated rape. The case is currently pending before the Louisiana First Circuit Court of Appeal.

Counsel for the State was O'Neil Parenton, 313 Chetimaches Street, Post Office Drawer 750, Donaldsonville, Louisiana 70346; telephone (225) 473-3856. Counsel for the Defendant was Andre Belanger, 8075 Jefferson Highway, Baton Rouge, Louisiana 70809; telephone (225) 383-9703.

6) State v. Gaspard, Docket No. 08-199 (La. 23rd Jud. Dist., Parish of Assumption, 2010).

The defendant, age 34, was charged with the second-degree murder of his mother. Gaspard, who was a recluse, lived with his mother and had not left the home since he was 16 years old. On the week of his trial, his counsel requested a continuance, which I denied; writs were taken to the Louisiana First Circuit Court of Appeal, which were denied. On the day of his trial, this counsel again requested a continuance which I again denied; following the denial, the defendant filed a motion to recuse which I denied. The trial proceeded and the Defendant was found guilty of second degree murder. The matter is currently pending before the Louisiana First Circuit Court of Appeal.

Counsel for the State was Thomas Daigle, Post Office Box 277, Paincourtville, Louisiana 70391; telephone (985) 369-3560. Counsel for defendant was Susan Jones, 503 East Third Street, Franklin, Louisiana 70583; telephone (337) 828-3702.

7) Trouillet v. Frechou, Docket No. 31,288 (La. 23rd Jud. Dist., Parish of Assumption, 2010). Opinion supplied.

The biological parents of an 18-year-old man brought this wrongful death action after their son was killed in an automobile accident. During a bench trial, the defendant stipulated to liability and the sole issue before the Court was the extent of damages to be awarded. The case was unusual in that the deceased son had been raised by relatives and the biological parents had a limited relationship with him. No appeal was taken.

Counsel for plaintiffs were L. Blake Jones and Joshua Rubenstein, 909 Poydras Street, Suite 2556, New Orleans, Louisiana 70112; telephone (504) 525-4361, and Kevin Steele, Post Office Box 350, Harvey, Louisiana 70059; telephone (504) 931-8756. Counsel for defendant was Kevin Triay, 228 St. Charles Avenue, New Orleans, Louisiana 70130; telephone (504) 525-6696.

8) Davis v. Travelers Prop. Cas. Ins. Co., Docket No. 76,806 (La. 23rd Jud. Dist., Parish of Ascension), aff'd, Docket No. 2010 CA 1255 (La. App. 1 Cir. Jan. 5, 2011).

The plaintiff in this case was seriously injured when his delivery truck, parked in the travel lane of Highway 308, was struck from the rear. Prior to trial, the plaintiff settled all claims against the striking driver and trial proceeded solely against the state of Louisiana, through the Department of Transportation and Development (DOTD). The plaintiff alleged that DOTD provided no shoulder adjacent to the highway upon which he could have parked to make the delivery; therefore, he was required to park in the highway with flashers and lights to unload his truck, causing an unreasonable risk of harm. The plaintiff alleged that the highway in question had undergone "major reconstruction" and therefore at the time of the reconstruction, the highway should have been brought to standards applicable in 1948, which required a shoulder. DOTD alleged that the work previously performed on the highway did not constitute a major reconstruction and therefore the highway met the appropriate standards. After a three-day jury trial, the jury returned a verdict in favor of DOTD. The Louisiana First Circuit Court of Appeal affirmed and writs to the Louisiana Supreme Court have been denied.

Counsels for plaintiff were Andre Gauthier and Jody Amedee, 2111 South Burnside Avenue, Gonzales, Louisiana 70737; telephone (225) 647-1300. Counsel for defendant was John Ayres, III, Louisiana Attorney General's Office, Post Office Box 94005, Baton Rouge, Louisiana 70804; telephone (225) 326-6308.

9) State v. Carter, Docket No. 25,210 (La. 23rd Jud. Dist., Parish of Ascension, 2010).

The defendant was charged with second-degree murder. On the evening of the murder, Carter and a second man went to the home of a known drug dealer, with the intent of committing an armed robbery. The second man entered the home and immediately began shooting. The victim, a teenager, was sleeping on the sofa and was killed. Pretrial evidentiary hearings called for me to determine the admissibility of certain statements made by the second man. The state argued that they were admissible as co-conspirator statements; Carter asserted that any statements made after arrest were not in furtherance of the conspiracy. I ruled that the statements made during the commission of the

offense were admissible; statements made after arrest were not. During trial, Carter pled guilty to manslaughter.

Counsel for the State was O'Neil Parenton, 313 Chetimaches Street, Post Office Drawer 750, Donaldsonville, Louisiana 70346; telephone (225) 473-3856. Counsel for defendant was Michael Fiser, 830 Main Street, Baton Rouge, Louisiana 70802; telephone (225) 343-5059.

10) Roddy v. Louisiana State Penitentiary, Docket No. 14,222 (La. 23rd Jud. Dist., Parish of Ascension, 2009). Opinion supplied.

The defendant was convicted of second-degree murder in 2002. Prior to my taking the bench, Roddy filed a Petition for Post Conviction Relief, which had been set for hearing by my predecessor. In his petition, Roddy requested DNA testing of clothing offered into evidence at his trial and further alleged that his trial counsel was ineffective. Prior to the hearing, I denied the request for DNA testing because the test would not serve to prove "actual innocence." After a two-day evidentiary hearing, I found that Roddy failed to show that any alleged deficiency by trial counsel prejudiced his defense. Roddy applied for writs to the Louisiana First Circuit Court of Appeal and the Louisiana Supreme Court, both of which were denied.

Counsel for Petitioner was Anthony Bertuccci, 730 Napoleon Street, Baton Rouge, Louisiana 70802; telephone (225) 343-2611. Counsel for the State was Charles "Chuck" Long, 316 Chetimaches Street, Donaldsonville, Louisiana 70346; telephone (225) 473-9215.

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1) Matassa v. Jasmine, Docket No. 34,051 (La. 23rd Jud. Dist., Parish of St. James). Opinion supplied in response to 13(c).

Counsel for plaintiffs were Matthew Pryor and Barbara Irwin, Pujol and Pryor, 12320 Highway 44, Building 4, Suite C, Gonzales, Louisiana 70737; telephone (225) 644-0607. Counsel for Judge Jasmine was Ernest Jones, 4215 South Claiborne Avenue, New Orleans, Louisiana 70121; telephone (504) 251-1005. Counsel for Secretary of State was William Crawford, Post Office Box 94125, Baton Rouge, Louisiana 70821; telephone (225) 922-2880. Counsel for St. John Parish Registrar of Voters was William Paul Bryan, III, Post Office Box 94005, Baton Rouge, Louisiana 70804; telephone (225) 326-6000. Counsel for Intervenors were Daniel Becnel, Jr. and Salvadore Christina, Jr., 106 West Seventh Street, Post Office Drawer H, Reserve, Louisiana 70084; telephone (985) 651-6101.

2) State v. James, Docket No. 402 (La. 23rd Jud. Dist., Parish of Ascension). Opinion supplied in response to 13(c).

Counsel for Petitioner was Blaine Hebert, 1331 Barataria Boulevard, Marrero, Louisiana 70072; telephone (504) 348-3217. Counsel for the State was Kurt Wall and Terry Lacy, Louisiana Attorney General, Criminal Division, Post Office Box 94005, Baton Rouge, Louisiana 70804; telephone (225) 326-6200.

3) Trouillet v. Frechou, Docket No. 31,288 (La. 23rd Jud. Dist., Parish of Assumption). Opinion supplied in response to 13(c).

Counsel for plaintiffs were L. Blake Jones and Joshua Rubenstein, 909 Poydras Street, Suite 2556, New Orleans, Louisiana 70112; telephone (504) 525-4361, and Kevin Steele, Post Office Box 350, Harvey, Louisiana 70059; telephone (504) 931-8756. Counsel for defendant was Kevin Triay, 228 St. Charles Avenue, New Orleans, Louisiana 70130; telephone (504) 525-6696.

4) Roddy v. Louisiana State Penitentiary, Docket No. 14,222 (La. 23rd Jud. Dist., Parish of Ascension). Opinion supplied in response to 13(c).

Counsel for Petitioner was Anthony Bertuccci, 730 Napoleon Street, Baton Rouge, Louisiana 70802; telephone (225) 343-2611. Counsel for the State was Charles "Chuck" Long, 316 Chetimaches Street, Donaldsonville, Louisiana 70346; telephone (225) 473-9215.

5) State v. Smith, Docket No. 5629 (La. 23rd Jud. Dist., Parish of St. James, 2010). Opinion supplied.

Counsel for the State was Bruce Mohon, 1959 Highway 3125, Suite 5, Lutcher, Louisiana 70071; telephone (225) 869-3939. Counsel for the Defendant was John Wilson Reed, Glass and Reed, 530 Natchez Street, New Orleans, Louisiana 70130; telephone (504) 581-9083.

6) Hougas v. Am. Commercial Barge Line, LLC, Docket No. 27,541 (La. 23rd Jud. Dist., Parish of St. James, 2010). Opinion supplied.

Counsel for the plaintiff was Timothy Young, The Young Law Firm, 400 Poydras Street, Suite 2090, New Orleans, Louisiana 70130; telephone (504) 655-9330. Counsel for defendant, American Commercial Barge Line, LLC was William Joyce, Jones, Walker, 201 St. Charles Avenue, Suite 5100, New Orleans, Louisiana 70170; telephone (504) 582-8000. Counsel for defendant, Tako Towing, Inc was Paul Vance, Baldwin, Haspel, Burke and Mayer, 1100 Poydras Street, New Orleans, Louisiana 70163; telephone (504) 569-2900.

7) Whitmore v. Carter, Docket No. 60,359 (La. 23rd Jud. Dist., Parish of Ascension, 2009). Opinion supplied.

Counsel for plaintiff was Harry Ezim, Ezim Law Firm, 7142 Florida Boulevard, 2nd Floor, Baton Rouge, Louisiana 70806; telephone (225) 929-7785. Counsel for defendant was Harley M. Brown, 854 Main Street, Baton Rouge, Louisiana 70802; telephone (225) 336-0353.

8) Hill v. St. James Stevedoring, LLC, Docket No. 33,018 (La. 23rd Jud. Dist., Parish of St. James, 2010). Opinion supplied.

Counsel for plaintiff was Jason MacFetters, Baldwin, Haspel, Burke and Mayer, 1100 Poydras Street, New Orleans, Louisiana 70163; telephone (504) 569-2900. Counsel for defendant was Daniel Hoerner, Mouledoux, Bland, Legrand and Brackett, One Shell Square, 701 Poydras Street, Suite 4250, New Orleans, Louisiana 70139; telephone (504) 595-3000.

9) Lightell v. KC Boat Co., Docket No. 33,582 (La. 23rd Jud. Dist., Parish of St. James, 2010). Opinion supplied.

Counsel for plaintiff was W. Chad Stelly, Rome, Arata, Baxter and Stelly, 650 Poydras Street, New Orleans, Louisiana 70130; telephone (504) 522-9980. Counsel for defendants were Bert Cass, Jr., Deutsch, Kerrigan and Stiles, 755 Magazine Street, New Orleans, Louisiana 70130; telephone (504) 581-5141, and John Enochs, Baldwin, Haspel, Burke and Mayer, 1100 Poydras Street, New Orleans, Louisiana 70163; telephone (504) 569-2900.

10) Flowers v. Miller, Docket No. 87,405 (La. 23rd Jud. Dist., Parish of Ascension, 2009). Opinion supplied.

Counsel for plaintiffs was Karl Krousel, 4336 North Boulevard, Suite 101, Baton Rouge, Louisiana 70806; telephone (225) 334-9188. Counsel for defendants were Kevin Christensen, Pan American Life Center, 601 Poydras Street, Suite 2335, New Orleans, Louisiana 70130; telephone (504) 528-8878, Jack Riffle, Law Office of Harold Toscano, Acadian Centre, Suite 655, 2431 South Acadian Thruway, Baton Rouge, Louisiana 70808; telephone (225) 926-6050, and Stephen Laborde, 81 Granada Drive, Kenner, Louisiana 70065; telephone (504) 469-6000.

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

None.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If

any of the opinions listed were not officially reported, provide copies of the opinions.

In State v. James, Docket No. 402 (La. 23rd Jud. Dist., Parish of Ascension), my judgment ordering a new trial was reversed by the Louisiana First Circuit Court of Appeal. The Court of Appeal judgment is supplied.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a Louisiana District Judge, the overwhelming majority of my opinions are delivered orally in court. I estimate that during my time as a judge, I have issued roughly 28 written opinions, all of which are unpublished and all of which are on file in my office and with the Clerks of the corresponding parishes.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Matassa v. Jasmine, Docket No. 34,051 (La. 23rd Jud. Dist., Parish of St. James); aff'd, 42 So. 3d 1157 (La. App. 1 Cir 2010); writ denied 39 So. 3d 599 (La. 2010).

State v. James, Docket No. 402 (La. 23rd Jud. Dist., Parish of Ascension), rev'd, Docket No. 2010 KW 0463 (La. App. 1 Cir. June 17, 2010).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have sua sponte recused myself from all cases in which my former law partner and brother, Martin Triche, my son, Richard Perque, or my daughter's employer have been involved. I have also recused myself from all cases where I had previously represented a party. I do not have a listing of those cases.

I recall two cases in which a party asked me to recuse. In State v. Gaspard, Docket No. 08-199 (La. 23rd Jud. Dist., Parish of Assumption), the defendant filed a Motion to Recuse on the morning of trial after I denied his request for a continuance of the trial date. The defendant argued that I was being guided by public opinion and that, as a result, I had a conflict of interest in the matter. I denied the motion and the matter was set for immediate hearing before another judge who denied the motion finding no conflict of interest.

In Matassa v. Jasmine, Docket No. 34,051 (La. 23rd Jud. Dist., Parish of St. James), the plaintiffs filed an objection to the candidacy of the defendant for a position on the Louisiana Fifth Circuit Court of Appeal, alleging that she did not meet the residency requirements for the office. The defendant filed a Motion to Recuse alleging that I, along with all of the judges of the Twenty-third Judicial District, had a conflict because the Parish of St. James, one of the parishes within the Twenty-third Judicial District, is located within the Fifth Circuit. I denied the motion. A hearing was held before another judge, appointed ad hoc by the Louisiana Supreme Court solely for the purpose of hearing the motion, who found no conflict and denied the motion.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public offices. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Louisiana Democratic Party State Central Committee, Member (2000 – 2007)
Louisiana Democratic Party Patron (2000 – 2007)
Assumption Parish Democratic Party Committee, Member (1999 – 2007)
Democratic National Convention, Delegate (2000 and 2004)

I also organized and managed get-out-the-vote efforts and raised funds for the following campaigns: Mary Landrieu for U.S. Senate (2008); Charlie Melancon for Congress (2006); Charlie Melancon for Congress (2004); Chris John for U.S. Senate (2004); Kathleen Blanco for Louisiana Governor (2004); Mary Landrieu for U.S. Senate (2002); Mary Landrieu for U.S. Senate (1996); Mary Landrieu for Governor (1995).

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a judicial law clerk.

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

I have never practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1986 – 2008
Law Office of Risley Triche, LLC (and predecessor firm)
Post Office Drawer 339
Napoleonville, Louisiana 70390
Paralegal (1986 – 1989)
Law Clerk (1989 – 1992)
Associate (1992 – 1998)
Partner (1998 – 2008)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator.

b. Describe:

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

I have spent my entire legal career as an associate and later partner in a general civil law practice. Early in my career, my father, Risley Triche, was involved in a significant amount of criminal defense in both state and federal courts. During that time, I often assisted and sat as second chair. As he gradually decreased his time in the law office, I became more involved in civil litigation. I did a great deal of work in the area of medical malpractice, domestic relations, and other personal injury type cases.

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

My typical clients have been individuals. On one occasion, I represented a business entity.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While in private practice, nearly my entire practice was litigation and I appeared in court frequently.

i. Indicate the percentage of your practice in:
   1. federal courts: 5 %
   2. state courts of record: 94 %
   3. other courts: 0 %
   4. administrative agencies: 1 %

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 90 %
   2. criminal proceedings: 10 %

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I estimate that I have tried 80 cases to verdict, judgment or final decision. I was chief counsel in the majority of those cases.

i. What percentage of these trials were:
   1. jury: 20 %
   2. non-jury: 80 %

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1) Oil Insurance, Ltd. v. Dow Chem. Co., 977 So. 2d 18 (La. App. 1 Cir. 2007), writ denied 976 So. 2d 1284 (La. 2008).

On December 24, 2003, a gas well owned by Dow Hydrocarbons and Resources, Inc. and leased and operated by Gulf South cracked, allowing natural gas to escape into underground area around the well. As a result of the gas release, this complex litigation ensued. I represented Dow Chemical. There were significant issues regarding the cause of the failure, as well as waiver of warranty, applicability of comparative fault, and subrogation. Gulf South filed a claim for business losses against its insurer, Oil Insurance, Ltd. Oil filed a claim for damages against Dow Chemical and Dow Hydrocarbons alleging the sole fault of the failure belonged to Dow. Dow filed a reconventional demand against Oil, as the Gulf South insurer, for damages sustained. Initially, Dow filed an exception of Prescription, which I argued before the Louisiana First Circuit Court of Appeal, where we prevailed. The suit was still pending when I took office in August 2008.

Judge Thomas Kleibert presided in the Twenty-third Judicial District Court. Counsel for plaintiff, Oil Insurance, Ltd. was Edward Francis Lebreton, III, Fowler, Rodriguez, Valdes and Fauli, LLP, 400 Poydras Street, 30th Floor, New Orleans, Louisiana 70130; telephone (504) 523-2600. Co-counsel for defendant, Dow Chemical Company; Dow

Hydrocarbons and Resources, Inc were Douglas Kurtenbach, Kirkland and Ellis, LLP, 300 North LaSalle, Chicago, Illinois 60654; telephone (312) 862-2000; F. Barry Marionneaux, and F. Charles Marionneaux, Marionneaux and Marionneaux, 23615 Railroad Avenue, Plaquemine, Louisiana 70764; Arthur Abercrombie, John Campbell, III and John Viator, Taylor Porter, 8th Floor Chase Tower South, 451 Florida Street, Baton Rouge, Louisiana 70801; telephone (225) 387-3221. Counsel for defendant, Gulf South Pipeline Co and Energy Corp. was Terrence Knister, Gordon, Arata, LLP, 201 St. Charles Avenue, #4000, New Orleans, Louisiana 70170; telephone (504) 582-1111. Counsel for Frank's Casing and Rental Tools was Richard Hymel, Preis and Roy, LLP, 102 Versailles Boulevard, Suite 400, Lafayette. Louisiana 70501; telephone (337) 237-6062.

2) Harrison v. Archer Daniels Midland Co., 904 So. 2d 971 (La. App. 1 Cir. 2005); writ granted 925 So. 2d 1216 (La. 2006).

Plaintiff Harrison, whom I represented, filed this action against Arthur Daniels Midland Co. (ADM) and Supreme Sugar Co. (Supreme) alleging that he had been wrongfully hired. Harrison accepted an offer of employment by Supreme, with an anticipated report to work date approximately four months after the offer was accepted. During the four month interim, Harrison divested himself of various business interests in anticipation of his new employment. Additionally, during the interim, Supreme was sold to ADM although the sale was kept confidential. Harrison began employment and was terminated within the first year as part of the ADM restructure. Harrison alleged that Supreme and ADM had an obligation to terminate the agreement to hire as the conditions had fundamentally changed. At the bench trial, judgment was rendered on behalf of Harrison. The Louisiana First Circuit Court of Appeal reversed. Writs were granted by the Louisiana Supreme Court and the case settled prior to Supreme Court argument.

Judge Thomas Kleibert presided in the Twenty-third Judicial District Court. Co-counsel for plaintiff was Randall Wells, 6541 Sheffield Avenue, Baton Rouge, Louisiana 70806; telephone (225) 927-3914. Counsel for defendant was Edward Koehl, Jr., Jones Walker Waechter, 701 St. Charles Avenue, New Orleans, Louisiana 70170; telephone (504) 582-8176.

3) State v. Thibodeaux, 811 So. 2d 875 (La. 2002).

My client, Shane Thibodeaux, was arrested and charged with distribution of various narcotics. Thibodeaux sought to suppress the evidence retrieved as a result of the search of his house, claiming that the search was without a warrant or exigent circumstances, and that his consent was invalid because the officers arrived and woke the occupants at 2 am. The trial court denied the motion to suppress. The Louisiana First Circuit Court of Appeal granted writs and reversed the trial court. The Louisiana Supreme Court then granted writs and reversed the First Circuit. After the ruling by the Supreme Court, the defendant entered into a plea agreement.

Judge Gerald Wattigny presided in the Sixteenth Judicial District Court. Counsel for the state was Walter James Sennette, Jr., Assistant District Attorney, Sixteenth Judicial

District Court, St. Mary Courthouse, Franklin, Louisiana 70538; telephone (337) 828-4100.

4) Boudreaux v. Louisiana Casing Cruises, Inc. d/b/a Casino Rouge, 762 So. 2d 1200 (La. App. 1 Cir. 2000), writ denied 772 So. 2d 651 (La. 2000).

Plaintiff Boudreaux, an openly gay man, was hired by Casino Rouge as a banker. He alleged that during the course of his employment he was subjected to repeated and unwanted sexual advances by his supervisor, John Causey. Boudreaux began reporting these advances to his friend and immediate supervisor almost immediately, but instructed her not to report the issue to Human Resources as he was afraid to lose his job. Boudreaux was discharged and this lawsuit followed, wherein I represented Boudreaux. The trial court granted summary judgment in favor of the employer, holding that Boudreaux's failure to follow company procedure and report his complaints precluded his recovery. The Louisiana First Circuit Court of Appeal reversed and the Louisiana Supreme Court denied writs. The matter subsequently settled prior to trial.

Judge Robert Downing presided in the Nineteenth Judicial District Court. Counsel for defendant was Murphy Foster, III, Breazeale, Sachse, and Wilson, LLP, One American Place, 301 Main Street, 23rd Floor, Post Office Box 3197, Baton Rouge, Louisiana 70821; telephone (225) 387-4000.

5) Wiley v. Cooper, Docket No. 74,159 (La. 23rd Jud. Dist.).

Wiley expired in 2001 during pancreatic fistula repair surgery. As a result of his death, a complaint was filed with the Patient's Compensation Fund and submitted to a medical review panel, which found no malpractice. This suit for damages followed, in which I represented Wiley. The suit alleged that Dr. Cooper, while performing a biopsy, lacerated the pancreas and, in an attempt to repair the damage, tied off the pancreatic duct. As a result of this injury, Wiley suffered from pancreatitis and was unable to receive appropriate treatment for underlying cancer. After a week-long jury trial in 2004, the jury found that Wiley lost a "chance of survival" as a result of the defendant's malpractice. No appeal was filed.

Judge Pegram Mire presided in the Twenty-third Judicial District Court. Counsel for defendant was Paul Meyer, 9100 Bluebonnet Center Boulevard, Baton Rouge, Louisiana 70809; telephone (225) 295-4910.

6) James v. Pharo, Docket No. 97,787 (La. 17th Jud. Dist.).

James brought this medical malpractice claim for the wrongful death of her husband. She alleged that Dr. Pharo abruptly discontinued the decedent's use of Atenolol, a cardiac medication, which resulted in his death. I represented the plaintiff. Following a bench-trial in 2003, judgment was rendered in favor of my client. No appeal was filed.

Judge Walter Lanier presided in the Seventeenth Judicial District Court, Counsel for the defendant was Peter Sperling, Frilot, LLC, 1100 Poydras Street, #3700, New Orleans, Louisiana 70163; telephone (504) 599-8015.

7) Seludo v. Kentwood Spring Water, Inc., Docket No. 20,093 (La. 23rd Jud. Dist.).

My client, Dr. Seludo, was poisoned and permanently disabled when he drank bottled water laced with cyanide. Suspicion immediately focused on his neighbor, a lab technician at Lakewood Hospital. Through extensive discovery, we were able to show that (1) the neighbor had access to cyanide at the hospital (that, in violation of policy, had not been destroyed); (2) the molecular nature of the cyanide found at Lakewood was consistent with the cyanide found in Seludo; (3) Seludo had recently refused to allow his neighbor to continue using his vehicle; and (4) the neighbor's background was fraudulent. This matter settled in 1994, prior to trial.

Judge John Peytavin presided in the Twenty-third Judicial District Court. Counsel for the defendant, Lakewood Hospital was Peter Dazzio, Watson, Blanche, Wilson and Posner, 505 North Boulevard, Post Office Drawer 2995, Baton Rouge, Louisiana 70821; telephone (225) 387-5511.

8) Gaudet v. Gaudet, 845 So. 2d 166 (La. App. 1 Cir. 2003).

Plaintiff and wife divorced in 1999, during which time they entered into a community property agreement. In November 2000, my client, the plaintiff, challenged the agreement as lesionary. His ex-wife argued that the partition agreement was part of transaction and compromise and that the agreement contained some "nontangible benefit" in that my client's actions had caused the divorce. After trial on the matter, the court found the agreement was indeed lesionary and set the partition aside. The Louisiana First Circuit Court of Appeal affirmed.

Judge Robert Klees (ad hoc) presided in the Seventeenth Judicial District Court. Counsel for defendant was Daniel Cavell, 402 West Fourth Street, Thibodaux, Louisiana 70301; telephone (985) 449-7500.

9) Champagne v. McDonald's Corp., No. 02-CV-1145 (E.D. La.).

Plaintiff visited McDonald's and ordered a chicken sandwich. While eating the meal, she discovered some foreign object in the meal. The foreign object was given to the store manager and later misplaced or lost. The plaintiff, whom I represented, filed against McDonald's, Tyson Foods, Inc. and the Martin Brower Company, LLC in 2003. McDonald's sought summary judgment, arguing that it was not a manufacturer within the meaning of the Louisiana Products Liability Act (LSA-R.S. 9:2800, et seq.). After summary judgment was denied, the matter settled in 2003.

Judge Lance Africk presided in the United States District Court for the Eastern District of Louisiana. Counsel for defendant, McDonald's was Max Cohen, Lowe, Stein, Allweis

and Hauver, LLP, 701 Poydras Street, #3600, New Orleans, Louisiana 70139; telephone (504) 581-2450. Counsel for defendant, Tyson Foods, was Scott Kaiser, Phelps Dunbar, LLP, Canal Place, 365 Canal Street, Suite 2000, New Orleans, Louisiana 70130; telephone (504) 566-1311.

10) Jackson v. Winn Dixie Louisiana Co., Docket No. 80,647 (La. 17th Jud. Dist.).

Plaintiff purchased various food products from Winn Dixie for her family, including a package of ground beef. She seasoned the meat products, cooked a portion and froze the remainder. Within the following week, her very young daughter became violently ill and was diagnosed with an E. coli bacterial infection that resulted in temporary kidney failure requiring dialysis. My client filed suit against Winn Dixie. After extensive discovery, the case settled in 1999.

Judge A. Bruce Simpson presided in the Seventeenth Judicial District Court. Counsel for the defendant, Winn Dixie was Rene Williams, Williams, Lazarus and Brown, 7931 Main Street, Houma, Louisiana 70360; telephone (985) 917-1111.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As a partner in my law firm, I engaged primarily in litigation. Occasionally, I drafted sales, leases, and wills and did minimal succession work.

Throughout my career, I was an active member of our local bar association and, during my tenure as president, the "23rd Judicial District Bar Association Scholarship Fund" was established. This fund awards a scholarship to an outstanding senior in each high school in the district. I have additionally volunteered, in conjunction with the bar association and local schools, to be available for student shadowing and career days. From 2005 through 2007, I was involved with the state bar association and was an active member of the House of Delegates.

I have never performed any lobbying activities on behalf of a client. I have, however, informally contacted legislators on issues related to judicial matters and requested their consideration on bills that had been designated as items supported or opposed by the state judiciary. Additionally, while on the legislative committee of the Louisiana Bar Association, I was involved in "reach out" functions hosted by the Bar Association to interact with legislators. I have never registered as a lobbyist.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe

briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any classes.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I have an interest in MJ Holding Company, which is a real estate holding company owned by my brother and me. I would anticipate proceeds from any real estate sales or rentals received. If confirmed, I would handle this interest in accordance with judicial ethical standards.

    I have an interest in one outstanding personal injury claim. I would anticipate proceeds from this case upon trial or settlement. If confirmed, I would handle this interest in accordance with judicial ethical standards.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no such plans, commitments, or agreements.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

My brother is a partner in the Law Office of Risley Triche, LLC in which I was once a partner as well. My son is a sole practitioner in New Orleans. My daughter is a law school graduate and anticipates practicing in the Thibodaux area. If confirmed, I would recuse myself from any case in which any of these family members appeared as an attorney as well as any case in which any member of the Law Office of Risley Triche, LLC appeared. While I would carefully review each case for conflict or appearance of conflict, I do not anticipate any other conflicts if I am confirmed as a district judge.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will abide by the provisions of Canon 3 of the Code of Conduct for United States Judges and other applicable laws and standards. I will endeavor at the outset of each case to identify any potential conflict or appearance of conflict. I will treat any such conflict or appearance of conflict in accordance with the laws and rules, with the guidance of my colleagues, and with disclosure on the record and recusal where necessary.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have been engaged in pro bono (or reduced fee) work throughout my career. I volunteered to provide services to Chez Hope, a local battered women's shelter, and was regularly referred clients by the counselors of the shelter who were unable to afford services. Additionally, I would regularly accept reduced fees in domestic matters based upon my client's ability to pay.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In February 2009, I wrote to Senator Mary Landrieu requesting her consideration for the vacancy in the United States District Court for the Eastern District of

Louisiana. Representatives of Senator Landrieu interviewed me in New Orleans in March 2009. I interviewed with Senator Landrieu on October 14, 2010. On November 2, 2010, I was contacted by Senator Landrieu and advised that my name, along with two others, was being submitted to the White House for consideration. Since December 23, 2010, I have been in contact with pre-nomination officials at the Department of Justice regarding my candidacy. On February 1, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On March 16, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Triche-Milazzo, Jane M.	U.S. District Court, Eastern District of Louisiana	03/16/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
U.S. District Judge	☑ Nomination, Date 03/16/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 02/28/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Post Office Box 268 110A Franklin Street Napoleonville, Louisiana 70390	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Partner	MJ Holding Company
2.	Secretary / Treasurer	Property Owners Association of Lake Verret Park Estates
3.		
4.		
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	2008	Interest in one outstanding pending personal injury claim, no control.
2.	2008	Louisiana State Employees Retirement System, pension upon retirement
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 9	Name of Person Reporting Triche-Mihazo, Jane M.	Date of Report 03/16/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2011	Judicial Branch of Louisiana, wages	$22,757.26
2. 2011	23rd Judicial Expense Fund, Per Diem	$476.00
3. 2010	Judicial Branch of Louisiana, wages	$133,138.47
4. 2010	23rd Judicial Expense Fund, Per Diem	$3,662.00
5. 2009	MJ Holding Company, Distribution	$25,000.00
6. 2009	Judicial Branch of Louisiana, wages	$125,235.00
7. 2009	23rd Judicial Expense Fund, Per Diem	$2,074.00

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

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

DATE	SOURCE AND TYPE
1. 2011	Campus Federal Credit Union, wages
2. 2010	Campus Federal Credit Union, wages
3.	
4.	

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

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				

Name of Person Reporting	Date of Report
Triche-Milazzo, Jane M.	03/16/2011

5.

Name of Person Reporting	Date of Report
Triche-Milazzo, Jane M.	03/16/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	EXEMPT		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 5 of 9

Name of Person Reporting	Date of Report
Triche-Milazzo, Jane M.	03/16/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. St Tammy Parish Wide Schl LA Bonds	A	Interest	J	T	Exempt				
2. Webster Parish LA Schl Dist 6 Bonds	A	Interest	J	U					
3. E I du Pont de Nemours & Co Stock	A	Dividend	K	T					
4. General Electric Stock	B	Dividend	K	T					
5. Google, Inc Stock		None	K	T					
6. J. Crew Group Inc. Stock		None	K	T					
7. CGM Focus Fund		None	K	T					
8. Columbia Mid Cap Value Fund, Class Z	A	Dividend	J	T					
9. Driehaus Mut Fd Emerg Mkt Grw	C	Dividend	K	T					
10. Janus Special Equity	A	Dividend	K	T					
11. Marsico Invt Fd 21 Century Fund		None	J	T					
12. Royce Opportunity Fund		None	L	T					
13. Schwab Cap Tr Laudu Intl MktMastr	A	Dividend	L	T					
14. T. Rowe Midcap Equity Growth FD #16	A	Int./Div.	L	T					
15. T Rowe Price Value Fd Inc. Com	A	Dividend	K	T					
16. Vanguard Index Fd Sml Cp Grw Inv.	A	Dividend	L	T					
17. Dodge and Cox International Stock Fund	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 6 of 9

Name of Person Reporting	Date of Report
Triche-Milazzo, Jane M.	03/16/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Janus Overseas Fund	A	Dividend	L	T					
19. Vanguard Trustees Equity FD Intl Value Fund	A	Dividend	J	T					
20. Spdr Tr Unit Ser 1	A	Dividend	K	T					
21. UBS Global Allocation Fund Class A	C	Int./Div.	M	T					
22. Putnam Fund for Growth and Income	A	Dividend	K	T					
23. Capital One Stock	A	Dividend	K	T					
24. Wells REIT II	B	Dividend	K	W					
25. MetLife Mod/Agg Allocation Portfolio		None	N	T					
26. LifeStyle Moderate Growth Strategy		None	L	T					
27. LifeStyle Aggressive Growth Strategy		None	N	T					
28. Nuveen Tradewinds Intl Value FD CLS AM		None	K	T					
29. Nuveen TradeWinds Emerging Mkts Fund Class A M/F		None	K	T					
30. Pimco Eqs Pathfinder Fund Class A M/F	A	Interest	K	T					
31. Royce Intl Smaller-Companies FD Service Class N/L		None	K	T					
32. Royce 100 Fund Service Class N/L		None	K	T					
33. Templeton Emerging Mkts Small Cap Fund Class A M/F		None	K	T					
34. ING Fixed Account		None	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 7 of 9

Name of Person Reporting	Date of Report
Triche-Mikazzo, Jane M.	03/16/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. MJ Holding Company	E	Distribution	M	U					
36. Campus Federal Credit Union cash account	B	Interest	L	T					
37. Edward Jones Money Market cash account	A	Interest	J	T					
38. UBS Bank cash account	A	Interest	J	T					
39. PIF Temp Dollar Fund cash account	A	Interest	K	T					
40. S&P 500 Spyder		None	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C=$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C3)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 8 of 9	Name of Person Reporting Triche-Milazzo, Jane M.	Date of Report 03/16/2011

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

Part 1. I currently serve as Secretary / Treasurer of Lake Verret Park Estates, Inc., the property association for community where our vacation lake house is located. In that capacity I collect dues and pay bills associated with the neighborhood.

FINANCIAL DISCLOSURE REPORT Page 9 of 9	Name of Person Reporting Triche-Milazzo, Jane M.	Date of Report 03/16/2011

IX. CERTIFICATION.

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

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

Signature _____

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		115	607	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	I	933	978	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends		37	826	Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		298	406
Real estate owned – see schedule		921	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		207	670				
Cash value-life insurance		124	795				
Other assets itemize:							
- MJ Holding Co.		100	000				
- LA State Employees Retirement System		38	396				
				Total liabilities		298	406
				Net Worth	3	180	866
Total Assets	3	479	272	Total liabilities and net worth	3	479	272
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts		106	012	Are any assets pledged? (Add schedule)	No		
Legal Claims				Are you defendant in any suits or legal actions?	No		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	No		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
St Tamany Parish Wide Schl LA bonds	$5,057
Webster Parish LA Schl Dist 6 bonds	10,004
E I du Pont de Nemours & Co. stock	29,541
General Electric stock	49,162
Google, Inc. stock	38,038
J Crew Group, Inc stock	16,817
CGM Focus Fund	18,834
Coumbia Mid Cap Value Fund Class Z	14,864
Driehaus Mut Fd Emerg Mkt Grw	27,916
Janus Special Equity	24,130
Marsico Invt Fd 21 Century Fund	13,668
Royce Opportunity Fund	75,384
Schwab Cap Tr Laudus Intl MktMstr	65,587
T Rowe Midcap Equity Growth FD#116	65,648
T Rowe Price Value Fd Inc Com	39,283
Vanguard Index Fd Sml Cp Grw Inv	81,588
Dodge and Cox International Stock Fund	5,418
Janus Overseas Fund	61,908
Vanguard Trustees Equity FD Intl Value Fund	5,007
Spdr Tr Unit Ser 1	39,950
S&P 500 Spyder	21,304
UBS Global Allocation Fund Class A	100,071
Putnam Fund for Growth & Income Cl A	4,218
Capital One Stock	3,036
Wells REIT II	43,048
MetLife Mod/Agg Allocation Portfolio	408,600
LifeStyle Moderate Growth Strategy	77,549
LifeStyle Aggressive Growth Strategy	451,827
Nuveen Tradewinds Intl. Value FD CLS AM	26,913
Nuveen Tradewinds Emerging Mkts Fund Class A M/F	14,891
Pimco Eqs Pathfinder Fund Class A M/F	27,121
Royce Intl Smaller-Companies FD Service Class N/L	15,733
Royce 100 Fund Service Class N/L	18,605
Templeton Emerging Mkts. Small Cap Fund Class A M/F	14,584
ING Fixed Account	18,674
Total Listed Securities	$1,933,978

Real Estate Owned		
Personal residence		$325,000
Vacation home		450,000
Second residence		125,000
Undeveloped lot #1		10,000
Undeveloped lot #2		10,000
Undeveloped lot #3		1,000
	Total Real Estate Owned	$921,000

Real Estate Mortgages Payable		
Vacation home		$260,680
Second residence		37,726
	Total Real Estate Owned	$298,406

AFFIDAVIT

I, Jane Margaret Triche-Milazzo, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

March 14, 2011
(DATE)

(NAME)

Timothy J BARBIER
3/14/11 (NOTARY) #811
BAR Roll 2743

STATEMENT OF ALISON J. NATHAN, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Ms. NATHAN. Thank you, Mr. Chairman. And I thank you and Ranking Member Grassley, and Senator Leahy for scheduling this hearing and allowing me the great privilege of being here before you today.

I'd also like to thank Senator Schumer for his generous introduction and for recommending me, and Senator Gillebrand for her support as well. And I thank the President for nominating me.

I would like to introduce my family. I'm here with my partner, Professor Margaret Satterthwaite. I'm grateful every day for Meg's friendship, love and support. She's here, as you've heard, with the apples of my eye, my twin sons, Nathan and Oliver, who will turn two this July. My parents, Ellen and Bill Nathan are here. They typically seek only to be known as Nathan and Oliver's grandparents, which they adore being.

Senator FRANKEN. Welcome.

Ms. NATHAN. I know they're very proud to be here, and I'm grateful that they are, and for their love and support.

Meg's mom, Sara Satterthwaite, is here, and her husband, Neal Freming. Watching by webcast is my brother, Dr. David Nathan, and his wife Libima Nathan, from their home in Salt Lake City, Utah. The person for whom I currently work is here, the Solicitor General of the State of New York, Barbara Underwood. I'm grateful that she is here, and for her support.

And then I would simply note that I'm joined by a number of friends and former colleagues from my service in the White House Counsel's office; from my prior law firm of Wilmer, Hale, Cutler, Pickering & Dorr; from my year that I had the great privilege to clerk for Justice Stevens, there are a number of fellow clerks from that year here as well; and several friends who traveled from New York City to be here today. I'm grateful to them and I thank you for allowing me to introduce them. I look forward to the Committee's questions.

Senator FRANKEN. Thank you. And welcome to all of you.

Ms. Forrest.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Alison Julie Nathan

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

   United States District Judge for the Southern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Office of the Attorney General of the State of New York
   Solicitor General's Office
   120 Broadway, 25th Floor
   New York, New York 10271

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

   1972; Philadelphia, Pennsylvania

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1997 – 2000, Cornell Law School; J.D. (*magna cum laude*), 2000

   1996 – 1997, Cornell University, Falcon Intensive Japanese Language Program; no degree received

   1990 – 1994, Cornell University; B.A., 1994

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2010 – present
Office of the Attorney General of New York
120 Broadway, 25th Floor
New York, New York 10271
Special Counsel to the Solicitor General

2009 – 2010
White House Counsel's Office
The White House
Washington, D.C. 20502
Special Assistant to the President and Associate White House Counsel

2008 – 2009
New York University School of Law
40 Washington Square South
New York, New York 10012
Fritz Alexander Fellow

2006 – 2008
Fordham University School of Law
140 West 62nd Street
New York, New York 10023
Visiting Assistant Professor of Law

2005 – 2006
Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, New York 10022
Associate

2002 – 2005
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, D.C. 20006
Associate

August – November 2004 (on unpaid leave from WilmerHale)
Kerry-Edwards 2004/Democratic National Committee
901 15th Street, NW
Suite 600
Washington, D.C. 20005
Volunteer Legal Advisor/Associate National Counsel (unpaid)

2001 – 2002
Associate Justice John Paul Stevens
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20002
Law Clerk

2000 – 2001
Judge Betty B. Fletcher
United States Court of Appeals for the Ninth Circuit
1010 Fifth Avenue
Seattle, Washington 98104
Law Clerk

Summer 2000
Bar/Bri Bar Preparation
1500 Broadway
New York, New York 10036
Student Representative (part time, while residing in Ithaca, NY)

Summer 2000
Sandra Babcock, Esq.
Northwestern Law
375 East Chicago Avenue
Chicago, Illinois 60611
Research Assistant (part time, while residing in Ithaca, NY)

Spring 2000
Professor Robert Hillman
Cornell Law School
Myron Taylor Hall
Ithaca, New York 14853
Teaching Assistant (part-time)

Summer 1999
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, D.C. 20004
Summer Associate

Summer 1999
National Women's Law Center
11 Dupont Circle, NW #800
Washington, D.C. 20036
Summer Law Clerk

Summer 1998
Professor Kathryn Abrams
Cornell Law School
Myron Taylor Hall
Ithaca, New York 14853
Research Assistant (part-time)

Summer 1998
Cornell Legal Aid
Myron Taylor Hall
Ithaca, New York 14853
Summer Law Clerk

1995 – 1996
Thailand Times English Language Daily
99 Bromrajachonnee Road Taling Chan
Bangkok, Thailand
Editor (part-time)

Summer 1995
Cornell University Hotel School
Statler Hall
Ithaca, New York 14850
Temporary Administrative Assistant (part-time)

1994 – 1995
Nova English Language School
Harajuku 'Carillo'; 1-8-9 Jungu-Mae Shibuya-ku
Tokyo, Japan
English Instructor (part-time)

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I have not registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Louis J. Lefkowitz Memorial Achievement Award, in recognition of outstanding performance on behalf of the Office of the Attorney General and the people of the State of New York, 2010

WilmerHale, Pro Bono Award, 2003, 2004, 2005

Editor-in-Chief, Cornell Law Review, 1999 – 2000

Order of the Coif, Cornell Law School, 2000

Morris P. Glushien Prize, Cornell Law School, 2000

CALI Excellence for the Future Award, 2000

Frazer Prize, 1999

West Publishing Outstanding Scholastic Achievement Award, 1999

West Publishing Corpus Juris Secundum Award, 1999

Franklin S. Wood Memorial Scholarship Fund, 1999

Uncommon Legacy Foundation Scholarship, 1998

Foreign Language and Area Studies Fellowship (FLAS), full year-long funding by the Department of Education for intensive language study, 1996 – 1997

Quill & Dagger Senior Honor Society, Cornell University, 1994

Dean's List, Cornell University, 1991 – 1994

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   American Bar Association
   DC Bar Association (member of the Litigation Committee)
   New York City Bar Association
   New York State Bar Association

10. **Bar and Court Admission**:

    a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

       New York, 2003
       Washington, D.C., 2004

       There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2006
United States Court of Appeals for the Second Circuit, 2010
United States Court of Appeals for the Fourth Circuit, 2003
United States Court of Appeals for the Ninth Circuit, 2004
United States District Court for the Southern District of New York, 2003
United States Court of Appeals for the Armed Forces, 2003
United States Army Court of Criminal Appeals, 2003
State of New York, 2003
District of Columbia, 2004

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Quill & Dagger Honor Society; in college I became a member of the Quill & Dagger Senior Honor Society; although I have not had any direct involvement since college I am still considered a member.

New York Democratic Lawyer's Council; in conjunction with volunteering I did for the Obama campaign, in 2008 I attended several meetings of the New York Democratic Lawyer's Council. I attended one additional fundraiser in 2010.

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, neither of the organizations listed above discriminates or formerly discriminated on the basis of race, sex, religion, or national origin

through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Letter to the Editor, *The Truth Is That Executions Go Wrong*, Legal Times (Jan. 21, 2008). Copy supplied.

Commentary, *Please Ignore the Pain*, Legal Times (Jan. 9, 2008). Copy supplied.

Supreme Court Preview: Baze v. Rees: What Is and Is Not at Stake in the Lethal Injection Litigation, ACSblog (Jan. 7, 2008). Copy supplied.

In response to an article written by Orin Kerr entitled *What Does Foreign Law Teach Us About the Constitutionality of Methods of Execution?*, Volokh Conspiracy Blog (Jan. 2. 2008), I posted several online comments. Copy supplied.

Baze-d and Confused: What's the Deal With Lethal Injection?, 156 U. Pa. L. Rev. Pennumbra 312 (Jan. 2008) (debate with Douglas A. Berman). Copy supplied.

Arresting Juxtapositions: The Story of Roper v. Simmons, *in* Human Rights Advocacy Stories (Deena R. Hurwitz and Margaret L. Satterthwaite eds., 2008). Copy supplied.

Pausing the Machinery of Death: The Supreme Court Takes Baze, Jurist (Sept. 27, 2007). Copy supplied.

Supreme Legacy: Gerald Ford and John Paul Stevens, Jurist (Dec. 31, 2006). Copy supplied.

History Starts Today: The Perils of Habeas-Stripping, Jurist (Sept. 26, 2006). Copy supplied.

Letter to the Editor, *Mr. Santorum on the Right to Privacy*, Washington Post (Apr. 25, 2003). Copy supplied.

Note, *At the Intersection of Domestic Violence and Guns: The Public Interest Exception and the Lautenberg Amendment*, 85 Cornell L. Rev. 822 (2000). Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have not prepared or contributed in the preparation of any reports, memoranda or policy statements on behalf of any bar association, committee, conference, or organization of which I am or was a member.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have not issued or provided (nor have others presented on my behalf) testimony, official statements or other communications related, in whole or in part, to matters of public policy or legal interpretation to public bodies or public officials.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Prior to accepting a position in the White House Counsel's Office, I was on the law school academic job market during the fall of 2008. Although these were not public presentations, I presented to several law faculties an early draft of a paper relating to the procedural interest in finality in the context of post-conviction habeas challenges brought by state prisoners. The draft, which I did not complete nor seek to publish, is attached. Other presentations are individually listed below.

Categorical Exclusions to the Death Penalty, invited scholar presentation at Prof. Deborah Denno's Colloquium on Criminal Sentencing and the Death Penalty, Fordham Law School, March 25, 2008. Notes supplied.

The Counter-Consensus Difficulty: Constitutional Challenges to Pervasive Methods of Execution, presented at The Lethal Injection Debate: Law and Science, sponsored by the Fordham Urban Law Journal, March 7, 2008. Notes supplied.

Supreme Court Preview: OT 2007, panel presentation on death penalty cases on the Supreme Court's 2007-2008 docket, Fordham University School of Law, November 7, 2007. Notes supplied.

The Impact of *Lawrence v. Texas* on Don't Ask, Don't Tell, panel presentation at Georgetown University Law Center Conference, "Don't Ask, Don't Tell: Different Perspectives," April 7, 2005. I have no notes, transcript, or recording. The address of Georgetown Law is 600 New Jersey Avenue NW, Washington, D.C. 20001.

AEDPA and Beyond: Post-Conviction Habeas, panel presentation at Cornell Law Review Symposium, "The Great Writ: Developments In the Law of Habeas Corpus," April 2, 2005. I have no notes, transcript, or recording. The address of Cornell Law is Myron Taylor Hall, Ithaca, New York 14853.

Challenging The Military's Criminal Sodomy Prohibition After Lawrence, panel presentation at the University of Florida Lambda Legal Alliance GLBT Law and Policy Conference, "The Implications of Lawrence vs. Texas on the Military," January 24, 2004. I have no notes, transcript, or recording. The address of the University of Florida Law School is P.O. Box 117620, Gainesville, Florida 32611.

I spoke on an alumni panel at Cornell Law School about clerkships at some point in the year 2001 to 2002. I have no notes, transcript, or recording. The address of Cornell Law is Myron Taylor Hall, Ithaca, New York 14853.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Nathan '00 Named Associate White House Counsel, Cornell Law Forum, Fall 2009. Copy supplied.

Sam Cross, *Cornell Law School Alumnus and Professor Join New Administrations*, Cornell Daily Sun, Feb. 2, 2009. Copy supplied.

Christopher Collette, *Supreme Court Blocks Execution of Fla. Child Killer*, WTSP.com, Nov. 15, 2007. Copy supplied.

Paul Flemming and John Torres, *High Court Clears Way for State Executions*, The News-Press, Nov. 2, 2007. Copy supplied.

In 2007, I was interviewed by a news outlet for an on-line news report about *Baze v. Rees*. I have not been able to locate a copy of the interview or link to the video.

In 2001, I was interviewed by the Cornell Law Forum regarding my clerkship with Justice Stevens. Copy supplied.

Press release, *Cornell Law Professor Kathryn Abrams is Honored for Motivating Law School Women*, Cornell News, May 15, 2000. Copy supplied.

Students to Resubmit Gay Dorm Proposal to Cornell Officials, The Post-Standard (Syracuse, NY), Apr. 29, 1994 at B1. Copy supplied.

Michael Winerip, *In School*, New York Times, Apr. 20, 1994 at B13. Copy supplied.

Jonathan D. Salant, *Marchers Demand Gay Rights*, The Post-Standard (Syracuse, NY), Apr. 26, 1993. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held a judicial office.

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

i. Of these, approximately what percent were:

jury trials:	___%
bench trials:	___% [total 100%]
civil proceedings:	___%
criminal proceedings:	___% [total 100%]

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have not held judicial office.

15. **Public Office, Political Activities and Affiliations:**

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed

you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Since September 2010, I have served as Special Counsel to the Solicitor General of New York. I was appointed by New York Attorney General Andrew Cuomo.

I served as a Special Assistant to the President and Associate White House Counsel from January 2009 to July 2010. I was appointed by President Barack Obama on January 22, 2009.

I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Volunteer Voter Protection Advisor (unpaid), Obama-Biden Campaign for Change; February 2008 – November 2008. I provided volunteer legal advice to the campaign General Counsel on election law and helped to recruit and organize volunteer lawyers during the primaries and general election campaign. I also served on the LGBT issues policy committee.

Obama Administration DOJ Transition Team, volunteer member.

Volunteer Lawyer, Maryland Democratic Party, November 2006.

Legal Advisor/Associate Counsel (unpaid), Kerry-Edwards 2004, Washington D.C., August –November 2000 (on leave from WilmerHale). I provided volunteer legal advice to the campaign General Counsel on election law and I helped to recruit and organize volunteer lawyers. I also served as a volunteer policy advisor on civil rights issues.

Volunteer Lawyer, Democratic National Committee, November 2002.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to Supreme Court Justice John Paul Stevens from 2001 – 2002 and to Ninth Circuit Court of Appeals Judge Betty B. Fletcher from 2000 – 2001.

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

I have never practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

2002 – 2005
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington D.C. 20006
Associate

2005 – 2006
Wilmer Cutler Pickering Hale and Dorr LLP
399 Park Avenue
New York, New York 10022
Associate

2009 – 2010
White House Counsel's Office
The White House
Washington, D.C. 20502
Special Assistant to the President and Associate White House Counsel

2010 – present
Office of the Attorney General of New York
120 Broadway, 25th Floor
New York, NY 10271
Special Counsel to the Solicitor General

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

I was a federal law clerk for Judge Betty Fletcher on the Ninth Circuit Court of Appeals from 2000 until 2001 and for Justice John Paul Stevens from 2001 until 2002.

From 2002 until 2006, I was in private practice at the law firm of Wilmer, Cutler, Pickering Hale & Dorr LLP, where I was part of the following practice groups: Litigation, Supreme Court and Appellate Litigation, and Regulatory and Government Affairs. I participated in significant phases of trial and appellate court litigation, including: developing legal strategy, conducting investigations, drafting pleadings and briefs, engaging in discovery, examining witnesses, and arguing motions and appeals in court.

From 2006 until 2008, I was a Visiting Assistant Professor of Law at Fordham University School of Law, where I taught and specialized in civil and criminal procedure and constitutional law.

In late 2008, I decided to pursue employment as a government lawyer. I was offered and accepted a position in the White House Counsel's Office, where I reviewed legislation, analyzed various legal issues, advised staff members on legal matters, and assisted in the preparation of judicial and executive branch nominees for confirmation hearings. I served in the Counsel's Office until returning with my family to New York in July 2010. At that time, I decided to remain in government service and since September 2010, I have served as Special Counsel to the Solicitor General of New York. In this capacity, I draft briefs and argue cases in the state and federal trial and appellate courts. I also supervise Assistant Solicitors General in their brief and oral argument preparations.

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

When I was in private practice, I had a range of clients, including large corporations, media organizations, national advocacy organizations, and indigent criminal defendants. I specialized in complex federal litigation and constitutional law. In government service, I provide legal advice to executive officials and represent governmental agencies. I continue to specialize in federal civil procedure, complex federal litigation, appellate litigation, and constitutional law.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

During my time in private practice, approximately 90% of my practice involved litigation. I appeared in court occasionally. In my current position as Special Counsel to the Solicitor General, approximately 95% of my practice involves litigation (including supervision of Assistant Solicitors General in litigation). I appear in court occasionally.

i. Indicate the percentage of your practice in:
   1. federal courts: 75%
   2. state courts of record: 24%
   3. other courts: 1%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 85%
   2. criminal proceedings: 15%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

In private practice, I served as associate counsel on approximately 6 trial court litigation matters that reached judgment or final decision (including based on dispositive motions). One of those matters was an evidentiary hearing/bench trial that was tried to judgment in federal district court.

i. What percentage of these trials were:
   1. jury: 0%
   2. non-jury: 100%

I am currently involved in other litigation matters that have not yet reached judgment, including two forthcoming trials in the Southern District of New York. If they proceed to trial, both will be tried before a jury and I am serving as associate counsel on both.

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I am a member of the Supreme Court bar. While in private practice at WilmerHale, I was a member of the Supreme Court and Appellate Litigation

practice group. In this capacity, I participated in the drafting and filing of several petitions for certiorari and amicus briefs before the Supreme Court. In addition, while a Visiting Assistant Professor at Fordham School of Law, I served as primary author and counsel of record for one amicus brief filed with the Supreme Court. In my current position as Special Counsel to the Solicitor General of New York, I also participate in Supreme Court litigation.

I served as counsel on the following briefs, which are supplied:

Cahill v. Alexander, 10-203, Reply Brief for the Petitioner

Baze v. Rees, 07-5439, Brief for the Fordham School of Law Stein Center as Amicus Curiae in Support of Petitioner

Clark v. Arizona, 05-5966, Brief Amicus Curiae for the American Psychological Association, the American Psychiatric Association, and the American Academy of Psychiatry and the Law Supporting Petitioner

Hill v. McDonough, 05-8794, Brief for Amicus Curiae Darick Walker in Support of Petitioner

Mayle v. Felix, 04-563, Brief of Amici Curiae Habeas Law Scholars in Support of Respondent

Walker v. True, 05-6942, Petition for Certiorari and Reply filed on behalf of WilmerHale client Darick Walker. The Supreme Court granted, vacated, and remanded for further consideration.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

    a. the date of representation;

    b. the name of the court and the name of the judge or judges before whom the case was litigated; and

    c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Liden v. Devane*, No. 400532/09 (Appellate Division First Department)

This case involves an individual who the New York Board of Examiners of Sex Offenders determined must register in New York as a sex offender based upon a conviction from another jurisdiction. The Petitioner challenged that determination in an administrative proceeding. His petition was dismissed as untimely and he has now appealed to the Appellate Division, First Department. I am the lead appellate lawyer in the Solicitor General's Office defending the Board's determination and the lower court's dismissal of his petition. I have briefed the case and will argue the matter before the First Department.

A First Department panel has not yet been announced. My co-counsel in the Solicitor General's Office is Benjamin Gutman, 120 Broadway, 25th Floor, New York, NY 10271, 212-416-8020. The opposing counsel is Robert Newman, The Legal Aid Society, 199 Water Street, New York, NY 10038, 212-577-3354.

2. *Seneca Nation of Indians, et al. v. Paterson* (and multiple related matters in the Northern and Western District of New York and in the Second Circuit)

Multiple Indian Tribes brought suit against New York state officials in federal district courts in the Western and Northern Districts of New York challenging the constitutionality of recent amendments to a New York State tax law relating to the taxation of cigarettes sold by reservation retailers to individuals who are not Tribal members. I am part of a state team of lawyers, led by Solicitor General Barbara Underwood, who are defending the constitutionality of the state tax statute. My role to date has included legal analysis and strategy as well as drafting district court and appellate court pleadings and briefs.

In the Western District of New York, the matters were before Judge Arcara (10-CV-687A; 10-CV-711A; 10-CV-811A) and in the Northern District of New York, the matter was before Judge Hurd (6:10-cv-01071). Judge Arcara denied the Tribes' request for a preliminary injunction, but stayed enforcement of the tax statute pending appeal. Judge Hurd granted the Tribes' motion for a preliminary injunction. All of the matters are now consolidated before the Court of Appeals for the Second Circuit (10-4272; 10-4265; 10-4598) and the cases were recently briefed and argued before Judges Wesley, Chin, and Lohier. The Second Circuit has not yet issued a decision.

At the Solicitor General's Office, I work with the following individuals on this matter: Barbara Underwood, Andrew Bing, and Steven Wu, 120 Broadway, 25th Floor, New York, NY 10271, 212-416-8020. Opposing counsel include the following individuals: David DeBruin, Jenner & Block LLP, 1099 New York Avenue, NW, Suite 900, Washington D.C. 20001, 202-639-6000; Riyaz Kanji, Kanji & Katzen, 101 North Main Street, Suite 555, Ann Arbor, MI 48104, 734-769-5400; Carol Heckman, Harter Secrest & Emery LLP, Twelve Fountain Plaza, Suite 400, Buffalo, NY 14202, 716-853-1616.

3. *New York v. Greenberg and Smith*, Index No. 401720/05 (Appellate Division, First Department)

This is an action for civil penalties and injunctive relief under the Martin Act, New York State's securities fraud statute. The lawsuit alleges that the former heads of a major insurance company initiated and structured two sham reinsurance transactions that misled the investing public. Thus far, the trial court has granted New York's summary judgment motion with respect to one of the transactions and denied the defendants' summary judgment motion with respect to the other. The Solicitor General's office is handling the appeals of these interlocutory rulings. I am working on the brief defending the trial court's denial of the defendants' summary judgment motion. The issues in the case center on evidentiary rulings and the summary judgment standard.

My co-counsel in the Attorney General's Office are Richard Dearing, Richard Jackson, and David Ellenhorn, 120 Broadway, 25th Floor, New York, NY 10271, 212-416-8020. Opposing counsel includes David Boies, Boies, Schiller & Flexner, LLP, 575 Lexington Avenue - 7th Floor, New York, NY 10022, 212-446-2300.

4. *Red Earth LLC v. United States*, 10-3165 (United States Court of Appeals for the Second Circuit)

This case involves a constitutional challenge by remote sellers of cigarettes to the recently enacted Prevent All Cigarette Trafficking (PACT) Act, which provides that internet and other remote sellers of tobacco products must comply with the state and local laws that apply in the areas where their products are delivered, including state and local laws that prevent sales to children and that require payment of excise taxes. The district court concluded that the Due Process Clause does not permit Congress to require that interstate tobacco retailers comply with the laws of the states and localities into which their products are physically delivered. The case has been briefed and argued. The Second Circuit has not yet handed down a decision.

I served as lead counsel on a multi-state amicus brief filed in support of the United States. Forty-one States and the District of Columbia joined the brief I authored.

My co-counsel are Barbara Underwood and Benjamin Gutman, 120 Broadway, 25th Floor, New York, NY 10271, 212-416-8020. Counsels for the United States are Tony West, Beth Brinkmann, Alisa Klein and Michael Abate, Department of Justice, Civil Division, Room 7318, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530. Opposing counsel is Riyaz Kanji, Kanji and Katzen, PLLC, 101 North Main Street, Suite 555, Ann Arbor, MI 48104, 734-769-5400.

5. *Warney v. State of New York*, App. Div. No. CA 08-02611 (Claim No. 114826) (New York Court of Appeals)

Warney sued the State of New York pursuant to Court of Claims Act § 8-b (Unjust Conviction Act), seeking compensation for his wrongful conviction. His claim was

dismissed by the Court of Claims based upon § 8-b(4), which bars claimants from compensation if their conduct caused or brought about their conviction. The Appellate Division affirmed. The Court of Appeals granted leave to appeal and the case was argued on February 8, 2011. I argued the appeal on behalf of the State. On March 31, 2011, the Court of Appeals reversed and denied the State's motion to dismiss.

Co-counsel at the Solicitor General's Office is Barbara Underwood, Andrew Bing, and Frank Walsh, 120 Broadway, 25th Floor, New York, NY 10271, 212-416-8020. Opposing counsel is Peter Neufeld at Neufeld Scheck & Brustin, LLP, 99 Hudson Street, 8th Floor, New York, NY 10013, 212-965-9081.

6. *Hayes v. New York Attorney Grievance Committee*, 10-1587 (United States Court of Appeals for the Second Circuit)

This case involves a First Amendment challenge to one of New York's attorney advertising rules. The rule in issue governs statements by attorneys in which they describe themselves as certified specialists in a particular area of law. The federal district court (Western District of New York) rejected the challenge and granted summary judgment in favor of the State. The matter is now on appeal to the Second Circuit. I am the lead lawyer handling the case and will argue the matter before the Second Circuit.

My co-counsel at the Solicitor General's Office is Nancy Spiegel, Office of the New York State Attorney General, The Capital, Albany, NY, 12224, 518-474-7168. Opposing counsel is J. Michael Hayes, Esq., 69 Delaware Avenue, Suite 1111, Buffalo, NY 14202, 716-852-1111.

7. *Shell Oil Company v. Franco* (multiple litigation matters in the Central District of California):

WilmerHale represented Shell Oil Company in multiple pieces of litigation that arose out of tort judgments entered against U.S. companies by courts in Nicaragua. In the above captioned component of the litigation, WilmerHale filed a complaint seeking a declaration that the $489 million Nicaraguan court judgments entered against Shell Oil and other defendants were not enforceable in the United States. District Court Judge Nora M. Manella granted the summary judgment motion, holding that the judgments were not enforceable because the Nicaraguan court had lacked personal jurisdiction over Shell Oil, which had never done business in that country. My role on the litigation team consisted of factual investigation, working with experts, developing legal arguments, drafting dispositive motions, and conducting and responding to extensive discovery requests.

Among the many co-counsel who worked on this case at WilmerHale were David Ogden, Ethan Shenkman, Jennifer O'Connor, and David O'Neil, WilmerHale, 1875 Pennsylvania Avenue, NW, Washington, D.C. 20006, 202-663-6000. Lead U.S. Counsel for the Nicaraguan defendants were Walter J. Lack, Engstrom, Lipscomb & Lack, 10100 Santa Monica Boulevard, 16th Floor, Los Angeles, CA 90067, 310-552-3800; and Thomas V. Girardi, Girardi & Keese, 1126 Wilshire Boulevard, Los Angeles, CA 90017, 213-977-0211.

8. *Walker v. True* (multiple litigation matters in the Eastern District of Virginia, before Judge Claude Hilton, the Court of Appeals for the Fourth Circuit, and the Supreme Court of the United States)

WilmerHale represented pro bono Darick Walker, an indigent death row inmate in Virginia, in a variety of different habeas proceedings, appeals and litigation matters. My role included factual investigation; working with experts; developing legal arguments and strategy; drafting pleadings, dispositive motions, and appellate briefs; conducting discovery; and examining and cross-examining witnesses. The litigation team sought Supreme Court review at several instances and the Supreme Court twice granted, vacated, and remanded our petitions. Darick Walker was ultimately executed by the Commonwealth of Virginia in May of 2010.

Among the many co-counsel who worked on this case at WimerHale were Seth Waxman, David Ogden, Danielle Spinelli, and Jody Kris, WilmerHale, 1875 Pennsylvania Avenue, NW, Washington, D.C. 20006, 202-663-6000. Lead counsel for the Virginia Attorney General's Office during the time I was involved with the matter was Robert Q. Harris, Senior Assistant Attorney General, 900 East Main Street, Richmond, VA 23219, 804-786-2071.

9. *Marcum v. United States*, 02-0944 (Court of Appeals for the Armed Forces) and *Meno v. United States*, ARMY 2000733 (Army Court of Criminal Appeals).

WilmerHale represented pro bono several national civil rights organizations that sought to challenge the military's criminal prohibition against consensual, private sodomy following the Supreme Court's decision in *Lawrence v. Texas*. In the *Marcum* case, the Court of Appeals of the Armed Forces granted us leave to file briefs and make oral argument on the constitutional issues. Although the conviction was affirmed on other grounds, the Court of Appeals for the Armed Forces adopted significant components of our argument, concluding that *Lawrence v. Texas* does apply to the military. My role in the matter consisted of developing legal strategy and arguments and brief drafting.

Stuart Delery and Josh Goldfoot were the lawyers at WilmerHale with whom I primarily worked, 1875 Pennsylvania Avenue, NW, Washington, D.C. 20006, 202-663-6000. Lead counsel for the defendant included Frank Spinner; 7035 Campus Drive, Suite 904, Colorado Springs, CO 80920 and Colonel Beverly B. Knott. Lead counsel for the United States included Colonel LeEllen Coacher, Air Force Legal Services Agency, United States Air Force, 202-767-1546.

In a similar case that followed *Marcum* and involved the same issues, WilmerHale continued to represent pro bono several national civil rights organizations as amici in *Meno v. United States*. In addition to drafting the appellate brief, I argued this matter on behalf of amici. Our arguments prevailed.

Stuart Delery and Josh Goldfoot were the lawyers at WilmerHale with whom I primarily worked, 1875 Pennsylvania Avenue, NW, Washington, D.C. 20006, 202-663-6000. Lead

counsel for the defendant was Captain Fansu Ku, 703-696-2810. Lead counsel for the United States was Captain Abraham Carpio. I have searched for but not been able to find contact information for Captain Carpio.

10. *Broadcom/Disqualification Motion*, Inv. No. 337-TA-543 (U.S. International Trade Commission)

WilmerHale client, Broadcom, was involved in significant litigation before the U.S. International Trade Commission related to Tariff Act protections regarding the importation and sale of certain processor chips. I was part of the litigation team that focused on opposing an effort to disqualify WilmerHale. My role consisted of legal research, development of legal strategy, drafting pleadings, and preparing for oral argument.

At WilmerHale, I worked with Bill Lee and Paul Wolfson, 1875 Pennsylvania Avenue, NW, Washington, D.C. 20006, 202-663-6000. Opposing counsel included Michael Kellogg, Mark Hansen, Reid Feigel, Aaron Panner, and Geoffrey Klineberg, Kellog Huber, Sumner Square, 1615 M Street NW, Suite 400, Washington, D.C. 20036, 202-326-7900.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    In my current position as Special Counsel to the Solicitor General, I have provided legal advice to the trial lawyers in litigation involving violations of the Martin Act, New York State's civil and criminal security fraud statute. I am also currently assisting in the trial preparation for two matters (both § 1983 litigation brought by prisoners) that are soon scheduled to go to trial in the Southern District of New York. If the matters do proceed to trial, I will participate in all aspects of the trial proceedings.

    As an Associate White House Counsel, I engaged in significant legal activities such as reviewing legislation, analyzing statutory and constitutional questions, advising staff members of the Executive Office of the President on legal matters, and preparing judicial and executive branch nominees for confirmation hearings.

    When I was in private practice at WilmerHale, I assisted partners Howard Shapiro and Seth Waxman in representing a media client and reporters during an investigation by a U.S. Attorney into whether violations of law occurred in the leaking of the identity of a CIA agent. My role in the representation included legal research and analysis.

    I have not performed lobbying activity.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    Civil Procedure, Fordham School of Law, 2007, 2008. Spring 2008 syllabus supplied.

    Constitutional Law Seminar on the Supreme Court and the Death Penalty, Fordham School of Law, 2006, 2007. Fall 2007 syllabus supplied.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I have no such income or benefits.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

My partner is a professor in the clinical program at NYU School of Law and is occasionally involved in litigation matters, and I would recuse myself from any matters in which she is involved. Potential conflicts might also arise from my past involvement with the law firm of WilmerHale, with Fordham University, in matters in which I participated while serving as Special Counsel to the Solicitor General and as Associate White House Counsel, and in all other matters in which I have had involvement. With respect to all of these matters, if confirmed I would carefully study the recusal statute, the Code of Conduct for United States Judges, and consult with colleagues in order to determine what recusals would be necessary and appropriate.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will handle all matters involving actual or potential conflicts of interest by carefully studying and applying the Code of Conduct for United States Judges and any other relevant ethical canons or statutory provisions.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

While in private practice, I devoted substantial portions of time to pro bono representations. For example, I worked on significant pro bono matters including the *Walker* matter described above in Question 17. I received WilmerHale's Pro Bono Award several years in a row. I also served as a volunteer for the Georgetown Supreme Court Advocacy Project. I continued to do pro bono work while a Visiting Assistant Professor at Fordham School of Law. While employed at the White House, I was a participant in a mentor program for local area high school girls, which was organized by the First Lady. Mentors would accompany mentees on various events, such as a visit to the Supreme Court or preparation of grocery bags of donated food for low income families.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I submitted application materials to Senator Schumer's Judicial Selection Committee on June 2, 2010. I met with Senator Schumer on June 9, 2010, regarding my interest in being considered for a judgeship. I interviewed with Senator Schumer's Judicial Selection Committee on August 30, 2010. I was contacted by Senator Schumer's Judiciary Committee Chief Counsel, Stephanie Martz, on December 15, 2010. Ms. Martz informed me that Senator Schumer had recommended me to the White House for a vacancy on the District Court for the Southern District of New York. I also received a call on December 15, 2010, from the White House Counsel's Office conveying the same information. Since December 17, 2010, I have been in contact with pre-nomination officials at the Department of Justice. On January 31, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On March 31, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Nathan, Alison J.	U.S. District Court, Southern District of New York	03/31/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
U.S. District Judge - Active Status	☑ Nomination, Date 03/31/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	1/1/2010 to 3/26/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Office of the Attorney General of New York 120 Broadway, 25th Floor New York, NY 10271	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Special Counsel to the Solicitor General of New York	New York Office of the Attorney General, Solicitor General's Office
2.	Special Assistant to the President and Associate White House Counsel	The White House/White House Counsel's Office
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting	Date of Report
	Nathan, Alison J.	03/31/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2011	New York Attorney General's Office - Salary (year to reporting period date)	$23,249.76
2. 2010	New York Attorney General's Office - Salary	$21,697.05
3. 2010	White House -- Salary	$77,813.69
4. 2009	White House - Salary	$116,660.54
5. 2009	New York University School of Law - Salary/Stipend	$14,674.18

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Nathan, Alison J.	Date of Report 03/31/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	EXEMPT		
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-35 of filing instructions.)*

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	Sallie Mae	Student Loans	K
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Nathan, Alison J.	03/31/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. PPDI Stock	A	Dividend	J	T					
2. AAPL Stock		None	K	T					
3. PHO Stock	A	Dividend	J	T					
4. TD Ameritrade Cash Account	A	Interest	J	T					
5. Fidelity Ginnie Mae Fund	A	Dividend	J	T					
6. Fidelity Latin America Fund	A	Dividend	K	T					
7. Fidelity New Market	A	Dividend	J	T					
8. Fidelity Select Consumer Staples	A	Dividend	J	T					
9. Fidelity Select Gold	A	Dividend	J	T					
10. Fidelity Select Materials	A	Dividend	J	T					
11. Fidelity Select Medical Equipment and Systems	A	Dividend	J	T					
12. Fidelity Select Money Market	A	Interest	J	T					
13. Fidelity Select Natural Resources	A	Dividend	J	T					
14. Fidelity Short Term Bond Fund	A	Dividend	J	T					
15. Fidelity Small Cap Discovery Fund	A	Dividend	J	T					
16. Fidelity Total Bond Fund	A	Dividend	J	T					
17. Marshall Prime Money Market	A	Interest	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Nathan, Allison J.	03/31/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. PIMCO Total Return Fund	B	Dividend	K	T					
19. Loomis Sayles Global Bond Fund	A	Dividend	K	T					
20. Oakmark Equity and Income Fund	A	Dividend	J	T					
21. Eaton Vance Large Value Fund	A	Dividend	J	T					
22. Acadian Emerging Market Fund	A	Dividend	J	T					
23. Ivy Global Natural Resources Fund		None	J	T					
24. Chase Bank Checking Account	A	Interest	J	T					
25. Bank of America Checking Account	A	Interest	M	T					
26. Emigrant Direct Savings Account	B	Interest	M	T					
27. New York State Retirement Program (not vested)		None	J	T					
28.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Nathan, Allison J.	Date of Report 03/31/2011

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

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Nathan, Allison J.	Date of Report 03/31/2011

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		252	590	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured		49	778
Listed securities – see schedule		134	828	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned				Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		11	000				
Cash value-life insurance							
Other assets itemize:							
NY State Employee Retirement System		1	348				
				Total liabilities		49	778
				Net Worth		349	988
Total Assets		399	766	Total liabilities and net worth		399	766
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Acadian Emerging Markets Fund	$13,202
Eaton Vance Large-Cap Value Fund	4,024
Ivy Global Natural Resources Fund	4,556
Loomis Sayles Global Fund	15,512
Marshall Prime Money Market Fund	10,681
Oakmark Equity & Income Fund	4,007
Pimco Total Return Fund	26,853
Fidelity Ginnie Mae Fund - FGMNX	2,795
Fidelity Latin American Fund- FLATX	1,754
Fidelity New Markets Fund - FNMIX	6,443
Fidelity Select Consumer Staples- FDFAX	1,674
Fidelity Select Gold- FSAGX	1,223
Fidelity Select Materials- FSDPX	2,059
Fidelity Select Med Eq & Sys- FSMEX	1,978
Fidelity Select Money Market- FSLXX	1,179
Fidelity Select Natural Resources- FNARX	1,225
Fidelity Short Term Bond- FSHBX	1,815
Fidelity Small Cap Discovery- FSCRX	2,434
Fidelity Total Bond- FTBFX	9,459
Apple Inc. stock	17,577
Furiex Pharmaceuticals, Inc. stock	49
Mobile Mini, Inc.	933
Pharmaceutical Product Development, Inc.	1,193
PowerShares Water Resources (ETF)	1,497
PowerShares QQQ Trust, Series 1 (ETF)	706
Total Listed Securities	$134,828

AFFIDAVIT

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

3/29/2011
(DATE)

(NAME)

(NOTARY)

ANN P. ZYBERT
Notary Public, State of New York
No. 30-4996219
Qualified in Nassau County
Commission Expires May 11, 2014

STATEMENT OF KATHERINE B. FORREST, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Ms. FORREST. Thank you, Senator. I'd like to thank the Committee for holding this hearing and for the great honor to appear here today. I'd like to thank the President for the confidence that he showed in me for this nomination, and to Senator Schumer for the recommendation.

I'd also like to thank some folks who are with me here today, as well as a few who could not make it. My husband could not make it. He is with my son, who is 9 years old and who had the great honor himself of graduating from the 4th grade today, and had a moving up ceremony, a very important event in his life. They are watching it on webcast. So, Dylan Baldwin, congratulations to my son.

Senator FRANKEN. Congratulations.

Ms. FORREST. Yes. I also have here with me today my daughter Jane, who is 12 years old and has taken the day off from school to be here; my sister Bellamy, her husband Nathan; my brother Christopher; his wife Trish. I also have my very dear friend John Hagen, who is somewhere back there, and I've got several people from my former law firm, Cravath, Swaine & Moore, including Evan Chesler, the presiding partner of Cravath, Swaine & Moore, Sandra Goldstein, the head of litigation, and my former law partner, Michael Reynolds. I also am very honored and gratified to have a number of individuals who I work with currently at the Department of Justice who have taken time out of their busy day to have come here today and to support me in this day. Thank you very much. I look forward to your questions.

Senator FRANKEN. Well, thank you. And thank you all for being here today. And your son watching on the webcast, congratulations, and good luck in the 5th grade.

[Laughter.]

Senator FRANKEN. Judge Hickey.

[The biographical information follows.]

Alison J. Nathan
120 Broadway, 25th Floor
New York, NY 100271
(212) 416-6274

June 6, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

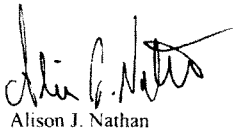
Dear Chairman Leahy and Senator Grassley:

I write to provide the Committee with an update to the questionnaire I submitted in connection with my March 31, 2011 nomination to the United States District Court for the Southern District of New York.

In question 12(c), I indicated that I had not issued "communications related, in whole or in part, to matters of public policy or legal interpretation to public bodies or public officials." However, last night, as I was preparing for my hearing, I found on-line a letter to Congress to which I was a signatory. At the time I completed my questionnaire, I had not recalled signing this letter and had not otherwise discovered the letter through a search of my records or through the electronic searches I conducted in preparing my questionnaire. Upon seeing the letter and realizing that it was responsive to the questionnaire, I searched on-line further and found a second letter to Congress to which I was a signatory. Both letters are attached.

Please accept my sincerest apologies. I appreciate the Committee's consideration of my nomination and regret that I did not remember or discover these letters until now.

Sincerely,



Alison J. Nathan

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Katherine Bolan Forrest

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

   United States District Judge for the Southern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   United States Department of Justice
   Antitrust Division
   950 Pennsylvania Avenue, NW
   Washington, DC 20530

   Residence: New York, New York

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

   1964; New York, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1987 – 1990, New York University School of Law; J.D., 1990
   1986 – 1988, New York University Graduate School of Arts and Sciences (History Department); No degree received
   1982 – 1986, Wesleyan University; B.A. with honors, 1986

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2010 – Present
United States Department of Justice, Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
Deputy Assistant Attorney General

1989 – 2010
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Partner (1998 – 2010)
Associate (1990 – 1997)
Law Clerk (1989 – 1990)
Summer Associate (Summer 1989)

1988
Rutgers University
Blumenthal Hall
249 University Avenue
Newark, New Jersey 07102
Adjunct lecturer in American History

1987 – 1988
Himmelstein & McConnell
Address Unknown (the firm is no longer in business)
New York, New York
Part-time Law Clerk

1987 – 1988
Levinson, Mogulescu & Kaplan
Address Unknown (the firm is no longer in business)
New York, New York
Part-time Receptionist

1986 – 1987
Check Printing Vendor (precise name unknown; no longer in business)
New York, New York
Part-time General Clerk

Other Affiliations (uncompensated):

2006 – 2010
International Senior Lawyers Project
c/o Clifford Chance US LLP
31 West 52nd Street, 4th Floor
New York, New York 10019
Member, Board of Directors

2003 – 2006; 2008 – 2010
The Fund for Modern Courts
351 West 54th Street
New York, New York 10019
Member, Board of Directors

2005 – 2010
Lawyers' Committee For Civil Rights Under Law
1401 New York Avenue, NW, Suite 400
Washington, DC 20005
Member, Board of Directors

2004 – 2010
Urban Assembly, School for Law and Justice / Adams Street Foundation
283 Adams Street
New York, New York 11201
Member, Board of Advisors and Board of Directors

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I was not required to register for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   I attended Wesleyan University on virtually total scholarship. Upon graduation, I received a monthly ($1,000 per month for 10 months) scholarship from the National Collegiate Athletic Association to attend graduate school. The History Department of New York University's Graduate School of Arts and Sciences waived tuition for my graduate studies (total tuition remission). I received a partial scholarship to attend New York University School of Law.

I have also received the following professional recognition:

Who's Who in the World (2008 – 2010)
Chambers Global: The World's Leading Lawyers for Business (2008 – 2010)
Chambers USA (ranked in antitrust, intellectual property, media) (2007 – 2010)
Who's Who in America (2005 – 2010)
Who's Who in American Law (2005 – 2010)
Who's Who of American Women (2005 – 2010)
Who's Who in the East (2005 – 2010)
IP Law & Business, "Top 50 Under 45" (2008)
Who's Who Legal: The Int'l Who's Who of Business Lawyers (Competition) (2008)
Super Lawyers (New York) (Intellectual Property) (2008)
The Lawdragon 500 Leading Lawyers in America (2007, 2008)
American Lawyer's Top 50 Litigators Under 45, "The Fab 50" (2007)
PLC Which Lawyer? (Competition) (2007)
Super Lawyers (New York) (Intellectual Property) (2007)
Chambers USA (ranked in antitrust, intellectual property) (2005, 2006)
Super Lawyers (New York) (Business Litigation) (2006)
Top 100 Women in Antitrust (Worldwide), Global Competition Review (2004)
Global Competition Review, "40 Under 40, Ten to Watch" (2004)
BTI Consulting: Law Firm Client Service All-Star Team (2001)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (1990 – Present)
Member, Antitrust Section (2009)
Chair, Steering Committee for the Antitrust Law's Antitrust Litigation Program (2008 – 2009)
New York State Bar Association (1990 – Present)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

New York, 1991. There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2004
United States Court of Appeals for the First Circuit, 2007

United States Court of Appeals for the Second Circuit, 2000
United States Court of Appeals for the Third Circuit, 1995
United States Court of Appeals for the Seventh Circuit, 2003
United States District Court for the Southern District of New York, 1992
United States District Court for the Northern District of New York, 2001
United States District Court for the Western District of New York, 1998
United States District Court for the District of Columbia, 2002

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

The Fund for Modern Courts (2003 – 2010)
Member, Board of Directors (2003 – 2010 (leave of absence 2006 – 2008))
International Senior Lawyers Project (2006 – 2010)
Member, Board of Directors (2006 – 2010)
Member, Steering Committee (2008 – 2010)
Lawyers' Committee For Civil Rights Under Law (2000 – 2010)
Member, Board of Directors (2005 – 2010)
Litigation Counsel of America
Trinity School (2007 – 2010)
Member, Trinity Diversity and Religion Committee (2007 – 2010)
Urban Assembly, School of Law and Justice/Adams Street Foundation (2004 – 2010)
Member, Advisory Board (2004 – 2010)
Wesleyan University Athletic Advisory Council (2005 – 2006)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or

national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Katherine Forrest and Jonathan Clarke, "Merger Policy and Financial Distress," NAT'L L. J. (July 5, 2010). Copy supplied.

Katherine Forrest and Jonathan Clarke, "Interlocks Under Section 8 of the Clayton Act: What Directors and Their Counsel Need to Know," Boardmember.com (May 3, 2010). Copy supplied.

Katherine Forrest and Jeffrey Korn, "Competitive Information Sharing In Merger Negotiations: How Much is Too Much?", The M&A Lawyer (Apr. 2007).

Katherine Forrest and Alexandra Carter, "Hey, That's Copyright," N.Y.L.J. (Apr. 23, 2007). Copy supplied.

"Getting the Facts and Offering Meaningful Advice," Inside the Minds – Antitrust Law Client Strategies, 2007. Copy supplied.

"After Responding to the Second Request" (contributing author to chapter), The Merger Review Process, ABA Section of Antitrust Law, Third Edition (2006). Copy supplied.

"Clearance of Cross-Border Transactions: Achieving Consistent US/EU Clearance Results," THE M&A LAWYER (June 2006). Copy supplied.

"The State of the E.U./U.S. Merger Coordination," Mergers & Acquisitions Legal Yearbook 2006 - 2007 (Sept. 2006). Copy supplied.

"EU Aims for US-Style Merger Analysis," comment, INT'L FIN. L. REV. (Nov. 2005). Copy supplied.

"E.U. Shows Continued Signs of Moving Towards U.S. Style Merger Analysis," Cravath, Swaine & Moore LLP M&A/Antitrust Update (Sept. 28, 2005). Copy supplied.

Paul C. Saunders and Katherine B. Forrest, "Focus on Strategy Separates Treatise on Business Litigation from the Pack," N.J.L.J (Feb. 15, 1999). Copy supplied.

Letter to the Editor: "Don't Blame Single Women if the World's Changing," N.Y. TIMES, May 10, 1987. Copy supplied.

Additionally, I served as editor for the book, "Intellectual Property Law Answer Book 2011," PRACTISING LAW INSTITUTE (Mar. 2011).

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

February 2, 2011
Panel Member on the ABA Section of Antitrust Law Brown Bag Teleconference entitled "Update from the Antitrust Division," discussing a range of current issues in enforcement of the antitrust laws together with the Assistant Attorney General for Antitrust and two other Deputy Assistant Attorneys General. Washington, DC. Audio recording supplied.

May 11, 2010
Training lecture to Cravath associates, "Responding to Document Requests: Written Responses." New York, New York. I have no notes, transcript or recording. The address of Cravath, Swaine & Moore is 825 Eighth Avenue, New York, New York 10019.

May 11, 2010
Panel Member during a Webinar Discussion on the European Commission's New Rules for Vertical Agreements and Practical Implications for Businesses. London, England (remote participation). I have no notes, transcript or recording. The event was sponsored by Herbert Smith LLP, which is located at Exchange House, Primrose Street, London, EC2A 2HS.

March 12, 2010
Lecture on defending depositions for Cravath associates, Novartis Pharmaceuticals and other clients as requested. New York, New York. Video supplied.

February 26, 2010
Lecture on taking depositions for Cravath associates, Novartis Pharamceuticals and other clients as requested. New York, New York. Video supplied.

December 8, 2009
Panelist for the Horizontal Merger Guidelines Review Project, "Minority Interests and Failing Firm Defense," sponsored by the Federal Trade Commission and U.S. Department of Justice. New York, New York. I have no notes, transcript or recording. The address of the FTC is 600 Pennsylvania Avenue NW, Washington, DC 20580. The address of the DOJ is 950 Pennsylvania Avenue NW, Washington, DC 20530.

October 16-17, 2009
Training Lectures to Attendees of the ABA Section of Antitrust Law Antitrust Law Litigation Course. Washington, DC. Video supplied.

October 7, 2009
Presentation to Cravath associates and clients as requested, "Antitrust Guidelines for Information Sharing in the Deal Context." New York, New York. Presentation materials supplied.

September 16, 2009
Introduction for Alexandra Nere's talk on intellectual property law in France to Cravath associates. New York, New York. Video supplied.

April 16, 2009
Training lecture to Cravath associates, "Drafting Document Requests." New York, New York. Video supplied.

January 21, 2009
Training lecture to Cravath associates, "A Basic Primer on the U.S. Antitrust Laws." New York, New York. Video supplied.

October 1, 2008
Keynote address on choreographic rights at Morphoses Gala. New York, New York. Remarks supplied.

September 28, 2008
Speech to the Practising Law Institute Mergers and Acquisitions Conference, "Developments in the M&A and Regulatory Environment." Chicago, Illinois. I have no notes, transcript, or recording. The address of the Practicing Law Institute is 810 Seventh Avenue, 21st Floor, New York, New York 10019.

April 16, 2008
Speech to the New York State Bar Association, "A Changing Legal Landscape: Twombly in Practice" on the current caselaw development of Twombly, including its citation in the Lime Wire case. New York, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

April 2, 2008
Speech to New York University School of Law Students, "Digital IP Issues Today" discussing digital piracy. New York, New York. Outline supplied.

December 19, 2007
Lecture to Cravath associates and clients as requested, "Current Developments in Antitrust Law." New York, New York. Video supplied.

December 13, 2007
Training lecture to Cravath associates and clients as requested, "Document Retention and Spoliation." New York, New York. Video, outline, and presentation materials supplied.

October 5, 2007
Panel Member on the ABA Section of Antitrust Law Antitrust Litigation Course, "Examination of Witnesses." Philadelphia, Pennsylvania. I have no notes, transcript, or recording. The address of the ABA is 321 North Clark Street, Chicago, Illinois 60654.

September 28, 2007
Speech to the Practising Law Institute Mergers and Acquisitions Conference, "Developments in the M&A and Regulatory Environment." Chicago, Illinois. Materials supplied.

September 27, 2007
Speech to Cravath associates and clients as requested, "Antitrust Guidelines for Information Sharing in the Deal Context." New York, New York. Materials supplied.

July 24, 2007
SEO Corporate Law Program lecture to pre-law interns on torts. New York, New York. The outline for this is identical to the one I used for the same lecture on July 14, 2006, which is supplied.

May 16, 2007
Panel remarks to Time Warner Inc. Legal Staff, "Price Setting and the Antitrust Laws." New York, New York. Video supplied.

March 7, 2007
Speech to the Novartis Antitrust Sounding Board, "Branded and Generic Pharmaceuticals: Issues at the Intersection of Antitrust and Intellectual Property." Via webcast from New York, New York. Presentation materials supplied.

September 21, 2006
"Document Retention in the Electronic Age." Presentation to the Association of American Publishers on legal issues relating to document retention. New York, New York. Outline supplied.

September 18, 2006
Speech to the Practising Law Institute Mergers and Acquisitions Conference, "Developments in the M&A and Regulatory Environment." Chicago, Illinois. I have no notes, transcript, or recording. The address of the Practising Law Institute is 810 Seventh Avenue, 21st Floor, New York, New York 10019.

July 20, 2006
Panel presentation to Cravath associates and clients as requested, "The 'Work For Hire' Doctrine." New York, New York. Video supplied.

July 14, 2006
SEO Corporate Law Program lecture to pre-law interns on torts. New York, New York. Outline supplied above in response to the July 24, 2007 event.

May 9, 2006
Presentation to E-Discovery "A-to-Z" Workshop Conference Attendees, "Preservation & Spoliation." New York, New York. Outline supplied.

April 20, 2006
Training lecture to Cravath associates, "The Current Law Relating to Claims of Spoliation." New York, New York. Outline supplied.

March 10, 2006
Panelist and moderator for roundtable discussion on deposition issues for Cravath associates and clients on request. New York, New York. Video supplied.

November 15, 2005
Training lecture to Cravath associates, "The State of the Law Regarding Document Preservation." New York, New York. I have no notes, transcript, or recording. The address of Cravath, Swaine & Moore is 825 Eighth Avenue, New York, New York 10019.

November 11, 2005
Presentation to Time Warner, Inc. Legal Staff, "Current State of the Law Regarding the Work-for-Hire Doctrine." New York, New York. Video supplied.

June 16, 2005
Panel presentation to the Cravath Litigation Department on the Martha Graham Center cases. New York, New York. Video supplied.

May 9, 2005
Presentation to the Practising Law Institute, "Section 2 of the Sherman Act: Monopolization." New York, New York. Remarks and materials supplied.

February 17, 2005
Training lecture to Cravath associates and clients as requested, "Identification of, and Objection to, Intended Trial Exhibits." New York, New York. Video supplied.

October 29, 2004
Speech to the National Council on the Arts, "Martha Graham Dance Company and the Issue of Copyright." Washington, DC. Remarks supplied.

October 28, 2004
Training lecture to Cravath associates and clients as requested, "Responding to a Document Request." New York, New York. Video supplied.

October 20, 2004.
Presentation to the New York State Bar Association, Committee on Fine Arts, "Work-for-Hire: The Martha Graham Decision." Westchester, New York. Remarks supplied.

October 7, 2004
Training lecture to Cravath associates and clients as requested, "Drafting a Complaint." New York, New York. Video supplied.

January 30, 2004
Training lecture to Cravath associates and clients as requested, "Identification of, and Objection to, Intended Trial Exhibits." New York, New York. Video supplied.

October 15, 2003
Training lecture to Cravath associates and clients as requested, "Drafting Document Requests." New York, New York. Video supplied.

October 1, 2003
Training lecture to Cravath associates and clients as requested, "Drafting a Complaint." New York, New York. Video supplied.

June 18, 2003
Training lecture to Cravath associates and clients as requested, "Theories of Copyright Infringement." New York, New York. Video supplied.

March 29, 2003
Panel Member for the IP Section of the New York State Bar Association, "Ownership Rights for Creative Works in Light of the Martha Graham Decision." Rye Brook, New York. I have no notes, transcript, or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207.

February 1, 2003
Remarks to Dance/USA Winter Council, New York, "Ownership of Choreography: Several Possibilities," discussing the Martha Graham Center decision. New Orleans, Louisiana. Outline supplied.

January 28, 2003
Training lecture to Cravath associates and clients as requested, "Identification of, and Objection to Intended Trial Exhibits." New York, New York. Video supplied.

December 13, 2002
Speech to the Association of American Publishers, "Work-for-Hire and Public Domain Issues Under the Copyright Laws: When You Own It, When You Don't." New York, New York. Remarks supplied.

November 20, 2002
Remarks to the Dance Funders Group, "Assignment, Work-for-Hire and Dance." New York, New York. I have no notes, transcript, or recording. The organization is defunct and has no physical address.

October 17, 2002
Speech to New York Grantmakers for the Arts, "Who Owns a Dance and How to Keep it Clear." New York, New York. I have no notes, transcript, or recording. The organization is defunct and has no physical address.

June 21, 2002
Panel presentation to Time Warner, Inc. Legal Staff, "Liability and Safe Harbors for the Digital Distribution of Content." New York, New York. Video supplied.

June 19, 2002
Moderator of panel for Cravath lawyers and clients as requested, "Recent Ethical Issues in Our Litigation Practice." New York, New York. Video supplied.

March 20, 2001
Panel Member at the Fordham Symposium on Digital Audio Issues, "Fair Use and the Exchange of Digital Audio Files." New York, New York. Transcript supplied.

April 28, 2000
Panel presentation to Time Warner, Inc. legal staff, "Internet Litigation: Current Issues." New York, New York. Video supplied.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Jean Eaglesham and Justin Baer, "Wall Street Sheriffs' Set Sights on Taxpayers," FINANCIAL TIMES (Sept. 2, 2010). Copy supplied.

Nate Raymond, "Lawyer Dollars Back Quest for 'Professionally Prepared' Candidate," N.Y.L.J. (July 27, 2010). Copy supplied.

Jenna Greene, "Airline Deal Gets N.Y. and D.C. Counsel," NAT'L L.J. (May 10, 2010). Copy supplied.

Interview for "Introducing ISLP's Newest Board Members," THE ISLP NEWS (Fall 2007). Copy supplied.

"Cablevision Remote PVR Plans Can't Proceed, Judge Says," COMMUNICATIONS DAILY (Mar. 26, 2007) [similar article in multiple sources]. Copy supplied.

Elizabeth Goldberg, "FAB Fifty Young Litigators," AM. LAW. (Jan. 2007). Copy supplied.

Chris Pasles, "Graham Center Wins Dance Rights," LOS ANGELES TIMES (July 14, 2006). Copy supplied.

Kate Taylor, "Martha Graham Pirouettes From Court Onto Stage," N.Y. SUN (July 13, 2006). Copy supplied.

Daniel J. Wakin, "Martha Graham Center Wins Another Round in Legal Fight," N.Y. TIMES (June 29, 2005). Copy supplied.

Lisa Lerer, "Cravath Adopts a New York High School – And Finds a New Passion," AM. LAW. (June 2005). Copy supplied.

"News in Brief," N.Y.L.J. (Jan. 26, 2005). Copy supplied.

Anonymous, "Death in the Family," SAN FRANCISCO WEEKLY (Oct. 13, 2004). Copy supplied.

Bernadine Cassell, "Skills Maven," NAT'L L.J. (Apr. 7, 2003). Copy supplied.

Lewis Segal, "Martha Graham Dance Center Wins Custody Battle," LOS ANGELES TIMES (Aug. 24, 2002). Copy supplied.

"Center, School Can Keep Graham Name," WASHINGTON POST (July 3, 2002). Copy supplied.

Karin Lipson, "Dancing Around the Issues," NEWSDAY (May 6, 2002). Copy supplied.

"Dueling Leos Are Studios' Double Trouble," N.Y. DAILY NEWS (Apr. 9, 2002). Copy supplied.

Eileen Fitzpatrick, "Labels File Copyright Suit Against MP3Board.com," BILLBOARD (July 8, 2000). Copy supplied.

Omar L. Gallaga, "Music-Trading Web Site Violates Law," AUSTIN AMERICAN-STATESMAN (Apr. 29, 2000). Copy supplied.

Lynn Saxberg, "Music Industry Hails 'Sanity' in MP3.com Ruling," OTTAWA CITIZEN (Apr. 29, 2000). Copy supplied.

Devlin Barrett, "Judge Strikes Sour Note for 'MP3' Hit Tunes," N.Y. POST (Apr. 29, 2000). Copy supplied.

Larry Neumeister, "Judge Finds Against MP3.com in Copyright Infringement Case," ASSOCIATED PRESS (Apr. 28, 2000) [similar articles printed in multiple outlets]. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not served as a judge.

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

i. Of these, approximately what percent were:

jury trials:	__%
bench trials:	__%
civil proceedings:	__%
criminal proceedings:	__% [total 100%]

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have

come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Member, Disciplinary Committee, New York State Supreme Court, Appellate Division, First Department (2008 to 2010) (appointed by Roy Reardon, Chairman of Disciplinary Committee)

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held office in any political party or election committee. I provided some very limited legal services to the John F. Kerry campaign on a volunteer basis in 2004. In 2009, I also hosted two fundraisers for Eric Dinallo, who ran for Attorney General of the State of New York.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a clerk to a judge.

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

I have not practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1990 – 2010
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Partner (1998 – 2010)
Associate (1990 – 1997)

2010 – Present
United States Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20580
Deputy Assistant Attorney General

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

I began my legal career at Cravath, Swaine & Moore LLP, first as an associate and ultimately as a partner. Cravath is a full-service law firm headquartered in New York. As a partner, I was a generalist litigator handling a variety of matters in the areas, inter alia, of antitrust, intellectual property, contracts, employment issues, accounting fraud, and securities litigation.

I also was involved in the management of Cravath. Specifically, I was one of five members of Cravath's Partner Review Committee ("PRC") from January 2007 to October 2010. The PRC was responsible for reviewing partner performance and, where appropriate, making recommendations regarding disciplinary action. I also served as Administrative Managing Partner from January 2010 to October 2010. In this capacity, I oversaw a range of administrative functions necessary to the entire firm. I also ran Cravath's Continuing Legal Education program for litigators from 1998 to 2005.

I am currently employed as a Deputy Assistant Attorney General in the Antitrust Division of the United States Department of Justice. In this capacity, I am actively involved in overseeing the entire range of criminal and civil enforcement actions underway in the Antitrust Division. I am intimately involved in every phase of most major matters, including litigation planning and execution. I am also involved in matters affecting appellate litigation and international cooperation.

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

Throughout the course of my career at Cravath, Swaine & Moore LLP, my typical clients were large, multi-national corporations across a spectrum of industries including emerging technologies, healthcare, airlines, manufacturing, beverages and consumer goods, banking, and pharmaceuticals. I specialized in areas relating to digital technologies and the Internet.

As a Deputy Assistant Attorney General in the Antitrust Division of the United States Department of Justice, my sole client is the United States government.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While at Cravath, approximately 60% of my practice arose from traditional litigation, with the remaining 40% arising from counseling clients. I appeared in court whenever the matter required it, at least every month, often more frequently.

As a Deputy Assistant Attorney General in the Antitrust Division, my responsibilities routinely involve decisions about litigation, including decisions to exercise prosecutorial discretion and not pursue an enforcement action. In this capacity, my practice has been entirely on behalf of this agency, and has been 50% criminal and 50% civil. I have not appeared in state or federal court since I have been at the Department of Justice.

i. Indicate the percentage of your practice in:
   1. federal courts: 80%
   2. state courts of record: 20%
   3. other courts: 0%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 98%
   2. criminal proceedings: 2%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Seven. I have been lead counsel on three trials in federal court that went to judgment. I was also lead counsel in a fourth case that had a two-day "summary trial" in which judgment was entered. As an associate, I tried a breach of contract case to judgment (in state court) and, in federal court, participated in one case tried to verdict, and one to judgment.

I have also been lead counsel on eight appeals (six of which were in the Second Circuit and two in the New York State Appellate Division).

i. What percentage of these trials were:
   1. jury: 83%
   2. non-jury: 17%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. Cartoon Network LP, LLLP v. CSC Holdings, Inc., 536 F.3d 121 (2d Cir. 2008); Judges John M. Walker, Robert D. Sack, and Debra Ann Livingston; approximately May 2006 to June 2009.

   This case related to a new service that Cablevision has proposed to launch in which they would copy cable programming at a subscriber's request using a technology called the "remote-storage DVR" or "RS-DVR." My clients (Plaintiffs, the Cartoon Network and CNN), as well as other content providers represented by another firm, brought a declaratory judgment action claiming that such copying should subject Cablevision to secondary liability for copyright infringement. The issue on appeal was whether in the context of robotic or automated copying, a showing of "human volition" is required to prove copyright infringement. The district court had found that Cablevision's service would result in secondary liability for infringement. The Second Circuit disagreed and found that Cablevision had not exercised sufficient "human volition." I served as lead counsel.

   Co-counsel:
   Anthony Ryan
   Cravath, Swaine & Moore LLP
   825 Eighth Street
   New York, NY 10019
   (212) 474-1296

   Robert Alan Garrett
   Arnold & Porter LLP
   555 Twelfth Street, NW
   Washington, DC 20004
   (202) 942-5444

   Hadrian R. Katz
   Arnold & Porter LLP
   555 Twelfth Street, NW
   Washington, DC 20004
   (202) 942-5707

Opposing Counsel:
Timothy A. Macht
Law Offices of Timothy A. Macht
99 Hudson Street, 8th Floor
New York, NY 10013
(212) 941-0494

Jeffrey A. Lamken (appellate counsel)
Baker Botts LLP
1299 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 639-7978

2. The Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, 2002 WL 1467852 (2d Cir. July 2, 2002); The Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, 224 F. Supp. 2d 567 (S.D.N.Y. 2002), *aff'd in part, rev'd in part*, 380 F.3d 624 (2d Cir. 2004); approximately August 2006 to May 2010; The Martha Graham Sch. & Dance Found., Inc. v. Martha Graham Ctr. of Contemporary Dance, 374 F. Supp. 2d 355 (S.D.N.Y. 2005), *aff'd*, 466 F.3d 97 (2d Cir. 2006); approximately August 2006 to May 2010

I was lead trial and appellate lawyer in a series of three cases relating to trademark and copyright on behalf of my client, the Martha Graham Center of Contemporary Dance, Inc., and the Martha Graham School of Contemporary Dance. All of the Martha Graham trials and appeals related to the ownership of the "Martha Graham" name (the trademark appeal) or the ownership of Martha Graham's choreography and related sets and costumes.

The issue on the trademark appeal was whether the name The Martha Graham Center for Contemporary Dance (the "Center") had the right, via assignment or irrevocable license from Martha Graham, to use the name "Martha Graham" in connection with the Center. After a trial, the district court had found that the Center had such a right, and the Second Circuit affirmed.

Both copyright trials were in the District Court for the Southern District of New York, and focused on the factual record for ownership by virtue of assignment or the work-for-hire doctrine. On appeal, the primary question was whether the factual record and law supported a finding that dances, sets and costumes were owned by the Martha Graham Center for Contemporary Dance by assignment or work-for-hire. The District Court held that: (1) defendants owned copyrights in dances created by choreographer as employee; (2) some dances were in public domain; (3) copyrights in commissioned dances were owned by commissioning parties; (4) choreographer implicitly assigned copyrights in pre-employment dances to company; (5) interest in copyright during renewal term belonged to legatee; and (6) legatee breached fiduciary duties he owed as director and

employee of defendants. One issue on appeal was whether a creative genius can have a "work-for-hire." On the appeal of the first copyright trial, the District Court was affirmed in part, reversed in part, vacated and remanded; on the appeal of the second copyright trial, the Court's decision was affirmed.

Co-counsel:
Michael Reynolds
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
(212) 474-1552
(third case only)

Marla G. Simpson (Formerly Assistant Attorney General, Charities Bureau, currently Director of MOCS)
Mayor's Office of Contract Services
253 Broadway, 9th Floor
New York, NY 10007
(212) 788-01011
Attorney for Intervenor-Defendant-Appellee, Eliot L. Spitzer, Attorney General of the State of New York (first case only)

Barbara L. Quint
Office of the Attorney General
The Capital
Albany, NY 12224
(212) 416-8401
Attorney for Intervenor-Defendant, Eliot L. Spitzer, Attorney General of the State of New York

Opposing Counsel:
Judd Burstein and Peter B. Schalk
Judd Burstein, P.C.
1790 Broadway
New York, NY 10019
(212) 974-2400

3. Arista Records LLC v. Lime Wire LLC, 06 CV 05936; United States District Court for the Southern District of New York; Judge Gerard E. Lynch; approximately August 2006 to May 2010.

I was lead counsel representing the major record companies as plaintiffs in a copyright infringement case relating to peer-to-peer filesharing software developed and provided by Lime Wire LLC. My clients, a group of record companies, alleged that Lime Wire LLC's software had induced and contributed to the infringement of billions of sound recordings over the Internet. Before I left

Cravath, the antitrust counterclaims were successfully dismissed; I understand that damages issues relating to the affirmative copyright claims are still pending.

Co-counsel:
Teena-Ann Sankoorikal
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
(212) 474-1784

Opposing Counsel:
Joseph D. Cohen
Porter & Hedges LLP
1000 Main Street, 36th Floor
Houston, TX 77002
(713) 226-6628

Charles S. Baker
Porter & Hedges LLP
1000 Main Street, 36th Floor
Houston, TX 77002
(713) 226-6676

4. Brantley v. NBC Universal, Inc., 07 CV 06101 (CAS); United States District Court for the Central District of California; Judge Christina A. Snyder; approximately September 2007 to October 2010.

   I was the lead counsel representing defendants Time Warner Cable, Inc. and Turner Broadcasting Systems, Inc. in a purported consumer class action alleging violations of Section 1 of the Sherman Act. Plaintiffs claim that defendant programming providers (such as TBS, Disney, etc.) and distributors (such as Time Warner Cable, Comcast, DirecTV, etc.) have entered into anticompetitive contracts requiring the sale of programming on a bundled (versus à la carte) basis, resulting in a diminution of competitive alternatives and foreclosure of independent programming providers. The case is still pending.

   Co-counsel:
   Daniel G. Swanson
   Gibson, Dunn & Crutcher LLP
   333 South Grand Avenue, Suite 4600
   Los Angeles, CA 90071
   (213) 229-7430
   Attorney for Cox Communications/Enterprises, Inc.

Robert A. Sacks
Sullivan & Cromwell LLP
1888 Century Park East, Suite 2100
Los Angeles, CA 9006
(310) 712-6640
Attorney for Cablevision

David Dunn
Hogan Lovells LLP
Hogan Lovells US LLP
875 Third Avenue
New York, NY 10022
Attorney for Charter Communications, Inc.

Arthur J. Burke
Davis Polk & Wardwell
1600 El Camino Real
Menlo Park, CA 94025
(650) 752-2005
Attorney for Comcast Corp. & Cable Communications, Inc.

Melissa Ingalls
Kirkland & Ellis LLP
777 South Figueroa Street
Los Angeles, CA 90017
(213) 680-8552
Attorney for The DirecTV Group, Inc.

Richard R. Patch
Coblentz, Patch, Duffy & Bass LLP
One Ferry Building, Suite 200
San Francisco, CA 94111
(415) 772-5722
Attorney for Dish Network/EchoStar Satellite LLC

David C. Dinielli
Munger, Tolles & Olson
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
(213) 683-9519
Attorneys for Fox Entertainment Group, Inc.

Ronald C. Redcay
Arnold & Porter
777 South Figueroa Street, 44th Floor
Los Angeles, CA 90017
(213) 243-4002
Attorneys for NBC Universal, Inc.

A. Douglas Melamed
Formerly of Wilmer Hale LLP, now Senior Vice President and General Counsel, Intel Corporation
2200 Mission College Boulevard
Santa Clara, CA 95054
(408) 765-8080
Attorney for The Walt Disney Company

Kenneth R. Logan and Joseph F. Tringali
Simpson Thacher
425 Lexington Avenue
New York, NY 10017
(212) 455-2650
(212) 455-3840
Attorneys for Viacom, Inc.

Opposing Counsel:
Maxwell M. Blecher and David W. Kesselman
Blecher & Collins, P.C.
515 South Figueroa Street, 17th Floor
Los Angeles, CA 90071
(212) 622-4222

5. Am. Movie Classics Co. v. Time Warner Entm't L.P. and Time Warner Cable, Inc., 2005 WL 3487852 (N.Y. Sup. Ct. July 8, 2005); New York Supreme Court; Judge Bernard J. Fried; approximately November 2003 to October 2005.

This was a contractual dispute regarding whether American Movie Classics ("AMC") was providing the programming it had contracted to provide Time Warner Cable ("TWC"). I was lead counsel representing Defendants-Counterclaim Plaintiffs, Time Warner Entertainment Company, L.P. and Time Warner Cable Inc. The issue in the case was, in part, how to define a "classic motion picture film." The judge denied AMC's motion for summary judgment. TWC's cross-motion for summary judgment was granted as follows: (1) summary judgment was granted on Time Warner's first counterclaim as to liability only; the issue of damages remained for trial; (2) summary judgment was granted on Time Warner's second counterclaim, and therefore, Time Warner was entitled to a declaration that Time Warner Cable may terminate the 1993 Agreement, as Amended; and (3) that the Amended Complaint was dismissed.

Co-counsel:
None

Opposing Counsel:
Randy M. Mastro
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
(212) 351-3825

James H. Carter
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
(212) 558-4000

6. Chambers v. Time Warner, Inc., 282 F.3d 147 (2d Cir. 2002); Judges Richard Cadamone, Rosemary S. Pooler, and Barrington D. Parker; approximately April 2000 to August 2003; Silvester v. Time Warner, Inc., 787 N.Y.S.2d 870 (2d Dep't 2005); New York Supreme Court, Appellate Division, First Department, Associate Justices Richard T. Andrias, Joseph B. Sullivan, John W. Sweney, Jr., Peter Tom, and Betty Weinberg Ellerin; approximately August 2002 to January 2006

I represented Time Warner, Inc. in two matters addressing whether recording contracts entered into prior to the Internet could be interpreted to have conveyed rights to digitally distribute sound recordings over the Internet. While the matters occurred in both Federal and then State Court, they are essentially the same matter.

The Second Circuit found that on a motion to dismiss, the District Court had improperly considered certain codes of fair practice on copyright claims without converting the motion to dismiss into a motion for summary judgment; and that on the Lanham Act claim, the court below erred in relying on only one example of the allegedly deceptive conduct set forth in the complaint, without considering the other conduct raised by the artists' allegations. The District Court opinion was vacated and remanded; the case was refiled in State Court and was dismissed on a motion to dismiss, and that dismissal was then affirmed by the Appellate Division.

Co-counsel:
Jay Cohen
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3163
Attorneys for Defendant-Appellee, Sony Music Entertainment, Inc.

Charles B. Ortner
Proskauer Rose LLP
1585 Broadway
New York, NY 10019
(212) 969-3990
Attorneys for Defendant-Appellee, BMG Music d/b/a BMG

Andrew H. Bart
Formerly of Pryor Cashman, currently at Jenner and Block LLP
919 Third Avenue, 37th Floor
New York, NY 10022
(212) 891-1645
Attorneys for Defendant-Appellee, Universal Music Group, Inc.

Russell J. Frackman
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064
(310) 312-3119
Attorneys for Defendant-Appellee, Universal Music Group, Inc.

Jeffrey D. Goldman
Formerly at MS&K currently at Loeb & Loeb LLP
10100 Santa Monica Boulevard, Suite 2200
Los Angeles, CA 90067
(310) 282-2291
Attorneys for Defendant-Appellee, Universal Music Group, Inc.

Opposing Counsel:
Mark C. Rifkin
Formerly of Feldman & Rifkin, currently partner at Wolf Haldenstein Adler Freeman & Herz LLP
270 Madison Avenue
New York, NY 10016
(212) 545-4762

7. UMG Recordings, Inc. v. MP3.com, Inc., 92 F. Supp. 2d 349 (S.D.N.Y. 2000); Judge Jed S. Rakoff; approximately January 2000 to November 2000.

   I represented the record companies owned by the Warner Music Group in an action against the Internet Service, MP3.com, for direct infringement. MP3.com argued, inter alia, that digital copies of sound recordings were not cognizable copies under the copyright laws and/or they had a fair use right to make reproductions of the sound recordings. I was lead counsel for several of the plaintiff record companies. The Court held that the plaintiffs were entitled to partial summary judgment holding the defendant to have infringed on the plaintiffs' copyrights.

   Co-counsel:
   Hadrian R. Katz
   Arnold & Porter LLP
   555 Twelfth Street, NW
   Washington, DC 20004
   (202) 942-5707
   Attorneys for UMG Recordings, Inc., Sony Music Entertainment Inc., Arista Records Inc., BMG Music, Capitol Records, Inc., Interscope Records

   Steven B. Fabrizio
   Formerly of the Recording Industry Association of America, currently at Jenner & Block LLP
   1099 New York Avenue, NW, Suite 900
   Washington, DC 20001
   (202) 639-6040
   Attorneys for UMG Recordings, Inc., Sony Music Entertainment Inc., BMG Music, Capitol Records, Inc., Interscope Records

   Opposing Counsel:
   Michael B. Carlinsky
   Formerly of Orrick, Herrington & Sutcliffe, currently partner at Quinn Emanuel Urquhart Oliver & Hedges, LLP
   51 Madison Avenue, 22nd Floor
   New York, NY10010
   (212) 849-7000

   Jeffrey A. Conciatori
   Formerly of Orrick, Herrington & Sutcliffe, currently partner at Quinn Emanuel Urquhart Oliver & Hedges, LLP
   51 Madison Avenue, 22nd Floor
   New York, NY 10010
   (212) 849-7000

8. Adelphia Commc'ns Corp. v. Deloitte & Touche LLP, Court of Common Pleas, Philadelphia Co., Pennsylvania, Index 000598; Judge Howlland W. Abramson; approximately November 2002 to November 2006.

The "Adelphia" cases were a series of actions involving claims against Deloitte & Touche alleging accounting malpractice and securities laws violations. I was co-lead counsel to Deloitte & Touche LLP. The claims arose from the failure and bankruptcy of Adelphia Communications Corp. – a cable company run by the Rigas family. I spent the majority of my time on the accounting case brought by Adelphia against Deloitte.

Co-counsel:
Max R. Shulman
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
(212) 474-1890

William A. Slaughter
Ballard, Spahr, Andrews & Ingersoll LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 864-8114

Joel E. Tasca
Ballard, Spahr, Andrews & Ingersoll LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 864-8188

Opposing Counsel:
Robert C. Heim
Dechert, LLP
2929 Arch Street
Philadelphia, PA 19104
(215) 994-2570

Philip C. Korologos
Boies, Schiller & Flexner LLP
575 Lexington Avenue, 7th Floor
New York, NY 10022
(212) 446-2390

Eric Brenner
Boies, Schiller & Flexner LLP
333 Main Street
Armonk, NY 10504
(914) 749-8224

9. Arista Records, Inc. v. MP3Board, Inc., 2002 WL 1997918 (S.D.N.Y. Aug. 29, 2002); Judge Sidney H. Stein; approximately June 2000 to September 2003.

This was a copyright infringement case brought by a number of record companies against MP3Board. I was lead counsel for Atlantic Recording Corporation, Elektra Entertainment Group, Inc. and Warner Bros. Records Inc. MP3Board owned and operated an Internet service that provided users with the ability to search for, locate, link to and download sound recordings over the Internet. The case settled favorably after discovery.

Co-counsel:
J. Christopher Jensen
Cowan, Liebowitz & Latman
1133 Avenue of the Americas
New York, NY 10036
(212) 790-9204

Jonathan King
Cowan, Liebowitz & Latman
1133 Avenue of the Americas
New York, NY 10036
(212) 790-9238

Michael J. Huppe
Formerly at the RIAA, currently General Counsel at SoundExchange, Inc.
1121 14th Street, NW, Suite 700
Washington, DC 20005
(202) 640-5858
Attorneys for Plaintiffs, Arista Records, Inc., BMG Music d/b/a The RCA Records Label, Capitol Records, Inc., Hollywood Records, Inc., Interscope Records, La Face Records, Motown Record Company, L.P., Sony Music Entertainment Inc., UMG Recordings, Inc., Virgin Records America, Inc.

Opposing Counsel:
Ira P. Rothken
The Rothken Law Firm
3 Hamilton Landing, Suite 280
Novato, CA 94949
(415) 924-4250

10. In re Aimster Copyright Litig., Case No.: 1:01-cv-08933; United States District Court for the Northern District of Illinois; Judge Marvin E. Aspen; approximately July 2001 to June 2009 (I understand this matter is still pending).

    This is a copyright infringement action that was stayed for an extended period of time due to the bankruptcy of the defendant. The case involved copyright infringement claims relating to a type of peer-to-peer filesharing software that allowed for the searching, locating and downloading of audio and video files. I was lead counsel on behalf of plaintiffs Time Warner Entertainment Company, L.P. (specifically HBO) and New Line Cinema Corporation.

    Co-counsel:
    Thomas G. Hentoff
    Williams & Connolly LLP
    725 Twelfth Street, NW
    Washington, DC 20005
    (202) 434-5804

    Gregory P. Goeckner
    Executive Vice President, General Counsel Motion Picture Association of America, Inc.
    15301 Ventura Boulevard, Building E
    Sherman Oaks, CA 91403
    (818) 935-5805

    Floyd A. Mandell
    Katten Muchin Rosenman LLP
    525 West Monroe Street
    Chicago, IL 60661
    (312) 902-5235

    Karin G. Pagnanelli
    Mitchell, Silberberg & Knupp LLP
    11377 West Olympic Boulevard
    Los Angeles, CA 90064
    (310) 312-2000

    Opposing Counsel:
    John Deep
    26 Roosevelt Boulevard
    Cohoes, NY 12047
    (518) 233-0225
    Defendant Pro Se

George F. Carpinello
Boies, Schiller & Flexner, LLP
10 North Pearl Street, 4th Floor
Albany, NY 12207
(518) 434-0600
Attorney for AbovePeer, Inc. and John A. Deep

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    Throughout my time as a partner at Cravath, Swaine & Moore, LLP, I counseled a variety of clients on antitrust, intellectual property and commercial matters. I spent significant time counseling clients in matters relating to the digital/Internet environment. In addition, I represented many clients in mergers, sales of assets and investigations conducted by the Department of Justice or Federal Trade Commission.

    Among the most significant was the merger of United Airlines, Inc. and Continental Airlines, Inc. In that matter, private plaintiffs sought to enjoin the merger in the summer of 2010. A hearing for a preliminary injunction was held before Judge Richard Seeborg in the Northern District of California, at which the plaintiffs' request was denied. I was the lead attorney at the hearing and acted on behalf of United Airlines, Inc. In connection with this merger, I also advised the client on all aspects of its merger control review under the Hart-Scott-Rodino Act.

    I have not performed any lobbying activities on behalf of any client or organization.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    Survey of American Women's History, Rutger's University (Fall 1988). This course was a historical overview from 1860 to present of American women's history. I do not have the syllabus and have not been able to obtain one.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I am entitled to fixed quarterly payments in the amount of $95,715 each, for a period of ten years from Cravath, Swaine & Moore, LLP.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    None; I will not pursue any outside employment if I am fortunate enough to be confirmed as a judge.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       For a period of time, matters involving Cravath, Swaine & Moore, LLP or Time Warner, Inc. would present a potential conflict of interest. I would recuse myself from such matters consistent with applicable rules. I have no financial arrangements that would otherwise cause conflicts of interest. Matters relating to my immediate family and siblings, if any were to arise (none are pending) would also present a conflict of interest.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       I will handle all matters involving actual or potential conflicts of interest through the careful and diligent application of the Code of Conduct for United States Judges as well as other relevant Canons and statutory provisions, e.g., 28 U.S.C. § 455.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    Throughout my career, I have been committed to pro bono work for a number of different clients, covering a wide spectrum of legal issues. In the mid-1990's, I was involved in two pro bono trials – a school desegregation case tried in federal court before Judge Robinson (D. Del.), and a negligence case relating to the sale of a "kit gun" before Judge Weinstein (E.D.N.Y.), Halberstam v. S.W. Daniel, Inc. I argued a criminal appeal for the Appellate Defenders' Office and, while a partner at Cravath, Swaine & Moore LLP, oversaw associates who argued criminal appeals. I have also litigated several matters for artists or arts-related organizations relating to ownership of copyrights and copyright infringement, on a pro bono basis. For instance, I represented the Martha Graham Dance Company at both the trial and appellate level. I am also involved in several non-profit organizations whose missions are devoted to service of the disadvantaged. These include the Urban Assembly, School for Law & Justice; the Lawyers' Committee for Civil Rights Under the Law; the International Senior Lawyers Project; and the Fund for Modern Courts.

26. **Selection Process**:

    a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

    I submitted a Confidential Questionnaire to the Chairman of the Judicial Screening Panel for Senator Charles E. Schumer ("the Panel") on November 25, 2008. My then partner (since deceased) Robert Joffe was a member of the Panel but recused himself from all matters relating to my candidacy. On March 13, 2009, I was interviewed by the Panel. On November 7, 2009, I met with Senator Schumer. On January 28, 2011, I was informed that Senator Schumer would recommend my name to President Obama. Since that date, I have been in contact with pre-nomination officials at the U.S. Department of Justice. On March 4, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 4, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Forrest, Katherine B.	U.S. District Court for the Southern District of New York	05/04/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
United States District Judge	☑ Nomination, Date 05/04/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 04/30/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
U.S. Department of Justice 950 Pennsylvania Avenue Washington, D.C. 20530	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Deputy Assistant Attorney General	U.S. Department of Justice
2.	Former Partner (resigned as of 10/17/2011)	Cravath, Swaine & Moore, LLP
3.	Board Member (resigned as of 10/2011)	Lawyers Committee for Civil Rights
4.	Board Member (resigned as of 10/2011)	Fund for Modern Courts
5.	Board Member (resigned as of 10/2011)	International Senior Lawyers Project
6.	Board Member (resigned as of 10/2011)	Adams Street Foundation
7.	Trustee	Trust #1
8.	Trustee	Trust #2

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 6	Name of Person Reporting Forrest, Katherine B.	Date of Report 05/04/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	Cravath partnership distributions	$2,359,220.00
2. 2010	Cravath partnership distributions and capital account payout	$2,440,152.00
3. 3/15/2011	Fixed payment from former firm	$91,906.00
4.		

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

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

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

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT
Page 3 of 6

Name of Person Reporting	Date of Report
Forrest, Katherine B.	05/04/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	EXEMPT		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 6

Name of Person Reporting	Date of Report
Forrest, Katherine B.	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. JPMorgan/cash accounts	D	Interest	O	T	Exempt				
2. Vanguard Prime Money Market Institution Account	B	Interest	O	T					
3. Trust #1 (cash only)	A	Interest	M	T					
4. Trust #2 (cash only)	A	Interest	M	T					
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 5 of 6	Name of Person Reporting Forrest, Katherine B.	Date of Report 05/04/2011

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

FINANCIAL DISCLOSURE REPORT Page 6 of 6	Name of Person Reporting Forrest, Katherine B.	Date of Report 05/04/2011

IX. CERTIFICATION.

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

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

Signature K. B. Forrest

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		757	428	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities				Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – see schedule	1	500	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property	1	000	000				
Cash value-life insurance							
Other assets itemize:							
Vanguard Prime Money Market Fund -Instl		613	000				
Childrens' educational trusts (cash)		422	392				
				Total liabilities			0
				Net Worth	4	292	820
Total Assets	4	292	820	Total liabilities and net worth	4	292	820
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts (education loans)		75	310	Are any assets pledged? (Add schedule)	No		
Legal Claims				Are you defendant in any suits or legal actions?	No		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	No		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Real Estate Owned	
Primary residence	$1,000,000
Second residence	500,000
Total Real Estate Owned	$1,500,000

AFFIDAVIT

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

5/2/11
(DATE)

(NAME)

(NOTARY)

Sworn to and subscribed before me, in my presence this 2nd day of May 2011, District of Columbia Notary Public, in and for the City at Large

Notary Public

My commission expires August 14, 2013

JEANETTA ROBINSON
Notary Public
District of Columbia
My Commission Expires August 14, 2013

STATEMENT OF JUDGE SUSAN O. HICKEY, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS

Judge HICKEY. Senator Franken, I would like to thank you and Senator Grassley for allowing me to be here today at this hearing. I would also like to thank the President for the nomination. I am truly honored. I would like to thank both Senator Pryor and Senator Boozman for their support and their kind words in introducing me.

I wanted to also thank all the people back home that supported me during this long process. I want to introduce my family: my husband Joe is back there, of 30 years; my oldest son Patrick is here, who flew in from Nebraska this morning and then changed in the Senator's office; my middle son Michael, who's down from New York; my youngest son Joseph is back in Arkansas. He's going to summer school at the University of Arkansas and he had a test today and couldn't get away. I want to introduce two special friends, Becky and Ernie Cagle, who came in from El Dorado to support me. Thank you.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Susan Owens Hickey (maiden name: Susan Bronwyn Owens)

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

   United States District Judge for the Western District of Arkansas

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Union County Courthouse, Room 203
   101 North Washington Avenue
   El Dorado, Arkansas 71730

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

   1955; Dallas, Texas

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1978 – 1980, University of Arkansas School of Law; J.D., 1981
   1977, University of Arkansas, Graduate School of Education; no degree received
   1973 – 1977, University of Arkansas, Fulbright College of Arts and Science; B.A., 1977

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2010 – Present
State of Arkansas
Union County Courthouse, Room 203
101 North Washington Avenue
El Dorado, Arkansas 71730
Circuit Judge, Thirteenth Judicial Circuit

2003 – 2010
United States District Court
United States Post Office and Courthouse
101 South Jackson Avenue, Suite 219
El Dorado, Arkansas 71730
Senior Law Clerk (Career)

Spring 1998
United States District Court
United States Post Office and Courthouse
101 South Jackson Avenue, Suite 219
El Dorado, Arkansas 71730
Law Clerk (Temporary)

Summer 1997
United States District Court
United States Post Office and Courthouse
101 South Jackson Avenue, Suite 219
El Dorado, Arkansas 71730
Law Clerk (Temporary)

1987 – 1989
S&K Construction Company, Inc.
El Dorado, Arkansas 71730
Shareholder

1981 – 1984
Murphy Oil Corporation
200 Peach Street
El Dorado, Arkansas 71730
Staff Attorney

Spring 1981
Brown, Compton & Prewett, Ltd.
423 North Washington Avenue
El Dorado, Arkansas 71730
Attorney (for one trial)

Summer 1978
University of Arkansas School of Law Library
1045 West Maple Street
Fayetteville, Arkansas 72701
Work Study

January 1978
United Federal Savings Bank
Springdale, Arkansas 72764
Teller

Other Affiliations (uncompensated)

2000 – 2010
The Majick Foundation
423 North Washington
El Dorado, Arkansas 71730
Director

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I was not required to register for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Valedictorian Scholarship to the University of Arkansas
   American Jurisprudence Award, Torts
   American Jurisprudence Award, Civil Procedure II
   Invited to join the Arkansas Law Review

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   Arkansas Bar Association
   Union County Bar Association

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Arkansas, 1981. There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Arkansas Supreme Court, 1981
United States District Court for the Western District of Arkansas, 1981
United States District Court for the Eastern District of Arkansas, 1981

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Alpha Delta Pi Sorority (1975 – Present)
El Dorado Golf & Country Club (1980 – 2011)
El Dorado Racquet Club (2003 – Present)
El Dorado Service League (1985 – 1992)
    Secretary (1990)
    Ways and Means Chairman (1991)
Equestrian Order of the Holy Sepulchre of Jerusalem (2004 – Present)
    Southwestern Lieutenancy of the United States
Holy Redeemer Catholic Church
    Parish Council (2002 – 2005)
        Secretary (2003)
        President (2004)
        Secretary (2005)
    Development and Building Committee (1999 – 2003)
Interfaith Help Services (2001 – 2003)
The Majick Foundation
    Director (2000 – 2010)

Parent Teacher Organization, Holy Redeemer Catholic School (1991 – 2005)
Executive Board (2000)
Parent Teacher Organization, Subiaco Academy (2000 – 2007)
Tribunal of the Diocese of Little Rock, Advocate (2010 – Present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

While in college at the University of Arkansas, I joined the Delta Delta Chapter of Alpha Delta Pi Sorority, an all female group. Since graduation, I have not been active in the sorority or its alumni group.

The El Dorado Golf & Country Club was formed in 1925. It may have had a practice of discrimination at that time. Since the time my husband's law firm purchased a membership for his use in 1980 (prior to our marriage), there has been no policy or practice of discrimination.

The other organizations listed do not, and have not, discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

September 30, 2010: Investiture remarks. Copy supplied.

May 6, 2010: Law Day Remarks, 9th Grade Pre-AP Government Class, El Dorado High School. Outline supplied.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

None.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

On September 16, 2010, I was appointed by Arkansas Governor Mike Beebe to fill the position of Circuit Judge for the Thirteenth Judicial Circuit for the State of Arkansas to fill the unexpired term of Judge Carol Crafton Anthony, who died in office. I was sworn in on September 30, 2010 at which time I assumed the duties of the office. The Circuit Court has jurisdiction over civil, criminal, juvenile, domestic relations and probate matters in the six County area that comprises the Thirteenth Judicial Circuit in Arkansas. The six Counties are Union, Columbia, Ouachita, Calhoun, Dallas and Cleveland. I presently preside over criminal cases in Union, Ouachita, Dallas and Calhoun Counties, Drug Court in Union County, civil cases in Union and Columbia Counties, domestic relations cases in Calhoun and Cleveland Counties, probate cases in Calhoun County, and juvenile cases in Calhoun County.

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

The majority of my docket involves criminal felony cases. Since October 2010, I have presided over approximately 172 criminal cases in which I entered a judgment as a result of a guilty plea by the defendant or a plea agreement between the State and the defendant. I also presided over two criminal bench trials that have gone to judgment.

i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100%
civil proceedings:	0%
criminal proceedings:	100%

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

I have not authored any opinions.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

During my time on the bench, I have presided over two cases that I regard as significant:

1. *State of Arkansas v. Walters*, Criminal No. CR-2010-209-4, Circuit Court of Union County, Arkansas.

This was an appeal from Union County District Court in which the defendant was found guilty of speeding and driving while intoxicated. After a bench trial, the Court found the defendant not guilty of the charge of driving while intoxicated. The defendant was found guilty of the charge of speeding and ordered to pay a fine of Seventy-Five Dollars ($75.00).

The attorneys involved in this case were Deputy Prosecuting Attorneys Carla Gibson and Jeffrey Rogers, Suite 114, 307 American Road, El Dorado, Arkansas 71730, (870) 864-1960; Ronald L. Griggs, 431 North Washington Avenue, El Dorado, Arkansas 71730, (870) 862-5187.

2. *State of Arkansas v. Dhillion*, Criminal No. CR-2010-394-4, Circuit Court of Union County, Arkansas

This was an appeal from Union County District Court in which the defendant was found guilty of speeding. After a bench trial, the Court found the defendant guilty of the charge of speeding and ordered him to pay a fine of Fifty Dollars ($50.00).

The attorneys involved in this case were Deputy Prosecuting Attorneys Carla Gibson and Jeffrey Rogers, Suite 114, 307 American Road, El Dorado, Arkansas 71730, (870) 864-1960; James B. Bennett, 621 North Washington Avenue, El Dorado, Arkansas 71730, (870) 862-2321.

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

I have not authored any opinions.

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

None.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

None.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

None.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

None.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

    a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

    b. a brief description of the asserted conflict of interest or other ground for recusal;

    c. the procedure you followed in determining whether or not to recuse yourself;

    d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

    I endeavor to follow Canon 2 of the Arkansas Code of Judicial Conduct, and in particular Rule 2.7 (Responsibility to Decide) and Rule 2.11 (Disqualification).

    No one has suggested that I recuse in any case.

    I automatically recuse from all cases in which my husband, my husband's brother or a member of my husband's law firm is the attorney of record. I automatically recuse from all cases in which BancorpSouth is a party due to the fact that my husband is a member of BancorpSouth's Advisory Board. I also review all cases before me to determine if there exists any conflict or potential conflict in which recusal from the case would be appropriate. As a result of such review, I have recused sua sponte in two cases. In the first case the victim was the daughter of a sitting Judge within the Thirteenth Judicial Circuit. The second case involved a criminal defendant who was the stepson of my stock broker.

15. **Public Office, Political Activities and Affiliations**:

    a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

    I have never held any public offices.

I have never been a candidate for an elected office or a nominee for an appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not had any memberships or held any offices in any political party or election committee. In the 1980's, I volunteered in the local campaign office of Senator David Pryor. Since my employment with the Federal Court system, I have not held a position or played a role in any political campaigns.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a Law Clerk to Judge Harry F. Barnes in the United States District Court for the Western District of Arkansas for the following periods of time:

2003 – 2010, Senior Law Clerk (Career)
Spring 1998, Temporary Law Clerk
Summer 1997, Temporary Law Clerk

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

I have never practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1981
Brown, Compton & Prewett, Ltd.
423 North Washington Avenue
El Dorado, Arkansas 71730
Attorney (for one trial)

1981 – 1984
Murphy Oil Corporation
200 Peach Street
El Dorado, Arkansas 71730
Staff Attorney

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

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

In April 1981, I worked for the law firm of Brown, Compton & Prewett. I worked on the pretrial preparation and trial of a personal injury case which the firm was defending.

From 1981 to 1984, I worked for Murphy Oil Corporation as a staff attorney. I worked primarily with natural gas, securities and corporate law.

In 1997 and 1998, I worked as a Temporary Law Clerk for Judge Harry F. Barnes. I performed research and wrote Memorandum Opinions on matters assigned to me.

From 2003 to September 30, 2010, I served as Senior Law Clerk for Judge Harry F. Barnes. As such, I was involved in every aspect of each case before the Court, including, but not limited to pretrial motions, discovery disputes, summary judgment motions, evidentiary rulings during the trial, jury instructions, post trial motions, criminal changes of plea and sentencing.

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

During my service at Murphy Oil Corporation, my clients were the various departments within the company. However, my primary emphasis was on securities law.

As a Law Clerk, I had no clients.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

When I worked for Murphy Oil Corporation all litigated matters were handled by outside counsel. Therefore, I did not personally handle any litigated matters or appear in Court for the company.

As a Senior Law Clerk, I handled or oversaw all cases before the Court. The majority of the cases filed were resolved through settlement or summary judgment. Less than 20% of the cases filed went to trial.

i. Indicate the percentage of your practice in:

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

ii. Indicate the percentage of your practice in:

1. civil proceedings: 80%
2. criminal proceedings: 20%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

As stated above, Murphy Oil Corporation hired outside counsel for all litigation matter. Therefore, I tried no cases for Murphy Oil Corporation. As a Law Clerk in a Federal District Court, I tried no cases as an attorney for one of the parties.

i. What percentage of these trials were:

1. jury: __%
2. non-jury: __%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

    a. the date of representation;

    b. the name of the court and the name of the judge or judges before whom the case was litigated; and

    c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

    I worked as a staff attorney for Murphy Oil Corporation from 1981 to 1984. The job of in-house counsel was to avoid involving the company in litigation. However, there was one significant litigated matter on which I worked while at the company. This case involved the company's claim regarding its seized assets in Iran. *Murphy Middle East Oil Company v. National Iranian Oil Company*, Iran-United States Claims Tribunal at The Hague, the Netherlands, 1981 – 1986.

    In the mid 1960's, Murphy Middle East Oil Company, a subsidiary of Murphy Oil Corporation, participated in a joint venture with Atlantic Richfield, Sun Oil Company, Union Oil of California and the National Iranian Oil Company in forming Lavan Petroleum Company (LAPCO). After its formation, LAPCO developed portions of the Sassan Field off the coast of Iran. In 1979, during the Iranian Revolution, the Shah of Iran and his government were overthrown and the property owned by foreign nationals was seized, including Murphy's interests in the Sassan Field. In 1981, an international arbitral, the Iran-United States Claims Tribunal, was established at The Hague in the Netherlands. The purpose of this tribunal was to resolve the claims of United States nationals for compensation for assets seized by the Iranian government during the Iranian Revolution. I worked on the discovery and production of documents necessary to submit the company's claim for compensation to the tribunal. These compiled documents were attached to the company's compensation claim submitted to the Claims Tribunal at The Hague. Thereafter, in November 1986, Murphy Oil Corporation was awarded $36 million dollars in payment for its former interest in the Sassan Field.

    Local attorney for the Claimant: H. Y. Rowe (now deceased), General Attorney, Murphy Oil Corporation, 200 Peach Street, El Dorado, Arkansas 71730, (870) 862-6411. International attorney for the Claimant: David Mackey, QC, Allen & Overy, LLP, One Bishops Square, London, E1 6AD, United Kingdom.

    Prior to working for Murphy Oil Corporation, I worked on the pretrial preparation and the trial of a personal injury case that was being tried for a second time in the

United States District Court for the Western District of Arkansas, El Dorado Division, Honorable Oren Harris, presiding. *Rodgers v. Lion Oil Co.*, 1:79-CV-1038, *rev'd sub nom. Ouachita Nat'l Bank, Curator of the Estate of Rodgers v. Tosco Corp.*, 686 F.2d 1291 (8th Cir. 1982); *aff'd in part and rev'd in part on reh'g*, 716 F.2d 485 (8th Cir. 1983) (en banc).

The matter was originally filed in May 1979 by Plaintiff Rodgers and his wife against Defendant Lion Oil, the predecessor of Tosco Corporation. In their Complaint, Plaintiffs asserted claims for personal injuries from an automobile accident between Mr. Rodgers' log truck and a vehicle driven by an employee of Lion Oil. The matter was tried to a jury in April 1980 resulting in a verdict for the Plaintiffs for approximately $3.8 million dollars. The Defendant filed post trial motions seeking relief from the verdict pursuant to Federal Rules of Civil Procedure 60(b), 59 and 50(b). On August 22, 1980, the Court ordered remittitur of the total damages to approximately $1.5 million, or, in the alternative, a new trial. Plaintiffs elected to proceed with a new trial. Prior to the second trial, I was hired by the law firm representing the defendant. It was my job to index and/or summarize all testimony and evidence from the first trial and to organize all new evidence to be presented at the second trial. At trial, I provided this information to lead counsel for use during his cross and direct examination of witnesses. On April 20, 1981, the second trial of this matter began. On April 29, 1981, the jury returned a verdict in favor of the Defendant and Plaintiffs' Complaint was dismissed with prejudice. Plaintiffs appealed to the Court of Appeals for the Eighth Circuit. In a rehearing en banc, the Eighth Circuit reversed the District Court's remittitur of Mr. Rodgers' damage award and affirmed the Court's judgment with respect to Mrs. Rodgers. Thereafter, the matter was remanded to the District Court and was settled by the parties.

Counsel for the Plaintiffs were: Bernard P. Whetstone (now deceased), Whetstone and Whetstone, 400 Tower Building, Little Rock, Arkansas 72701, (501) 376-3564; Bernard Bud Whetstone, Whetstone and Whetstone, 400 Tower Building, Little Rock, Arkansas 72701, (501) 376-3564. Counsel for the Defendant: Robert C. Compton (now deceased), Brown, Compton and Prewett, Ltd., 423 North Washington Avenue, El Dorado, Arkansas 71730, (870) 862-3478.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I have never been a lobbyist.

One of the most significant legal activities during my tenure at Murphy Oil Corporation was my work on Murphy Oil Corporation's reorganization as a holding company in 1983 and the creation of Murphy Oil USA, Inc., to oversee the company's domestic oil interests. Jerry W. Watkins, Murphy's General Counsel, was the lead attorney in the reorganization. I assisted him by working on and reviewing corporate documents and the various forms to be filed with the appropriate state and federal agencies.

As a Career Law Clerk for the Honorable Harry F. Barnes, I was involved in every aspect of all cases before the Court, from each case's initial filing to its final disposition. These activities included, but were not limited to, working on, overseeing and recommending to the Judge the disposition of all pre-trial motions, discovery disputes, dispositive motions (such as motions to dismiss and motions for summary judgment) and post-trial motions. This involved extensive research of the law and required knowledge of the Federal Rules of Civil and Criminal Procedure, as well as the Court's Local Rules and Administrative Policies and Procedures. I then drafted a Memorandum Opinion and Order which was presented to the Judge and filed after final approval. If there were complicated issues and I deemed that a hearing was necessary, I would confer with the Judge and inform the Court of the issues that needed additional argument by the parties in order for a ruling to be rendered. I attended the hearing and reviewed with the Judge the arguments made by each party. Thereafter, I drafted a Memorandum Opinion and Order for the Court's final approval and filing.

Once a case proceeded to trial, any Motions in Limine and Objections to Pre-trial Disclosure Sheets were researched, summarized and discussed with the Judge in order for the Court to issue a ruling prior to trial. I attended the entire trial starting with the pre-trial conferences, jury selection and Voir Dire.

During trial I researched any motion and/or objection made by the parties and briefed the Judge on the appropriate law to apply. There are many challenges that arise over the course of a trial. It was my responsibility to anticipate these challenges and to react quickly and to accurately recommend to the Judge an appropriate and correct ruling.

In jury trials, the parties submit jury instructions and proposed verdict forms for the Court's consideration at the beginning of a trial. Over the course of that trial, the Court issues rulings on motions and any objections made by the parties, and these rulings can affect the final instructions the Court issues to the jury. As the circumstances dictated during the progress of the trial, it was my duty to advise the Judge and draft the appropriate instructions for the Court to issue in light of the rulings and evidence presented at trial. From time to time, questions would arise during jury deliberations. In such a case, I was responsible for advising the Judge as to the applicable law.

I also assisted the Judge in criminal proceedings, including but not limited to, trials, change of plea hearings and sentencing hearings. Some criminal cases involve complicated plea agreements and Pre-Sentence Investigation Reports. Issues arose that required research and I would brief the Judge and make recommendations regarding the appropriate law to apply. An example is the United States Sentencing Guideline

Retroactive Crack Amendment. In these cases, I researched and formulated a plan to identify all cases in which the amendment might apply. Once the cases were identified, counsel was appointed, addendums to Pre-Sentence Investigation Reports were ordered and the Judge was briefed as to whether or not the Defendant was eligible to receive a reduced sentence. In cases where the Defendant was deemed eligible, an Amended Judgment and Commitment Order was entered granting the appropriate relief.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I have no deferred income or future benefits arrangements from any previous relationships. In my job with the Federal District Court, I was a participant in the Federal Retirement System and have an interest in my Federal Thrift Savings Plan. If confirmed, the funds will stay in the Plan. In my current job, I am a participant in the Arkansas Public Employees Retirement System. If confirmed, the funds I contributed to the System will be withdrawn, and I will have no interest in the System.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no plans, commitments or agreements to pursue outside employment, with or without compensation, during my service with the Court.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

    I will carefully review and address any real or potential conflicts in accordance with the Code of Conduct for United States Judges, as well as all applicable policies and procedures of the United States Courts. This includes cases involving my family, cases where my husband's law firm is counsel of record, companies in which I or my mutual funds own stock or with which I have an ongoing business relationship.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

    I would resolve any potential conflict of interest in accordance with the provisions of 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States Courts.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    I have done volunteer work for various charitable organizations. Two organizations for which I have done volunteer work are El Dorado Service League and Interfaith Health Services.

    El Dorado Service League provides help and assistance to underprivileged/disadvantaged children in Union County. My work with this organization included tutoring students in the public schools, registering individuals and families for Salvation Army's food basket distribution and Angel Tree program, working at the Bozeman Park camp, a two week summer day camp for mentally and/or physically disabled children and working on Bargain Bonanza, a clothing/rummage resale, which provided inexpensive clothing for individuals.

    Interfaith Help Services provides food and financial assistance for individuals in need. My work with this organization involved interviewing individual clients, assessing their needs and helping provide needed assistance and/or referring them to other organizations.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

There is no selection commission in Arkansas for vacancies on the Federal Bench. On December 2, 2008, I wrote Senator Blanche Lincoln and Senator Mark Pryor indicating my interest in the position of United States District Judge in the Western District of Arkansas upon Judge Harry F. Barnes taking Senior Status. That same week, I met with Senator Mark Pryor in Little Rock regarding the position. I filled out a Questionnaire sent by Senator Lincoln. On December 29, 2008, I interviewed with Senator Blanche Lincoln in Little Rock. On March 12, 2009, Senator Lincoln and Senator Pryor each called and told me that they were recommending me and others to the President for consideration. On February 15, 2010, I received a call from an attorney in the Department of Justice. He wanted to set up an interview with me in regards to the position. On February 22, 2010, I interviewed with attorneys from the White House Counsel's office and the Department of Justice in Washington D.C. On September 14, 2010, I was contacted by Senator Blanche Lincoln and also by Senator Mark Pryor's staff and told that the White House was sending my name to the Department of Justice for further evaluation. Thereafter, I was contacted by pre-nomination officials at the Department of Justice. On October 15, 2010, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On April 6, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2008

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Hickey, Susan O.	U.S. District Court Western District of Arkansas	04/06/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	**5a. Report Type** (check appropriate type)	**6. Reporting Period**
U.S. District Judge - Nominee	☑ Nomination, Date 04/06/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 03/31/2011
7. Chambers or Office Address	**8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.**	
Union County Courthouse Room 203 101 North Washington Avenue El Dorado, AR 71730	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

POSITION	NAME OF ORGANIZATION/ENTITY
1. Director	Majick Foundation
2.	
3.	
4.	
5.	

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

☑ NONE *(No reportable agreements.)*

DATE	PARTIES AND TERMS
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT Page 2 of 11	Name of Person Reporting Hickey, Susan O.	Date of Report 04/06/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	United States District Courts	$100,123.56
2. 2010	State of Arkansas	$31,102.00
3. 2010	United States District Courts	$83,164.00
4. 2011	State of Arkansas	$34,064.25

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2010	Joseph Hickey, P.A.
2. 2010	BancorpSouth - Advisory Board Fees
3. 2010	PMJ LLC - oil production
4. 2011	Joseph Hickey, P.A.
5. 2011	BancorpSouth - Advisory Board Fees
6. 2011	PMJ LLC - oil production

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 11	Name of Person Reporting Hickey, Susan O.	Date of Report 04/06/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

SOURCE	DESCRIPTION	VALUE
1. EXEMPT		
2.		
3.		
4.		
5.		

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

☐ NONE *(No reportable liabilities.)*

CREDITOR	DESCRIPTION	VALUE CODE
1. Simmons First National Bank	Mortgage on office building in El Dorado, Arkansas	M
2. MaryMount Manhattan College	Tuition	J
3. Joseph Hickey, PA	Loans to shareholders	K
4.		
5.		

FINANCIAL DISCLOSURE REPORT
Page 4 of 11

Name of Person Reporting	Date of Report
Hickey, Susan O.	04/06/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Brokerage Account #1					Exempt				
2. -American Funds - American Balanced Fund Class A	A	Dividend							
3. - American Funds - American Mutual Fund Class A	A	Dividend							
4. - American Funds - Capital Inc Builder Fund Class A	A	Dividend							
5. - American Funds - Fundamental Investors Fund Class A	A	Dividend							
6. - American Funds - Income Fund of America Fund Class A	A	Dividend							
7. - American Funds - Investment Co of America Fund Class A	A	Dividend							
8. - American Funds - Washington Mutual Investors Class A	A	Dividend							
9. - General Electric Common Stock	A	Dividend							
10. - Murphy Oil Corp Common Stock	A	Dividend							
11. - SPX Common Stock	A	Dividend							
12. - Wal-Mart Stores, Inc. Common Stock	A	Dividend							
13. Brokerage Account #2									
14. -American Funds - American Balanced Funds Class A	A	Dividend							
15. - American Funds Capital Income Builder Fund Class A	A	Dividend							
16. - American Funds - Fundamental Investors Fund Class A	A	Dividend							
17. - American Funds Income Fund of America Fund Class A	A	Dividend							

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 11

Name of Person Reporting	Date of Report
Hickey, Susan O.	04/06/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - American Funds Capital World Growth & Income Fund Class A	A	Dividend							
19. - BancorpSouth Inc. Common Stock	A	Dividend							
20. S-4 The Beach LLC		None	L	T					
21. Six Siblings LLC		None	K	T					
22. PMJ LLC	B	Distribution	J	W					
23. Joseph Hickey, PA	G	Distribution	N	U					
24. Office Building - Rental El Dorado, Arkansas	B	Rent	M	Q					
25. Equitable Life Insurance Comany Policy #1 (whole life)	B	Dividend	K	T					
26. Genworth Life Insurance Policy #1 (whole life)		None	J	T					
27. BancorpSouth checking account #1	A	Interest	K	T					
28. Brokerage Account #3									
29. - American Funds - American Balanced Fund Class A	A	Dividend							
30. - American Funds - American Mutual Fund Class A	A	Dividend							
31. - American Funds - Capital Income Builder Fund Class A	A	Dividend							
32. - American Funds - Fundamental Investors Fund Class A	A	Dividend	J	T					
33. - American Funds - Income Fund of America Fund Class A	A	Dividend							
34. - American Funds - Growth Fund of America Class A	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 6 of 11

Name of Person Reporting	Date of Report
Hickey, Susan O.	04/06/2011

VII. INVESTMENTS and TRUSTS -- *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	B. (2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	C. (2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	D. (2) Date Month - Day	D. (3) Value Code 2 (J-P)	D. (4) Gain Code 1 (A-H)	D. (5) Identity of buyer/seller (if private transaction)
35. - American Funds - Capital World Growth & Inc Fund Class A	A	Dividend							
36. - American Fund - Investment Company of America Fund Class A	A	Dividend							
37. - American Funds - New World Fund Class A	A	Dividend	J	T					
38. - BancorpSouth Inc. Common Stock	A	Dividend	J	T					
39. - General Electric Common Stock	A	Dividend							
40. - McDonalds Corp Common Stock	A	Dividend	K	T					
41. - Murphy Oil Corp Common Stock	A	Dividend	K	T					
42. - SPX Common Stock	A	Dividend							
43. - Wal-Mart Stores, Inc. Common Stock	A	Dividend							
44. Profit Sharing Account #1									
45. - American Funds - AMCAP Fund Class A	A	Dividend	K	T					
46. - American Funds - American Balanced Funds Class A	C	Dividend	M	T					
47. - American Funds - American High Income Trust Class A	E	Dividend	N	T					
48. - American Funds - American Mutual Fund Class A	C	Dividend	M	T					
49. - American Funds - Bond Fund of America Class A	C	Dividend	M	T					
50. - American Funds - Capital Income Builder Fund Class A	A	Dividend	J	T					
51. - American Funds - Capital World Growth & Inc Fund Class A	A	Dividend	J	T					

1. Income Gain Codes (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 7 of 11

Name of Person Reporting	Date of Report
Hickey, Susan O.	04/06/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. - American Funds - Europacific Growth F und Class A	A	Dividend	J	T					
53. - American Funds - Growth Fund of Amer ican Class A	A	Dividend	K	T					
54. - American Funds - Income Fund of Ameri ca Fund Class A	A	Dividend	J	T					
55. - American Funds - Investment Co of Ame rica Fund Class A	B	Dividend	K	T					
56. - American Funds - New Economy Fund Cla ss A	A	Dividend	L	T					
57. - American Funds - New Perspective Fund Class A	A	Dividend	L	T					
58. - American Funds - New World Fund Class A	A	Dividend	J	T					
59. - Equitable Life Ins Co Policy #2 (whole life)	D	Dividend	M	T					
60. Money Purchase Pension Plan Account									
61. - American Funds - AMCAP Fund Class A	A	Dividend	K	T					
62. - American Funds - American Balanced Fu nds Class A	B	Dividend	L	T					
63. - American Funds - American Mutual Fund Class A	B	Dividend	L	T					
64. - American Funds - Bond Fund of America Class A	B	Dividend	K	T					
65. - American Funds - Capital Income Builder Fund Class A	C	Dividend	L	T					
66. - American Funds - Capital World Growth & Inc Fund Class A	A	Dividend	K	T					
67. - American Funds - Growth Fund of Ameri ca Class A	A	Dividend	K	T					
68. - American Funds - Income Fund of Ameri ca Fund Class A	C	Dividend	L	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 8 of 11

Name of Person Reporting	Date of Report
Hickey, Susan O.	04/06/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
69. - American Funds - Investment Co of America Class A	A	Dividend	K	T					
70. - American Funds - New Economy Fund Class A	A	Dividend	K	T					
71. - American Funds - New Perspective Fund Class A	A	Dividend	K	T					
72. Roth IRA Account #1									
73. - American Funds - Europacific Growth Fund Class A	A	Dividend	J	T					
74. - American Funds - Growth Fund of America Class A	A	Dividend	J	T					
75. - American Funds - New Perspective Fund Class A	A	Dividend	J	T					
76. - American Funds - New World Fund Class A	A	Dividend	J	T					
77. Brokerage Account #4 (IRA Beneficiary)									
78. - Murphy Oil Corp Common Stock	A	Dividend	J	T					
79. BancorpSouth savings account #1	A	Interest	J	T					
80. Brokerage Account #5									
81. - American Funds - Amercian Balanced Fund Class A	A	Dividend							
82. - American Funds - Capital Income Builder Fund Class A	A	Dividend							
83. - American Funds - Fundamental Investors Class A	A	Dividend	J	T					
84. - American Funds - Growth Fund of America Class A	A	Dividend	J	T					
85. - American Funds - New World Fund Class A	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 9 of 11

Name of Person Reporting	Date of Report
Hickey, Susan O.	04/06/2011

VII. INVESTMENTS and TRUSTS -- *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
86. Roth IRA #2									
87. - American Funds - Europacific Growth Fund Class A	A	Dividend	J	T					
88. - American Funds - Growth Fund of America Class A	A	Dividend	J	T					
89. - American Funds - New Perspective Fund Class A	A	Dividend	J	T					
90. - American Funds - New World Fund Class A	A	Dividend	J	T					
91. Brokerage Account #6 (IRA Beneficiary)									
92. - Murphy Oil Corp Common Stock	A	Dividend	J	T					
93.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 10 of 11	Name of Person Reporting Hickey, Susan O.	Date of Report 04/06/2011

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

Part I: Positions. The Majick Foundation was chartered with the Arkansas Secretary of State in 2000 as a non profit corporation. It has never had any assets or conducted any business. I resigned as a director in 2010. Dissolution papers have been sent to the Arkansas Secretary of State.

Part VI: Liabilities. In October, 2010, my husband and his two (2) law partners signed a Promissory Note in favor of Simmons First National Bank. The three (3) of them are jointly and severally liable on the note. I am not personally liable on the note. The amount of the liability listed in Part VI is one-third (1/3) of the total indebtedness owed at March 31, 2011.

Part VIII: Investments and Trusts. Line 20. My husband owns 20% of 5-4 The Beach LLC. 5-4 The Beach LLC owns a brokerage account with money market funds and a condominium. The Gross Value listed is the sum of (i) 20% of the balance in the brokerage account on March 31, 2001, plus (ii) 20% of the estimated fair market value of the condominium. The fair market value of the condominium was estimated using the price at which one of the previous owners sold his interest and also comparable sales.

Part VIII: Investments and Trusts. Line 21. My husband owns 1/6th of Six Siblings LLC. Six Siblings LLC owns a brokerage account with money market funds and undeveloped real estate in Little Rock, Arkansas. The Gross Value listed is the sum of (i) 1/6th of the balance in the brokerage account on March 31, 2011, plus (ii) 1/6th of the estimated fair market value of the land. The fair market value of the land was estimated using the tax assessor's values.

Part VIII: Investments and Trusts. Line 22. My husband owns 100% of PMJ LLC. PMJ LLC owns a bank account and a small working interest in oil and gas leases in the Fouke Field in Miller County, Arkansas. The Gross Value listed is the estimated fair market value. The estimated fair market value was estimated by multiplying the annual net earnings by four (4).

Part VIII: Investments and Trusts. Line 24. My husband owns 1/3rd of an Office Building in El Dorado, Arkansas. The Gross Value listed for the Office Building in El Dorado, Arkansas is based on 1/3rd of the appraised value set forth in an appraisal dated October 12, 2010.

FINANCIAL DISCLOSURE REPORT Page 11 of 11	Name of Person Reporting Hickey, Susan O.	Date of Report 04/06/2011

IX. CERTIFICATION.

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

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

Signature Susan O. Hickey

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		32	094	Notes payable to banks-secured			
U.S. Government securities – see schedule		103	387	Notes payable to banks-unsecured			
Listed securities – see schedule	1	549	381	Notes payable to relatives			
Unlisted securities – see schedule		433	549	Notes payable to others		44	889
Accounts and notes receivable:				Accounts and bills due		4	500
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		151	878
Real estate owned – see schedule		560	125	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		156	265				
Cash value-life insurance		216	757				
Other assets itemize:							
				Total liabilities		201	767
				Net Worth	2	850	291
Total Assets	3	051	558	Total liabilities and net worth	3	051	558
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor		304	799	Are any assets pledged? (Add schedule)	No		
On leases or contracts		5	600	Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

U.S. Government Securities	
Series EE Bonds	$2,488
G Fund (Government Securities Investment Fund)	$100,899
Total U.S. Government Securities	$103,387
Listed Securities	
American Funds - AMCAP Fund Class A	$65,143
American Funds - American Balanced Funds Class A	$192,936
American Funds - American High Income Trust Class A	$258,098
American Funds - American Mutual Fund Class A	$229,959
American Funds - Bond Fund of America Class A	$133,176
American Funds - Capital Income Builder Fund Class A	$67,144
American Funds - Capital World Growth & Income Fund Class A	$31,031
American Funds - Europacific Growth Fund Class A	$15,160
American Funds - Fundamental Investors Fund A	$21,689
American Funds - Growth Fund of America Class A	$99,253
American Funds - Income Fund of America Fund Class A	$67,732
American Funds - Investment Company of America Fund Class A	$73,225
American Funds - New Economy Fund Class A	$71,072
American Funds - New Perspective Fund Class A	$87,456
American Funds - New World Fund Class A	$37,933
BancorpSouth Inc	$5,353
McDonalds Corp	$23,649
Murphy Oil Corp	$69,371
Total Listed Securities	$1,549,381
Unlisted Securities	
Joseph Hickey, P.A.	$328,724
PMJ LLC	$10,000
5-4 The Beach LLC	$70,000
Six Siblings LLC	$24,825
Total Unlisted Securities	$433,549
Real Estate Owned	
Personal residence	$219,950
Second home	$112,850
Vacation home (undivided 1/2 interest)	$70,325
Office building (undivided 1/3rd interest)	$157,000
Total Real Estate Owned	$560,125
Real Estate Mortgages Payable	
Office building	$151,878

AFFIDAVIT

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

4/5/11
(DATE)

Susan Owens Hickey
(NAME)

Connie S. Ballard
(NOTARY)

CONNIE S. BALLARD
MY COMMISSION # 123766825
EXPIRES: June 15, 2020
Union County

Senator FRANKEN. Well, thank you. And thank—again, thank you to all the family members and friends. You should be very proud.

Ms. Forrest, I know you've done a significant amount of work protecting intellectual property, specifically copyrighted work. Can you tell me about the challenges of this kind of work, and specifically, how do you keep up with technology to keep copyrighted works protected?

Ms. FORREST. Thank you for the question, Senator. I have done a number of cases in the Internet space in particular related to copyrighted work, as well as I sort of sub-specialty in the choreography area.

In terms of the technology, the world is changing very, very quickly in the digital environment. There were cases when I was early on in my career as a partner which had one kind of technology, the MP3.com technology, where I essentially had to be tutored by individuals who were knowledgeable in that. Those technologies changed. They grew over time to peer-to-peer file-sharing technology. I most recently did the *Lime Wire* case, which was a peer-to-peer file-sharing technology. To keep abreast of technology I think is something that is a bit of a challenge.

However, I do not have a technology background. It is something which judges can understand and can learn. Certainly as a practitioner, I was able to do so by speaking with people who were knowledgeable in the field. There is an awful lot of information that is available to people right now in the technology area that assisted me with my cases, and if I were confirmed as a District Court judge I would intend to bring that digital experience to the bench, and also to keep abreast of the technologies as they continue to develop. No doubt they will; it's a very changing, fast-paced environment.

Senator FRANKEN. I'll say.

Judge Hickey, you spent several years serving as a senior law clerk for Judge Harry Barnes, whose seat you are nominated to fill.

Judge HICKEY. Yes.

Senator FRANKEN. I think this would be a unique and very effective way to learn how to do the job you're nominated to fill. Can you tell us a little bit more about your responsibilities as a clerk to Judge Barnes and how this prepared you to be a Federal judge?

Judge HICKEY. Senator, thank you for the question. I was lucky in that my—my judge allowed me, as a senior law clerk, to take part in all matters that were before the court, from the time that the case was filed till the final disposition. We—I went to status conferences, I went to jury trials, I went to—I was basically there every step of the way.

And seeing how the court works and seeing what a good judge does, which I believe, of course, that he is—is a wonderful judge, that it helped me understand the process of the judicial system, what it takes to move a docket along, what it takes to be a good judge, have even temperament, to be respectful to the parties, know that people need their day in court, and to work toward giving them that day in court.

I think that it was a good experience. I think it was a learning experience, and hopefully, if I am confirmed, that I will be able to carry that experience onto the bench.

Senator FRANKEN. Thank you.

Ms. Nathan, I understand that, like a number of nominees that have come before this committee, you have done extensive pro bono work on death penalty cases. My understanding is that you've never challenged the constitutionality of the death penalty itself, and that you focused instead on challenges to specific execution practices and whether or not they comply with the Eighth Amendment's prohibition on cruel and unusual punishment. Can you tell me more about your pro bono death penalty work?

Ms. NATHAN. Thank you, Mr. Chairman, for the opportunity to answer that question. I have, in a pro bono capacity, represented or participated in litigation involving individuals who face the death penalty and I raised, as a lawyer in those cases, a number of issues. It's correct, I've not challenged the constitution—I don't—none of those cases raised the question of the constitutionality of the death penalty. The Supreme Court has said repeatedly that the death penalty is constitutional.

I did participate in a—in a case challenging a particular protocol with respect to lethal injection. The Supreme Court ultimately ruled, in the *Baize* case, that the lethal injection method was constitutional. If I were so fortunate as to be confirmed, I would certainly follow the court's guidance and apply that law.

Senator FRANKEN. Thank you.

Ranking Member.

Senator GRASSLEY. Thank you very much.

I'm going to have questions for each of you, a few more questions for some than the others, so if you don't get asked a lot of questions, don't worry about it.

I'm going to start with Ms. Nathan. In 2006, you authored an article highly critical of the so-called habeas-stripping provisions of a version of the Military Commissions Act. In that article you referenced September the 11th and said, "Let it not also be the day, as the Bush administration would have it, that heralded the loss of the fundamental principles and structure of our Constitutional heritage." Do you still believe that the Bush administration heralded September 11th as the day our Nation lost "the fundamental principles and structure of our Constitutional heritage"?

Ms. NATHAN. Thank you, Senator Grassley, for the question. I—I don't believe that's the case. I—I wrote that commentary in the role of somebody advocating for—essentially to the Congress for a particular piece of legislation. I'm not—I have not kept up as an expert in this area of law, and there's obviously been a great deal of development since then. I do believe that the Supreme Court, in the *Boumediene* case, ultimately concluded that there had not been an adequate substitute for habeas in this area, and any other. I would certainly follow the Supreme Court guidance.

I—I did say in that article, and I believe it as a New Yorker who works two blocks from the World Trade Center site, that September 11th was a horrific day and—and it's important to our National security for there to be judges who follow the law in this

area to the extent questions come before them, and that Congress act as it has in this area.

Senator GRASSLEY. I think you answered my second question. Let me ask it anyway so you know where I was going, but I think you've said basically that that's not a temperament that a Federal judge should have. The question was, do you think this remark reflects the temperament that a Federal judge should demonstrate?

Ms. NATHAN. Thank you, Mr. Chairman. I think it's critically important that a Federal judge have a judicial temperament that is without bias, without impartiality, that is calm and open to argument, and that is forceful in the application and adherence to the rule of law. I think that's critically important.

Senator GRASSLEY. My third question is, you co-signed a letter to Congress in opposition to that provision in 2006. Your letter states, "The bill abandons our longstanding constitutional protections . . . against denying individuals the opportunity to defend themselves through access to exculpatory evidence known to the government."

The United States, however, does not have a long history of providing exculpatory evidence to those captured during wartime as opposed to people that committed crimes in this country—or violated laws in this country. Given your strong views on the subject, would you recuse yourself from terrorism cases involving non-U.S. citizens? And if you wouldn't recuse yourself, have you changed your mind then about that statement?

Ms. NATHAN. Thank you, Senator Grassley. In any recusal question I would look carefully and closely at the Code of Judicial Conduct, at any recusal-related statutes. I'd speak to colleagues. I can assure you that if I am fortunate enough to be confirmed, I would scrupulously follow any recusal requirements.

Senator GRASSLEY. OK. In your *Cornell Law Review* note you said that, "Nearly all Federal and State courts agree that the Second Amendment does not guarantee an individual the private right to bear arms, unrelated to a State's right to maintain a militia." We've had a couple of Supreme Court decisions, I presume, since you wrote that note. Do you still hold the view that the Second Amendment protects a collective right to bear arms, but not an individual right?

Ms. NATHAN. Thank you, Senator Grassley. It's certainly true that since that time the Supreme Court, in *Heller*, held that that Second Amendment contains an individual right, and in *McDonald* that it's a fundamental right. I would have no hesitation in following that and related precedent.

Senator GRASSLEY. Yes. My last question deals with your basic qualifications. I want to ask you a couple of questions about that, but before I do, the American Bar Association's Standing Committee has guidelines, and those guidelines provide that "a prospective nominee to the Federal branch ordinarily should have at least 12 years experience in the practice of law." The ABA Committee also considers "substantial courtroom and trial experience as a lawyer or trial judge important." Given the dates of your graduation from law school and the dates of your Bar memberships, do you believe that you meet the ABA's standard?

Ms. NATHAN. Thank you, Senator Grassley. I—I understand the weightiness of the job of a District Court judge and I—I do believe

that I am qualified, based on the set of experiences that I've had and the set of skills that I have. And the experiences that I believe prepare me for the job include the work that I do now in the State Solicitor General's Office and the Office of the Attorney General of New York, where I litigate matters in both trial court and appellate court, issues of State law and Federal law, civil and criminal.

I litigated for several years at the law firm of Wilmer, Hale. I have participated in both the executive branch and the judicial branch, and I've taught civil procedure and criminal procedure. And I do believe that these experience and skills prepare me now for the job of District Court judge, and I can assure you that if the Senate—if I am so fortunate as to be confirmed, I would do what I've done in all of these professional endeavors, which is to bring analytical ability and I hope good judgment and extreme work ethic to any questions or issues that face me, and I would work hard at that every day.

Senator GRASSLEY. Thank you for your answers.

I think I'll go, now, to Ms. Hickey. I would also follow a little bit on what I just asked Ms. Nathan about what appears to be some lack of experience, and particularly litigation experience. According to your questionnaire, you have never tried a case and your only litigation experience appears to have been as staff attorney for the Murphy Oil Company for two to 3 years immediately after law school. So I'd like to have you have a chance to tell the Committee about your experience that qualifies you to serve in the position of Federal District judge.

Judge HICKEY. Thank you, Senator, for the question. I have not been a litigator, but my experience is on the side of the court, from the perspective of the court. As a senior law clerk for a District judge, I worked on all aspects of the cases that were before the court from the beginning of the case being filed until the disposition of that case. That included not only the motions of litigants, but it also included the trial work of the litigants.

I understand what a trial judge does. I know what litigants do. I understand the rules of civil and criminal procedure. I under—the rules of evidence. And that experience working in the court system gives me a different perspective as an advocate. I—the court is to be neutral. They are to be the—the person who calls the balls and strikes of—of the courtroom. And working in the court system, I know that and I can be neutral and that's what I've learned being a law clerk.

But also, I've been a sitting judge. I've presided over cases since September of last year in the Sixth County Circuit. I handle mostly criminal—my docket is mostly criminal, but I've also handled civil cases and divorce cases, juvenile cases. I preside over a drug court in Union County. So I believe that my experience has qualified me to be a judge, and if I am so fortunate to be confirmed, I believe that I have the temperament, the qualifications, the background to be a District Judge.

Senator GRASSLEY. Do you have any—you just referred to your State court experience, so I won't repeat that. But do you have any additional judicial experience that is not reflected in your questionnaire?

Judge HICKEY. I have—you mean, trial work experience, Senator? Is——

Senator GRASSLEY. Yes.

Judge HICKEY. OK. OK. I have tried both criminal matters, I have tried aggravated robberies, I have tried civil matters having to do with contracts. I have tried bench trials and jury trials.

Senator GRASSLEY. My last question for you might reflect that I don't accept what you've already given, but it is somewhat limited experience. So let me ask this question: are there any skills or experiences that you don't have that you think are necessary for a Federal judge to have? And if so, how would you plan to make up for any lack of experience you have?

Judge HICKEY. I—I do not believe that I—that I have any skills that are lacking to be a District judge, Senator. I believe that the experiences that I have sitting on the side of the court have—has given me the perspective and the background that—that it takes to be a District judge.

Senator GRASSLEY. OK.

I will ask, now, Ms. Triche-Milazzo. You have very little experience in U.S. Federal courts. This lack of experience is complicated by the fact that a majority of your practice has been in Louisiana, a State with a very unique legal system based largely on French and Spanish civilian law. What assurances can you provide future litigants that you will know and understand the procedures of our Federal court system, as expected of all Federal judges?

Judge TRICHE-MILAZZO. Thank you, Senator. When I first came to practice, I went immediately into practice with my father. At that time he was engaged in substantial Federal litigation and I sat through many of those cases. So it's not that I come to—to this Committee having had no Federal experience, I have. But it would be disingenuous if I said that that was the majority of my experience. Over the past 3 years, I've presided as a State court judge and during that time I have followed the Louisiana Code of Evidence, that I can assure you is fashioned in large part after the Federal Code of Evidence. So I'm quite comfortable that I could make that transition.

Additionally, Senator, I've followed the Louisiana law. I—I am aware that there will be a transitional period, but I can assure you that my work ethic is such that I will make that transition as smoothly as possible and put in the necessary hours and the work to make that transition effectively. Thank you.

Senator GRASSLEY. OK. What about this aspect of Louisiana law, and I'm surely not—well, I've told you so many times. My colleagues get tired of me saying I'm not a lawyer, but I'm not a lawyer. It's my understanding that judges in Louisiana are not bound by stare decisis, as are judges under our traditional common law system. If confirmed, would you adhere to precedent rather than your personal interpretation of statute?

Judge TRICHE-MILAZZO. Yes, sir, Senator. Very frankly, we are bound. We call it jurisprudence constante in Louisiana. But we are bound by the statute. What I think—and—and then the interpretations as provided by the higher courts in Louisiana. So this is not a concept that is foreign to me. I'm very comfortable that I'll abide

by my obligation to follow the—the pronouncements of the Supreme Court, in my case, the Fifth Circuit Court of Appeals.

Senator GRASSLEY. If you can educate this non-lawyer on that point that you just made, what's the difference between what we consider stare decisis and whatever you said was the case in Louisiana?

[Laughter.]

Judge TRICHE-MILAZZO. Theoretically, under Louisiana law we are bound by the code and the higher courts give us guidance. That's in theory. But let me assure you that Louisiana judges and Louisiana lawyers look to the interpretation by the higher courts as being binding.

Senator GRASSLEY. OK. And my last question will go to Ms. Forrest. Again, this question deals with lack of experience, but in this case in the area of criminal law. According to your questionnaire, 98 percent of your career has been in civil practice. If confirmed, how will you prepare yourself to handle a variety of criminal issues that a District judge confronts? What assurance can you provide future litigants that your judgment is sound and well-informed and fair when it comes to criminal law?

Ms. FORREST. Thank you for the question, Senator. It is true that the majority of my practice was 20-plus years doing complex civil litigation. However, I have been a Deputy Assistant Attorney General for the Antitrust Division of the Department of Justice for now 8 months. During that time I run criminal and civil operations.

As the person in charge of criminal operations, I oversee a docket of over 100 cases where I'm responsible for all aspects of the investigation of the matters that come before the Division. I deal with plea agreements, I deal with sentencing guideline issues. So I have begun the process of educating myself. I do understand very seriously that there is more to be learned. That is always the case when you are entering into new areas of the law. My work ethic is such that I have no doubt that I will be able to acquire the skills necessary to be able to oversee all aspects of the criminal matters that come before me.

Senator GRASSLEY. Thank you, Mr. Chairman.

Thank you all very much for answering my questions.

Senator FRANKEN. Thank you, Senator Grassley.

Senator GRASSLEY. I'll probably submit some questions for answer in writing to some of you.

Senator FRANKEN. OK. Great.

Before I adjourn this panel I'd like to introduce into the record a quite remarkable letter from 27 of Ms. Nathan's former co-clerks from when she clerked with the U.S. Supreme Court, and I would note that this includes former clerks for not just Justice Stevens, whom you clerked for, but also former Chief Justice Rehnquist, Justice Thomas, and Justice Scalia, who are, I think, recognized as maybe the more conservative justices in the court at that time.

Senator GRASSLEY. Strict constructionalists.

Senator FRANKEN. I'm not a lawyer either. So, no. I actually—strict constructionalists in a certain way. But, yes. Good.

Let me read the conclusion from this letter: "We have all known Ms. Nathan for at least a decade now and we all believe that she has the necessary qualifications and characteristics to make an ex-

emplary Federal District judge. If confirmed, we are confident that Ms. Nathan will listen carefully to all those who come before her and that she will make thoughtful judgments based on the law. We recommend her for this position without hesitation and without reservation." This will be submitted into the record.

[The letter appears as a submission for the record.]

Senator FRANKEN. I'd like to thank all of you, Ms. Forrest, Judge Hickey, Ms. Nathan, and Judge Triche-Milazzo. Thank you so much. I'll just—I just, in closing, would like to thank the Ranking Member.

Senator GRASSLEY. I get paid for doing this.

Senator FRANKEN. I know you get paid. You get the big bucks for doing this.

[Laughter.]

Senator FRANKEN. And I want to thank each of you for your testimony. We will hold the record open for a week so the Ranking Member or whoever wants to can submit questions to the nominees, and any other materials.

This hearing is adjourned.

[Whereupon, at 3:45 p.m. the hearing was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

Responses of Katherine B. Forrest
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: The most important attribute of a judge is the ability to apply precedent fairly and narrowly. I do possess the ability to apply precedent fairly and narrowly.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: The appropriate temperament of a judge includes elements critical to maintaining faith, respect and belief in the integrity and soundness of the judicial process. The most important elements of appropriate judicial temperament include an ability to be fair and impartial, have due humility, and demonstrate respect for all litigants. I possess each of the elements necessary for appropriate judicial temperament.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: To determine a case of first impression I would first consult the language of any applicable statute. If the statute was clear on its face, its application ought to be straightforward. If the statute was not clear on its face, I would look to legislative history for guidance. To the extent that a case of first impression did not involve statutory interpretation, I would look to analogous cases and precedent in other circuits for guidance. I would also carefully study the arguments of all involved parties. I would decide the case on the narrowest possible grounds.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that**

decision or would you use your own judgment of the merits, or your best judgment of the merits?

Response: District Court Judges are bound by the precedent of the Circuit in which they sit as well as the Supreme Court. If I were confirmed, my role as a District Court Judge would be to apply that precedent irrespective of any personal views I might hold; and I would do so.

6. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: If confirmed, I intend to establish rules for litigants (modeled on the most effective among the rules utilized by other judges in the Southern District of New York) that would provide litigants with clear guidance on my expectations for procedures and timeframes. I would set clear dates, including a trial date, at the first opportunity and would intend to require the litigants to meet those dates unless there was a compelling reason to alter them. I would also render decisions on all matters as quickly as possible, consistent with fair and reasoned analysis. I have a professional reputation for being very efficient and effective and I would bring those skills to the bench to insure that my caseload was managed as well as possible.

7. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: I believe judges play a critical role in controlling the pace and conduct of litigation. If confirmed, as set forth in response to Question 6 above, I would establish rules governing the conduct of litigation and timeframes for all matters. I would establish the earliest possible timeframes consistent with the complexity and needs to a particular matter. I would maintain a consistent pace towards the earliest possible resolution of matters by requiring litigants to comply with scheduling orders unless they present a compelling reason for alteration. I would set trial dates and would have no hesitation in holding those trial dates.

8. **Please describe with particularity the process by which these questions were answered.**

   Response: I read the questions presented several times very carefully. I then personally sat at my computer and typed my answers and reviewed my answers for completeness and accuracy. I then submitted them to the Office of Legal Policy for submission to the Committee.

9. **Do these answers reflect your true and personal views?**

   Response: Yes.

Responses of Susan O. Hickey
Nominee to be United States District Judge for the Western District of Arkansas
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe the most important attribute of a judge is to be fair and impartial in applying the law to the facts of a case and to treat all parties with respect. I believe I possess this attribute.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: A judge should be fair, impartial, open-minded, courteous and respectful. These qualities are all important in a judge's temperament. However, I believe impartiality and respect for the law and the parties are the most important qualities. I believe I meet this standard.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: In cases of first impression, I would look to analogous Supreme Court and Circuit Court rulings. In instances of statutory interpretation, I would look to the plain language of the statute at issue, along with the legislative history and intent, if necessary. Any decisions of first impression would be narrow and limited to the facts of the case before the court.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: As a district judge, I would be bound to follow the law as handed down by the Supreme Court or the Court of Appeals. If confirmed, I would follow such precedent. I would not use my own judgment of the merits of a case.

6. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: Having worked in the federal court system for many years, I am familiar with the heavy caseload of our federal courts. If confirmed, I would keep track of my docket through the court's case management system. I would use pretrial scheduling orders and status conferences to move cases forward and utilize settlement conferences, when appropriate, to bring about the resolution of cases. I would rule on pending motions in a timely manner and promptly set matters for trial.

7. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: Yes. Judges have a significant role in controlling the pace and conduct of litigation. If confirmed, I would utilize pretrial scheduling orders and status conferences to move cases forward. I would rule on pending motions promptly, set trial dates and refer matters to settlement conferences, when appropriate. I believe these steps will ensure that each case before the court will be resolved in a timely manner.

8. **Please describe with particularity the process by which these questions were answered.**

   Response: I received the questions on June 15, 2011. I prepared my responses on June 16, 2011. I then discussed my responses with a Department of Justice official. After my responses were finalized, I forwarded them to the Department of Justice for submission to the Senate Judiciary Committee.

9. **Do these answers reflect your true and personal views?**

   Response: Yes.

Responses of Stephen A. Higginson
Nominee to be United States Circuit Judge for the Fifth Circuit
to the Written Questions of Senator Chuck Grassley

1. **At a speech in 2005, Justice Scalia said, "I think it is up to the judge to say what the Constitution provided, even if what it provided is not the best answer, even if you think it should be amended. If that's what it says, that's what it says." Do you agree with Justice Scalia?**

   Response: I am unfamiliar with this 2005 speech, and therefore with its context and the meaning intended by Justice Scalia by his statement. I do believe that the personal viewpoint of a judge about the text of the Constitution, or about Supreme Court precedent applying that text, is not relevant. A judge's personal viewpoint about the wisdom of possible amendments to the Constitution similarly is not relevant to the task of applying or, when necessary, interpreting the Constitution.

2. **Do you believe a judge should consider his or her own values or policy preferences in determining what the law means? If so, under what circumstances?**

   Response: No, I do not believe a judge should consider his or her own values or policy preferences in determining what the law means.

3. **As an Assistant United States Attorney, did you ever prosecute someone who was death penalty eligible? If so, have you ever sought the death penalty?**

   Response: Yes, as an Assistant United States Attorney, I have been involved with and assisted in the prosecution of persons who have been death penalty eligible. My efforts have been done at the direction and supervision of our United States Attorney here in the Eastern District of Louisiana, and as supervised and approved by the Department of Justice. I have done so in my capacity as appeals chief in the United States Attorney's Office for the Eastern District of Louisiana. To that extent, I have contributed to prosecutions in which our Office, again at the direction of our United States Attorney and in conjunction with Department of Justice supervision, has sought the death penalty.

4. **Have you ever elected not to seek the death penalty for a defendant who was eligible? If so, please explain why you determined the death penalty was not appropriate in that instance.**

   Response: No.

5. **Do you believe that the death penalty is an acceptable form of punishment?**

   Response: Yes. The Supreme Court has held that except in certain discrete circumstances, the death penalty is an acceptable form of punishment. If confirmed as an intermediate appellate judge, I would faithfully follow Supreme Court precedent, as well

as precedent from the United States Court of Appeals for the Fifth Circuit, relating to the death penalty.

6. **In *Roper v. Simmons*, the Supreme Court relied on foreign law in holding that the execution of minors violated the Eighth Amendment. Do you think it is proper to look to foreign law to determine the meaning of the Eighth Amendment to the United States Constitution?**

   Response: I believe that the Constitution should be applied and, when necessary, interpreted with reference to its own text and applicable Supreme Court precedent, not with reliance on, or reference to, foreign law. In several Eighth Amendment cases, however, "the [Supreme] Court has consistently referred to foreign and international law as relevant to its assessment of evolving standards of decency." *Roper v. Simmons*, 543 U.S. 551, 604 (2005) (O'Connor, J., dissenting). Only in this limited circumstance, therefore, as directed by the Supreme Court, intermediate appellate judges may take cognizance of foreign law.

7. **Do you believe it ever appropriate for a Judge to consult foreign law, when determining the meaning of the United States Constitution?**

   Response: No.

8. **Do you believe that the Second Amendment is an individual right or a collective right?**

   Response: I believe that the Second Amendment is an individual right, as announced by the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and in *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010). If confirmed as an intermediate appellate judge, I would faithfully follow this Supreme Court precedent.

9. **What standard of scrutiny do you believe is appropriate in a Second Amendment challenge against a Federal or State gun law?**

   Response: It is my understanding that the Supreme Court did not specify the standard of scrutiny applicable to a federal or state law challenge in its decisions in *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010). It is my belief that because these decisions clarify that the right to keep and bear arms is fundamental, a heightened level of scrutiny would be given to any law that burdens this Second Amendment right.

10. **In your academic writings you have focused on studying oral arguments before the Supreme Court as a means to better understand the legal underpinnings of their decisions and the rules announced in their Court opinions. You wrote one article regarding the Court's process of fashioning criminal rules. You suggest the Court relies heavily on "functionalism," and in doing so, the Court considers the workability of the rule they fashion. Functionalism looks very much like judges**

making policy. Could you explain to me the difference between "functionalism" and legislating from the bench?

Response: Legislating from the bench is never a proper role for a judge. Policy considerations are reserved by the Constitution to Congress and the Executive, not judges. My article about criminal justice focuses, instead, on what lawyers have said during oral arguments in the Supreme Court. In that oral argument context, lawyers' positions are tested as to whether they are consistent with statutory and constitutional text and purpose. I quote and show how that testing extends to discussions about whether lawyers have thought through the consequences of the propositions they are urging. My article does not delve into or critique the soundness of the subsequent Supreme Court decisions themselves--decided after the lawyering heard at oral argument--which must be based on statutory or constitutional text and purpose, as well as applicable Supreme Court precedent.

a. **If you are confirmed what role will "functionalism" play in how you interpret the Constitution or federal statutes?**

   Response: If confirmed as an intermediate appellate judge, "functionalism" and policy considerations will play no role in how I would interpret the Constitution and federal statutes.

11. **What is the most important attribute of a judge, and do you possess it?**

    Response: I believe that the most important attribute of a judge is the commitment impartially to apply the law and to maintain professional competence in it. I believe I have this attribute and work ethic.

12. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

    Response: I believe that the appropriate temperament of a judge is one of unbiased judgment and respect for all participants in the judicial process. These qualities are elaborated in Canon 3(A)(3) of the Code of Conduct for United States Judges, and I believe that I have those qualities.

13. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

    Response: Yes.

14. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?

Response: If the matter pertained to a statutory question of first impression, I would look first and foremost to the text of the legislation itself. If no controlling precedent resolved the issue presented, I would look to prior decisions from the Supreme Court and from the United States Court of Appeals for the Fifth Circuit for persuasive guidance and reasoning; thereafter, I would also look to the decisions and principles articulated by other federal Courts of Appeals.

15. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?

Response: I would apply the binding precedent from the Supreme Court or the United States Court of Appeals for the Fifth Circuit regardless of my personal views.

16. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?

Response: A federal court should only declare a statute enacted by Congress unconstitutional if it violates a provision clearly set forth in the Constitution, or if Congress exceeded its authority as set forth in the Constitution. When considering a constitutional challenge to a statute enacted by Congress, a federal court will apply not only threshold questions of jurisdiction and justiciability, but also Supreme Court precedent pertaining to any implicated constitutional text.

17. Under what circumstances, if any, do you believe an appellate court should overturn precedent within the circuit? What factors would you consider in reaching this decision?

Response: An intermediate federal appellate court may overturn precedent only by sitting en banc, as set forth in Fed. R. App. P. 35. Factors considered are whether the issue involves a question of exceptional importance and whether en banc consideration and decision, sometimes leading to overturning precedent, is necessary to securing uniformity of the appellate court's decisions. Such adjustments to precedent are rare, above all because the principle of stare decisis is important to promoting predictability and stability in the law.

18. Please describe with particularity the process by which these questions were answered.

Response: I received these questions in late afternoon, June 15, 2011. I drafted my responses upon receipt of the questions. I reviewed my responses with a representative

of the Department of Justice the next day, June 16, 2011, and I asked him to transmit my answers to the Committee.

19. Do these answers reflect your true and personal views?

Response: Yes.

Responses of Alison J. Nathan
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Chuck Grassley

1. **You have been very critical of the lethal injection method used by the vast majority of states to impose the death penalty. You filed an amicus brief in *Baze v. Rees* and published a number of articles in staunch opposition to the three-drug protocol. You have argued the three-drug protocol is unconstitutional because, "the Eighth Amendment is a limitation on the states' ability to impose punishments that may inflict severe pain. An unnecessarily painful procedure is still unconstitutional, even if states gave this procedure thoughtful consideration."**

   In a blog post for the American Constitution Society, you concluded by writing: "It is now the <u>responsibility of the judiciary</u>, including the Supreme Court, to scrutinize a practice that needlessly risks severe and unnecessary pain. Only then can the public make informed democratic decisions as to whether the punishment remains acceptable, or violates our 'evolving standards of decency that mark the progress of a maturing society.'"

   At your hearing, you told Senator Franken that you would follow the Court's holding in *Baze*. However, I am interested in your analysis and reasoning of Eighth Amendment jurisprudence.

   a. **Under your analysis of the Eighth Amendment, how should a judge determine whether a particular method risks unnecessary pain?**

      Response: In an amicus brief and in other commentary that I wrote prior to the Supreme Court's decision in *Baze*, I argued that the three-drug lethal injection protocol and procedures in issue in that case should be analyzed by the Supreme Court to determine whether the protocol and procedures needlessly risk severe and unnecessary pain. I also wrote about the history of the development of the three-drug protocol in issue in *Baze* and I generally argued for greater transparency in this area.

      Subsequently, the Supreme Court decided *Baze* and Chief Justice Roberts' opinion in that case provides the standard by which a judge should analyze the Eighth Amendment question if the issue were to arise in litigation. Chief Justice Roberts' opinion states: "Our cases recognize that subjecting individuals to a risk of future harm—not simply actually inflicting pain—can qualify as cruel and unusual punishment. To establish that such exposure violates the Eighth Amendment, however, the conditions presenting the risk must be '*sure or very likely* to cause serious illness and needless suffering,' and give rise to 'sufficiently *imminent* dangers.' We have explained that to prevail on such a claim there must be a 'substantial risk of serious harm,' an 'objectively intolerable risk of harm' that prevents prison officials from pleading that they were 'subjectively blameless for purposes of the Eighth Amendment.'" *Baze* v. *Rees*, 553 U.S. 35, 49-50

(2008) (citations omitted). If I were confirmed as a United States District Court Judge and a case presenting this issue were to come before me, I would faithfully apply the standard articulated by Chief Justice Roberts in his opinion for the Supreme Court.

b. **I recognize that the very end of your blog post quoted from a Supreme Court case. I'm interested in hearing how you understand that standard should operate. In your opinion, how should a judge assess the "evolving standards of decency that mark the process of a maturing society"?**

Response: With respect to an Eighth Amendment challenge in this area, a judge must follow the standard articulated by the Supreme Court in *Baze*, which I describe above in Question 1(a). Chief Justice Roberts' opinion for the Court does not cite or quote from *Trop* v. *Dulles*, 356 U.S. 86, 100-101 (1958), which I quoted at the end of my blog post.

2. **In a chapter of a book, you analyzed the Supreme Court's decision in *Roper v. Simmons*. You explained that the change in Justice Kennedy's position between *Stanford* and *Roper* was a change "that can be attributed to the international human rights advocacy and scholarship that had taken place outside the courtroom walls."**

In that same chapter, you wrote that "*Roper* elaborated upon relevant international and <u>foreign law sources</u> and defended the relevance of the Court's consideration of those sources."

a. **Under what circumstances do you believe foreign law is relevant when interpreting the United States Constitution?**

Response: If I were confirmed as a United States District Court Judge, foreign law would have no relevance to my interpretation of the United States Constitution. In this area, as in all others, I would follow binding Supreme Court precedent.

b. **In *Stanford*, Justice Scalia said "[w]e emphasize that it is *American conceptions* of decency that are dispositive..." Please take this opportunity to review Justice Scalia's understanding on the use of foreign law in constitutional interpretation. Is he correct?**

Response: As you note, in *Stanford* v. *Kentucky*, 492 U.S. 361 (1989), Justice Scalia, writing for a majority of the Supreme Court, said that "[w]e emphasize that it is *American* conceptions of decency that are dispositive." 492 U.S. at 369 n. 1. Writing for a majority of the Supreme Court in *Roper* v. *Simmons*, 543 U.S. 551 (2005), Justice Kennedy stated: "Our determination that the death penalty is disproportionate punishment for offenders under 18 finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty. This reality does not become controlling, for the task of interpreting the Eighth Amendment remains

our responsibility." 543 U.S. at 575. In his dissent in *Roper*, Justice Scalia, repeating what he had said in *Stanford*, voiced strong disapproval of Justice Kennedy's reference to foreign law. For example, in *Roper*, Justice Scalia said: "The Court's parting attempt to downplay the significance of its extensive discussion of foreign law is unconvincing. 'Acknowledgment' of foreign approval has no place in the legal opinion of this Court *unless it is part of the basis for the Court's judgment*—which is surely what it parades as today." 543 U.S. at 628.

As someone who wrote a book chapter on the *Roper* case, I recognize that there is an important debate in this area regarding what role the Supreme Court's reference to foreign law is playing in the Court's decision and, regardless of the role, whether any reference by the Supreme Court to foreign law is appropriate. In the chapter I wrote on *Roper*, I noted that "[s]everal scholars of diverse views have criticized the Court for essentially failing to provide a theoretical justification for reference to international and foreign law." Page 346, n. 204.

If confirmed, I would follow binding Supreme Court precedent in this and all areas. As I stated in Question 2(a), if I were confirmed as a United States District Court Judge, foreign law would have no relevance to my interpretation of the United States Constitution.

3. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe that impartiality, fairness, and a commitment to the rule of law are the most important attributes of a judge. I believe I possess these attributes.

4. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe that a judge must always be fair, respectful, humble, and diligent. In particular, a judge must be steadfastly impartial, must listen carefully to the arguments presented, and must never prejudge an issue. A judge must also show respect for all parties—litigants, counsel, witnesses, and jurors—who come before him or her. I believe that a judge must also demonstrate humility. In the context of judicial temperament, humility includes: deciding only issues that must be decided to adjudicate a particular matter, faithfully applying controlling precedent, and showing appropriate deference to the democratically accountable branches of government. Finally, I believe that a judge must always be cognizant of the importance of the issues that come before him or her, and a judge must work diligently in docket management and issue and case resolution. If I am confirmed as a United States District Court Judge, I believe I will meet this standard.

5. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular**

circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?

Response: Yes.

6. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If I were confirmed as a United States District Judge and faced an issue of first impression, I would look to relevant Supreme Court or Second Circuit precedent for guidance and applicable reasoning. I would also look to the precedent of other Circuits and other District Courts for persuasive authority. If faced with a statutory interpretation question of first impression, I would begin with careful analysis of the text of the provision. If the text provides an answer to the question in issue, that would be the end of the matter, and I would faithfully apply the text. If there were ambiguity or a gap in the provision in issue, I would look, in addition to the persuasive authority noted above, to the structure, purpose, and history of the provision.

7. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: If I were confirmed as a United States District Court Judge, I would always apply relevant Supreme Court and Second Circuit precedent. I would not substitute my judgment or views for binding precedent.

8. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: I believe that it is vitally important that judges efficiently manage their caseload. If I were confirmed as a United States District Court Judge, I would seek guidance from my colleagues as to best practices for the management of my caseload. If confirmed, I intend to set clear and firm deadlines with counsel; to work diligently to resolve disputes that come before me; and to make productive use of the talented magistrate judges in the Southern District of New York.

9. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: Yes. I believe that litigants are entitled to a fair and efficient resolution of their cases and disputes and that judges have a critical role in controlling the pace and conduct of litigation. If confirmed, I would remain aware of and engaged with the

progress of matters in my docket; encourage mediation or settlement when possible; set and enforce clear deadlines; rule promptly on all motions; and move cases forward in a fair and efficient manner.

10. Please describe with particularity the process by which these questions were answered.

Response: I received these questions on June 15, 2011. Over the course of the following two days, I drafted responses to these questions. I then discussed my responses with an official at the Department of Justice and finalized my responses on June 20, 2011. I then authorized the Department of Justice to transmit my final responses to the Committee.

11. Do these answers reflect your true and personal views?

Response: Yes.

Responses of Jane M. Triche-Milazzo
Nominee to be United States District Judge for the Eastern District of Louisiana
to the Written Questions of Senator Chuck Grassley

1. **You have been very active in politics. Over the course of your career, you have volunteered time and donated money to many Democratic candidates. There is certainly nothing wrong with that, but your political history may concern future litigants, should you be confirmed.**

    a. **Can you assure this Committee that, if confirmed, your decisions will remain grounded in the precedent and the text of the law rather than any underlying political ideology or motivation?**

    Response: While I did enjoy political activities prior to my election as state district court judge, I understand and firmly believe that political ideology has no place in the courtroom. If confirmed, I would be bound by the rule of law and precedent.

    b. **What assurances or evidence can you give the Committee and future litigants that you will be fair to all who appear before you, if confirmed?**

    Response: I believe that my work as a state court judge would be evidence of my impartiality towards all litigants appearing before me.

2. **What is the most important attribute of a judge, and do you possess it?**

    Response: I believe that the most important attribute of a judge is the ability to apply the law in a fair and impartial manner. I believe my work as a state court judge indicates that I possess this attribute.

3. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

    Response: A judge should be patient, calm and respectful towards all litigants. Additionally, a judge should be well prepared to address the issues before it. I believe my temperament as a state court judge reflects that I meet this standard.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

    Response: Yes.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: In the event that there is no binding precedent from the Supreme Court or Fifth Circuit Court of Appeals, I would first look to the text of the statute to determine its clear meaning. In the event of some ambiguity, I would look to precedent from the Supreme Court and Fifth Circuit for guidance on statutory interpretation to reach a conclusion.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I would be bound by precedent from the United States Supreme Court and Fifth Circuit Court of Appeals.

7. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: I would work with the Clerk of Court to establish a case management system that tracks cases allotted to me. I would set early status conferences to establish pretrial discovery, motion and final pretrial conference deadlines to move cases toward expeditious disposition.

8. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: A judge has a clear role in controlling the pace and conduct of litigation. If confirmed, I would establish the system identified in question #7, and would encourage mediation and alternative dispute resolution. Additionally, I would take advantage of magistrate settlement conferences.

9. **Please describe with particularity the process by which these questions were answered.**

   Response: I received these questions on June 15, 2011 and prepared answers. I discussed my responses with a representative of the Department of Justice and after finalizing same, authorized transmission to the Senate Judiciary Committee.

10. **Do these answers reflect your true and personal views?**

    Response: Yes.

SUBMISSIONS FOR THE RECORD

Defending Liberty
Pursuing Justice

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa C. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6071

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Edith R. Matthai
Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
424 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION
Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 6, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Katherine Forrest
To the United States District Court
for the Southern District of New York

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Katherine Forrest who has been nominated for a position on the United States District Court for the Southern District of New York. As a result of our investigation, the Committee is of the unanimous opinion that Ms. Forrest is "Well Qualified" for the position. There was one recusal.

A copy of this letter has been provided to Katherine Forrest.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Katherine Forrest
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

May 6, 2011
Page 2

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 6, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
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Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
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Hon. Tom Coburn

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5150

FIRST CIRCUIT
Lisa G. Arrowood
126 State Street
Boston, MA 02109

SECOND CIRCUIT
Terry L. Kaufman
60 East 42nd Street
New York, NY 10165-0025

THIRD CIRCUIT
Robert C. Heim
One Logan
2129 Arch Street
Philadelphia, PA 19103-2603

FOURTH CIRCUIT
L. Fitzgerald Brown, III
Suite 2400
300 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 900
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Norman Lundquist
21 East Carlton Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Bergen
4th Floor
Davenport Building
215 North Dodge
Des Moines, IA 50309-4011

NINTH CIRCUIT
Jeanne M. Comey
17th Floor
3 Embarcadero Center
San Francisco, CA 94111-4131

Alan Van Etten
Suite 530
4916 Pacific Street
Honolulu, HI 96818-2414

TENTH CIRCUIT
Paul T. Medley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2315

ELEVENTH CIRCUIT
Kenneth A. Shaffer
Suite 3400
5100 South Dixie Highway
Miami, FL 33156-7549

D.C. CIRCUIT
Gordon H. Mickel
733 15th Street, N.W.
Washington, DC 20005-2111

FEDERAL CIRCUIT
Jeffrey M. Nemerovski
Suite 1200
1100 17th Street, N.W.
Washington, DC 20036-4616

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
420 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1762
cardmanda@staff.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

April 7, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Susan Owens Hickey
To the United States District Court
for the Western District of Arkansas

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Susan Owens Hickey who has been nominated for a position on the United States District Court for the Western District of Arkansas. As a result of our investigation, the Committee is of the unanimous opinion that Judge Hickey is "Qualified" for the position.

A copy of this letter has been provided to Susan Owens Hickey.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Susan Owens Hickey
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on April 7, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
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Hon. Mike Lee
Hon. Tom Coburn

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa G. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Edith R. Matthai
Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2215

ELEVENTH CIRCUIT
Raimée A. Abadie
Suite 1200
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 17th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1762
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION
Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 10, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Stephen A. Higginson To the United States Court of Appeals for the Fifth Circuit

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Stephen A. Higginson who has been nominated for a position on the United States Court of Appeals for the Fifth Circuit. As a result of our investigation, the Committee is of the unanimous opinion that Mr. Higginson is "Well Qualified" for the position.

A copy of this letter has been provided to Stephen A. Higginson.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Stephen A. Higginson
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 10, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
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CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa C. Arrowood
20 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6025

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Goodman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Dorman Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Joanne M. Garvey
37th Floor
4 Embarcadero Center
San Francisco, CA 94111-4158

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moseley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2325

ELEVENTH CIRCUIT
Ramon A. Abadin
Suite 1200
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 17th Street, N.W.
Washington, DC 20036-4656

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
cardman@staff.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

April 1, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Alison J. Nathan
To the United States District Court
for the Southern District of New York

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Alison J. Nathan who has been nominated for a position on the United States District Court for the Southern District of New York. As a result of our investigation, a majority of the Committee is of the opinion that Ms. Nathan is "Qualified". A minority of the Committee is of the opinion that Ms. Nathan is "Not Qualified" for the position. There was one recusal.

A copy of this letter has been provided to Alison J. Nathan.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Alison J. Nathan
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on April 1, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
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Hon. Richard Blumenthal

Minority:

Hon. Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
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Hon. Tom Coburn

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AUBRA ANTHONY, JR.
President and CEO
Fax (870) 863-0809
E-mail: aanthony@anthonyforest.com

June 2, 2011

Honorable Patrick Leahy
United States Senate

My dear Senator Patrick,

It has been too long since we have visited. I am resurfacing again proudly to urge you, as Chair of the Judiciary Committee, to expedite a confirmation hearing for my across-the-street neighbor and friend Judge Susan Hickey for US District Judge for the Western District in Arkansas.

Susan is solid as a rock, and she has the temperament to wield that powerful gavel. She has the bi-partisan support of Arkansas' new Republican Senator John Boozman, as well as my friend Mark Pryor.

This is also very personal as Governor Mike Beebe appointed Susan to fill the Circuit Court vacancy created by the death of my wife Carol last year after a 16 year battle with Leukemia. Susan's confirmation would put a smile on my Carol's face. And mine.

Thank you my friend and hero.

Aubra

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

We write in support of the nomination of Alison J. Nathan to the United States District Court for the Southern District of New York. Each of us served as a law clerk to a member of the Supreme Court of the United States during the 2001-2002 Term, when Ms. Nathan served as a law clerk to Associate Justice John Paul Stevens.

Although our professional paths have taken us in varied directions, and although we hold a wide range of political and jurisprudential views, all of us believe that Ms. Nathan has the ability, character, and temperament to be an excellent federal district court judge. During our clerkship year, Ms. Nathan embodied the very sort of open-minded rigor that is characteristic of the finest jurists. She approached every case with the greatest of care, and her work ethic was nothing short of enviable. In addition, she did her work in a collaborative and thoughtful manner. She always sought out the ideas and viewpoints of others. Indeed, no matter how important or controversial the case, Ms. Nathan always interacted with law clerks from other Chambers in a sincere, calm, and constructive manner. Ms. Nathan did her work with a smile, and her enthusiasm was contagious. We found these things to be true not only in the substantive work of the clerkship, but also in less formal interactions with other clerks, the Justices, and the staff of the Court. Ms. Nathan was someone known for her genuineness. In short, Ms. Nathan was an important part of the intellectual and social "glue" that brought together clerks from the Chambers of all of the Justices during our Term at the Court.

Ms. Nathan's work since her clerkship confirms that she has the experience, skills, and demeanor well-suited for the bench. She has worked in demanding legal environments: practicing at a large corporate law firm, teaching law students, advising the President, and serving as a senior lawyer in the office of a state attorney general. The breadth of experience she has gained during the course of her career will serve her well on the federal bench. Many of us have kept in touch with Ms. Nathan over the years since clerking, and we can attest that, throughout all of this time, she has continued to exhibit the intellectual curiosity and level-headedness that defined her work during our clerkship year. We are happy to report that she is the same thoughtful person whom we all got to know in our year together at the Supreme Court. She still relates easily to people from all walks of life and from all political persuasions.

We have all known Ms. Nathan for at least a decade now, and we all believe that she has the necessary qualifications and characteristics to make an exemplary federal district judge. If confirmed, we are confident that Ms. Nathan will listen carefully to all those who come before her, and that she will make thoughtful judgments based on the law. We recommend her for this position without hesitation and without reservation.

Respectfully submitted,

Matthew B. Berry
Law Clerk to Clarence Thomas, 2001-02
Partner, Patton Boggs LLP
Arlington, VA

Vince Chhabria
Law Clerk to Stephen Breyer, 2001-02
Chief of Appellate Litigation, Office of the City Attorney
San Francisco, CA

Heidi Doerhoff Vollet
Law Clerk to William Rehnquist, 2001-02
Partner, Cook, Vetter, Doerhoff & Landwehr, P.C.
Jefferson City, MO

Shay Dvoretzky
Law Clerk to Antonin Scalia, 2001-02
Arlington, VA

Heather Elliott
Law Clerk to Ruth Bader Ginsburg, 2001-02
Associate Professor, University of Alabama School of Law
Tuscaloosa, AL

Steven Engel
Law Clerk to Anthony Kennedy, 2001-02
Partner, Dechert LLP
Washington, DC

Susan Engel
Law Clerk to Antonin Scalia, 2001-02
Partner, Kirkland & Ellis LLP
Washington, DC

Brian T. Fitzpatrick
Law Clerk to Antonin Scalia, 2001-02
Associate Professor, Vanderbilt Law School
Nashville, TN

Carolyn Frantz
Law Clerk to Sandra Day O'Connor, 2001-02
Partner, Bartlit Beck Herman Palenchar & Scott LLP
Chicago, IL

Michelle Friedland
Law Clerk to Sandra Day O'Connor, 2001-02
Partner, Munger, Tolles & Olson LLP
San Francisco, CA

Jeremy Gaston
Law Clerk to Sandra Day O'Connor, 2001-02
Partner, Burford Hawash Meade & Gaston LLP
Houston, TX

Risa Goluboff
Law Clerk to Stephen Breyer, 2001-02
Professor of Law and History, University of Virginia
Charlottesville, VA

Benjamin Gruenstein
Law Clerk to David Souter, 2001-02
New York, NY

Mirah Horowitz
Law Clerk to Stephen Breyer, 2001-02
Russell Reynolds Associates
Washington, DC

Tom Lee
Law Clerk to David Souter, 2001-02
Professor, Fordham University School of Law
New York, NY

Ann M. Lipton
Law Clerk to David Souter, 2001-02
Associate, Bernstein Litowitz Berger & Grossmann LLP
New York, NY

Anup Malani
Law Clerk to Sandra Day O'Connor, 2001-02
Lee and Brena Freeman Professor, University of Chicago Law School
Professor, Pritzker School of Medicine, University of Chicago
Chicago, IL

Sigal Mandelker
Law Clerk to Clarence Thomas, 2001-02
Senior Counsel, Proskauer Rose LLP
New York, NY

Brett McGurk
Law Clerk to William Rehnquist, 2001-02
Senior Advisor to the Ambassador
Baghdad, Iraq

Troy A. McKenzie
Law Clerk to John Paul Stevens, 2002-03
Associate Professor, NYU School of Law
New York, NY

Ed Morrison
Law Clerk to Antonin Scalia, 2001-02
Professor, Columbia Law School
New York, NY

David A. O'Neil
Law clerk to Ruth Bader Ginsburg, 2001-02
Washington, DC

Joseph R. Palmore
Law Clerk to Ruth Bader Ginsburg, 2001-02
Washington, DC

Neomi Rao
Law Clerk to Clarence Thomas, 2001-02
Assistant Professor, George Mason School of Law
Washington, DC

Nicholas Quinn Rosenkranz
Law Clerk to Anthony Kennedy, 2001-02
Associate Professor, Georgetown Law School
Washington, DC

Aaron Saiger
Law Clerk to Ruth Bader Ginsburg, 2001-02
Professor, Fordham University School of Law
New York, NY

Alexander J. Willscher
Law Clerk to Anthony Kennedy, 2001-02
Sullivan & Cromwell
New York, NY

STATEMENT FOR THE RECORD
Senator Kirsten E. Gillibrand

June 8, 2011

Mr. Chairman, I am pleased to offer my support for the confirmation of a highly talented and accomplished New Yorker, Alison J. Nathan, who has been nominated by President Obama to serve on the United States District Court for the Southern District of New York. I commend the President for this excellent nomination.

Alison is an alumna of Cornell University and *magna cum laude* graduate of Cornell Law School, where she earned her Juris Doctorate and was Editor-in-Chief of the Cornell Law Review. She was also awarded the Morris P. Glushien Prize, underscoring her stellar academic background. Her professional record as a litigator, a teacher, and a special counsel to the Solicitor General of New York is equally impressive and has prepared her well to serve with distinction on the United States District Court.

Having begun her legal career with clerkships in the chambers' of distinguished federal judges, including Justice John Paul Stevens, Alison has since demonstrated her legal skills in a variety of roles. As an Associate at the firm of Wilmer Cutler Pickering Hale and Dorr LLP, she was a superb litigator in both trial and appellate courts. After three years in academia, teaching at Fordham University School of Law holding the Fritz Alexander Fellowship at New York University School of Law, Alison served in the White House Counsel's Office where she advised the President on pressing legal issues, including civil rights and litigation and oversight. Currently, she serves as Special Counsel to the Solicitor General of New York, where she has argued many appellate cases in both state and federal courts along with supervising brief writing and oral argument preparation by Assistant Solicitors General.

Alison is deeply committed to public service, and to civil rights and equal access to the law. While in law school she worked for the Cornell Legal Aid society and for the National Women's Law Center, and served as president of the Women's Law Coalition. During her time in private practice she also maintained a substantial pro bono docket.

Thank you, Mr. Chairman, for your leadership and tireless efforts in this Committee and in the United States Senate to quickly and fairly confirm highly qualified individuals such as Alison Nathan. I wholeheartedly endorse this nomination, and believe that if confirmed, Alison will be an outstanding addition to the federal bench. She will be a judge committed to the rule of law and civil rights. I hope that the Judiciary Committee will swiftly and favorably report her confirmation to the full Senate for an up or down vote, so that she may begin the next chapter of her service to our country on the federal bench.

Statement of Senator Chuck Grassley

Before the Committee on the Judiciary

On the Nominations of:

Stephen A. Higginson, to be United States Circuit Judge for the Fifth Circuit

Jane M. Triche-Milazzo, to be United States District Judge for the Eastern District of Louisiana

Alison J. Nathan, to be United States District Judge for the Southern District of New York

Katherine B. Forrest, to be United States District Judge for the Southern District of New York

Susan O. Hickey, to be United States District Judge for the Western District of Arkansas

June 8, 2011

Mr. Chairman:

I welcome the nominees appearing before us today as well as their families and friends. Nomination hearings are important events, not only for the nominee and for the family, but also for this institution and for the public.

The advice and consent function of the Senate is a critical step in the process. The hearing gives Senators further information to consider, as we contemplate whether or not to give consent.

In the *Federalist Papers, Number 76*, Alexander Hamilton wrote "To what purpose then require the co-operation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."

In other words, the Senate has role in preventing the appointment of judges who are simply political favorites of the President, or of those who not qualified to serve as federal judges.

Let me remind my colleagues of what then-Senator Obama stated about this duty. Six years ago today, June 8, 2005 in connection with the attempted filibuster of Janice Rogers Brown, he stated:

> "Now, the test for a qualified judicial nominee is not simply whether they are intelligent. Some of us who attended law school or were in business know there are a lot of real smart people out there whom you would not put in charge of stuff. The test of whether a judge is qualified to be a judge is not their intelligence. It is their judgment."

A few months later, on January 26, 2006 when debating the Alito nomination, then-Senator Obama stated:

> "There are some who believe that the President, having won the election, should have the complete authority to appoint his nominee, and the Senate should only examine whether or not the Justice is intellectually capable and an all-around nice guy. That once you get beyond intellect and personal character, there should be no further question whether the judge should be confirmed. I disagree with this view. I believe firmly that the Constitution calls for the Senate to advise and consent. I believe that it calls for meaningful advice and consent that includes an examination of a judge's philosophy, ideology, and record."

Mr. Chairman, our inquiry of the qualifications of nominees must be more than intelligence, a pleasant personality, or a prestigious clerkship. At the beginning of this Congress, I articulated my standards for judicial nominees. I want to ensure that the men and women who are appointed to a lifetime position in the federal judiciary are qualified to serve. Factors I consider important include intellectual ability, respect for the Constitution,

fidelity to the law, personal integrity, appropriate judicial temperament, and professional competence.

In applying these standards, I have demonstrated good faith in ensuring fair consideration of judicial nominees. I have worked with the majority to confirm consensus nominees. However, as I have stated more than once, the Senate must not place quantity confirmed over quality confirmed. These lifetime appointments are too important to the Federal Judiciary and the American people to simply rubber-stamp them.

I am becoming increasingly concerned about some of the judicial nominations being sent to the Senate. In a few individual cases it is very troublesome. Perhaps the White House as grown tired of my observation that, for most of this President's term, a majority of vacancies had no pending nominee. But in their rush to remedy that situation, I would hope that they would not send up nominees who lack appropriate experience or who otherwise fail to meet the standards I previously mentioned.

Stephen A. Higginson is nominated to be United States Circuit Judge for the Fifth Circuit. Upon graduating from law school in 1987, Mr. Higginson served as a law clerk for Chief Judge Patricia Wald in the United States Court of Appeals for the D.C. Circuit. The following year he clerked at the Supreme Court of the United States for Associate Justice Bryon White. After his clerkships, he began service as an Assistant United States Attorney.

From 1989 to 1993 he served in the United States Attorney's Office for the District of Massachusetts. During this period he handled multiple investigations and criminal trials, as well as direct appeals from those cases. In 1993 he transferred to Eastern District of Louisiana, continuing with criminal trial work. In 1995 he became chief of appeals. In this position he supervises or directly handles civil and criminal appeals. From 1997 - 1998, while serving as an Assistant United States Attorney, he was detailed by DOJ to work for the United States Department of State as Deputy Director of the Presidential Rule of Law Initiative. In 2004 he became a part-time Assistant United States Attorney while serving as

a full-time Associate Professor of law at Loyola University New Orleans, College of Law. The American Bar Association's Committee on the Federal Judiciary unanimously related Mr. Higginson as Well Qualified.

Jane M. Triche-Milazzo is nominated to be United States District Judge for the Eastern District of Louisiana. Judge Triche-Milazzo graduated *magna cum laude* with a bachelor's degree from Nicholls State University in 1977. She worked for some time as an elementary school teacher before beginning to work in her father's law office. In 1992, Judge Triche-Milazzo graduated with a J.D. from Louisiana State University Paul M. Hebert Law Center.

Judge Triche-Milazzo spent the entirety of her legal career practicing at Risley Triche, LLC. The firm is named for her father, and her brother is currently a Partner at the firm. Judge Triche-Milazzo began as an Associate and later became a Partner.
In 2008, she was elected Judge in Louisiana's 23rd Judicial District. She is a Louisiana State District Court Judge for Division D of the 23rd Judicial District. She was the first female judge elected to the 23rd judicial district bench. The 23rd Judicial District includes three separate parishes. She has jurisdiction over felony and civil matters in all three parishes, and jurisdiction over misdemeanor matters in two of the three parishes. She also hears juvenile matters in one parish. She has presided over approximately 80 trials.

Judge Triche-Milazzo received a unanimous "Qualified" rating from the ABA Committee on the Federal Judiciary.

Two nominees are before us today, to serve as United States District Judge for the Southern District of New York - Katherine B. Forrest and Alison J. Nathan.

Since graduating from New York University School of Law in 1990, Ms. Forrest has spent the vast majority of her legal career as an attorney at Cravath, Swayne, & Moore. She served as an associate at the firm from 1990 to 1997 and a partner from 1998 to 2010. While at Cravath, Swayne, & Moore, Ms. Forrest was a generalist litigator who practiced in

the areas of antitrust, intellectual property, contracts, employment law, accounting fraud, and securities litigation. Her typical clients were large multi-national corporations across a spectrum of industries. She specialized in areas relating to digital technologies and the internet. Among the most significant legal activities she was involved in was the merger of United Airlines, Inc. and Continental Airlines, Inc.

In addition, Ms. Forrest was involved in the management of the firm, serving on the Partner Review Committee. She also ran the firm's Continuing Legal Education program from 1998 to 2005.

Ms. Forrest has been a Deputy Assistant Attorney General in the Department of Justice's Antitrust division since 2010. She is involved in most major matters the division handles, including litigation planning and execution, appellate litigation, and international cooperation. She has a unanimous rating of "Well Qualified" by the ABA Standing Committee on the Federal Judiciary.

Ms. Nathan graduated with a B.A. from Cornell University in 1994 and with a J.D. from Cornell Law School in 2000. Upon graduation, she clerked for Judge Betty Fletcher of the Ninth Circuit Court of Appeals from 2000-2001. From 2001-2002, Ms. Nathan clerked for Justice John Paul Stevens of the Supreme Court of the United States.

Ms. Nathan entered private practice with Wilmer, Cutler, Pickering Hale & Dorr LLP. From 2002-2005, she served as an Associate in the Washington, D.C. office, and as an Associate in the New York office from 2005-2006. She practiced within the Litigation group, the Supreme Court and Appellate Litigation group, and the Regulatory and Government Affairs group. In her legal practice, Ms. Nathan developed legal strategy, conducted investigations, drafted pleadings and briefs, engaged in discovery, examined witnesses, and argued motions and appeals in court.

From 2006-2008, Ms. Nathan worked as a Visiting Assistant Professor of Law at Fordham University School of Law. In this role, she taught civil and criminal procedure and

constitutional law. She also taught a capital punishment seminar course. From 2008-2009, Ms. Nathan also served as the Fritz Alexander Fellow at New York University School of Law, engaged in legal research.

In 2009, Ms. Nathan secured a position with the White House Counsel's Office. As an Associate White House Counsel and Special Assistant to the President, Ms. Nathan reviewed legislation, analyzed and advised staff on legal issues, and assisted in the preparation of judicial and executive branch nominees for confirmation hearings.

In July 2010, Ms. Nathan returned to New York and began to work as a Special Assistant to the Solicitor General of New York. In this position, Ms. Nathan drafts briefs and argues cases in state and federal trial and appellate courts. She also supervises the Assistant Solicitor Generals in their brief and oral argument preparations.

A majority of the ABA Standing Committee on the Federal Judiciary rated Ms. Nathan as "Qualified." A minority rated her as "Not Qualified."

Our final nominee, Susan Owens Hickey, is nominated to be United States District Judge for the Western District of Arkansas.

Ms. Hickey graduated from the University of Arkansas School of Law in 1981. In April of that year, she worked for the law firm of Brown, Compton & Prewett. She worked on the pretrial preparation and trial of a personal injury case that the firm was defending. From 1981 to 1984, Ms. Hickey worked as a staff attorney for the Murphy Oil Corporation. In that role, she worked primarily on issues involving natural gas, securities and corporate law. Her clients at Murphy Oil were the various departments within the company. Outside counsel handled all litigated matters, so Ms. Hickey did not personally oversee any litigation herself while at the company. Ms. Hickey remembers her most significant case at Murphy Oil as involving document production and discovery related to claims the company submitted to an international tribunal in The Hague (the litigation resulted from Iran's 1991 seizure of corporate oil holdings).

From 1984 to 2003, Ms. Hickey was not employed or actively engaged in the practice of law, with the exception of serving as a temporary law clerk. During the summer of 1997 and during the summer of 1998 Ms. Hickey served as a temporary law clerk for the Honorable Harry F. Barnes, United States District Judge for the Western District of Arkansas. In that position, she performed legal research and authored memoranda.

Ms. Hickey returned to work for that same judge in 2003, serving as a senior career law clerk, and she stayed in that position until 2010.

In September 2010, Ms. Hickey was appointed circuit judge for the Thirteenth Judicial Circuit of Arkansas to fill the unexpired term of a judge who died in office. In this position, she has jurisdiction over civil, criminal, juvenile, domestic relations and probate matters over a six county area. The majority of her docket involves criminal felony cases. Since October 2010, Ms. Hickey has presided over approximately 172 criminal cases where judgment resulted from a guilty plea by the defendant or a plea agreement between the prosecution and the defendant. She has also presided over two bench trials that have gone to judgment.

Ms. Hickey received a unanimous "Qualified" rating from the ABA Standing Committee on the Federal Judiciary.

Introduction of Stephen Higginson & Judge Jane Triche-Milazzo
Nominees before the Senate Committee on the Judiciary
Wednesday, June 8, 2010

Introduction

- Let me start by saying thank you to Senator Franken, for chairing today's hearing, as well as the other members of the Judiciary Committee for working in a bipartisan manner to expeditiously bring these two nominees from Louisiana before the Committee today.

- It is my distinct privilege to introduce two nominees before the Judiciary Committee: (1) Assistant U.S. Attorney and Associate Professor of Law Stephen Higginson, who is the nominee for judge on the 5th Circuit Court of Appeals and (2) Judge Jane Triche-Milazzo, who is the nominee for judge on the U.S. Eastern District Court of Louisiana. I was pleased to recommend both of these candidates last year to President Obama for their respective positions and I am happy to introduce them before the distinguished members of the Senate Judiciary Committee today.

Stephen Higginson

Intro/Family
- I will begin this morning by introducing Stephen Higginson.

- Mr. Higginson is joined by an especially proud family today, including his parents, Charles and Genevra Higginson; his brothers, Timothy and Philip; his children, Christopher, Cadie, and Noelle; and of course his loving wife, Collette Creppell, who currently serves as the Architect for Tulane University.
    - I feel compelled to point out, Mr. Chairman, that this family is especially proud not only because of Mr. Higginson's appearance before this Committee today, but also because Cadie and Noelle, who play for a New Orleans area club soccer team, returned from Germany just yesterday after winning the *world championship* for U-15 woman's club soccer. They and their Louisiana teammates, who represented the United States, won the championship game thanks in part to a goal from Cadie.

Character

- When I began my search for candidates I could recommend to the president as a worthy replacement for Judge Jacques Wiener on the 5th Circuit, I must admit that I was unfamiliar with Mr. Higginson. His astonishing accomplishments, however, quickly became apparent to me and I can say today without hesitation that I believe Mr. Higginson would serve with distinction on the 5th Circuit if confirmed by the Senate.

- Before I enumerate Mr. Higginson's seemingly endless list of qualifications, I think it's important to express to the members of this committee the selfless character of the person you will hear from later today… It's hard to imagine now, but in the immediate aftermath of Katrina, the city was in such a state of disarray that not even the most basic of federal law enforcement was functioning. But in the days following the devastation and confusion of Katrina, Stephen Higginson was one of the first two assistant U.S. Attorneys who volunteered to work alongside U.S. Attorney Jim Letten to restore the essential functions of the prosecutor's office. From a Greyhound Bus station, Mr. Higginson and his fellow attorneys worked around the clock, putting aside their personal concerns for the material well-being of their homes and possessions. We in Louisiana owe a debt of gratitude for all of those in that office that found the resolve to continue to keep New Orleans's criminal justice system afloat at a time when the rest of the city was still literally underwater. I hope I may in small part repay that service by giving my unconditional support to his confirmation for judge on the 5th Circuit Court of Appeals.

- **Academic Accolades**

- Mr. Higginson earned his A.B. from Harvard College summa cum laude. After graduating Harvard, Mr. Higginson earned a Masters in Philosophy from Cambridge University as a Harvard Scholar.

- Unsatisfied with degrees from two of the most prestigious institutions on the planet, Mr. Higginson decided to pursue a J.D. from Yale Law School. When he graduated three years later, Mr. Higginson had earned the extraordinary distinction of being both editor-in-chief of Yale's law review and the winner of the Israel H. Peres Prize for the best written contribution to the law review.

Professional Background

- After graduating from Yale Law School, Mr. Higginson served as a law clerk to the Honorable Patricia M. Wald of the United States Court of Appeals for the District of Columbia, who, as I understand it, has taken the time from her busy schedule to attend today's hearing – a clear indication of the indelible mark Mr. Higginson leaves with this country's most prominent the legal scholars.

- Mr. Higginson then served as a law clerk to the Honorable Byron R. White of on the United States Supreme Court.

- Since 1993, Mr. Higginson has resided in New Orleans, serving initially as an Assistant United States Attorney in the Eastern District of Louisiana. After only two years in that

office, he became the chief of appeals. As chief of appeals, Mr. Higginson has personally handled or supervised all criminal and civil appeals in the District, editing or writing more than 100 appellate briefs, and presenting numerous oral arguments before the 5th Circuit Court of Appeals. In addition, Mr. Higginson received the Department of Justice's award for superior and outstanding performance as a federal prosecutor.

- Beginning in 2004, Mr. Higginson transitioned to working part-time for the U.S. Attorney's Office as a supervisor for the appellate section so he could become a full-time Associate Professor of Law at Loyola University New Orleans College of Law. Mr. Higginson now teaches subjects including constitutional law, evidence, and criminal law. On par with his previous superlative achievements, Professor Higginson earned the honor of Professor of the Year for each of his first three years of teaching at Loyola.

- As I hope to have demonstrated, there is little more Stephen Higginson could have done over the course of his career to prove his aptitude as an able and fair judge on the U.S. 5th Circuit Court of Appeals.

Jane Triche-Milazzo
Intro/Family

- Next I would like to introduce Judge Triche-Milazzo, who hails from the proud River Parishes of Louisiana.

- Judge Triche-Milazzo is joined today by her husband, John Milazzo; her son, Richard Perque; her daughter, Anne Perque Schmidt; her stepson, Jack Milazzo III; and her Godson, Sam Triche.

- Unable to join Judge Triche-Milazzo this morning is her son, Joe, who deployed yesterday with the Louisiana National Guard for a tour in Afghanistan. I think it goes without saying that everyone in this room is grateful for the service of both Judge Tirche-Milazzo's son Joe, and his family, who share along with Joe the weight of a deployment far from home.

Background

- Judge Triche-Milazzo has demonstrated through her private practice in Napoleonville, LA and judgeship for Louisiana's 23rd Judicial District that she is a supremely qualified nominee for the U.S. District Court for the Eastern District of Louisiana.

- The daughter of Risley "Pappy" and Clara Triche of Napoleonville, Judge Triche-Milazzo graduated with a B.A. from Nicholls State University, magna cum laude.

- After graduation, Judge Triche-Milazzo did not immediately pursue a law career. Long before it became popular with college graduates, she instead decided the best way she could bring about positive change in her community was to serve as a local elementary school teacher.

- By1986, however, the draw of the law profession proved to be too great and Judge Triche-Milazzo began working as a paralegal and law clerk for a Napoleonville law firm.

- She then decided to obtain her J.D. from Louisiana State University's Paul M. Herbert Law Center, graduating in1992.

- After law school, Judge Triche-Milazzo spent six years as an associate attorney at Napoleonville law firm before being promoted to partner, a position in which she excelled for a decade.

Professional Distinctions

- During her years in private practice, Judge Triche-Milazzo was active in several legal organizations and served as president of both the Assumption Parish Bar Association and the Twenty-third Judicial District Bar Association.

- She was also a member of the Louisiana State Bar Association House of Delegates, where she served as a member of the Legislative Committee and as chair in 2007.

- Judge Triche-Milazzo is a member of the LSU Law School Board of Trustees, American Bar Association, Louisiana State Bar Association, Fifth Circuit Court of Appeal Bar Association, 23rd Judicial District Bar Association, Baton Rouge Bar Association, National Association of Women Judges, and Louisiana District Court Judges Association.

- In August of 2008, Judge Triche-Milazzo was elected as the first female judge in the history of Louisiana's 23rd judicial district. Since she began presiding on that bench, I have heard from the legal community in the River Parishes nothing but the highest of praise for Judge Triche-Milazzo's impartial and thoughtful rulings.

- Her broad but apt professional experiences, in addition to the unequivocally supportive commendations I received regarding her temperament and judgment in the courtroom, make Judge Jane Triche-Milazzo an ideal nominee for Louisiana's Eastern District Court.

COMMITTEE ON THE JUDICIARY

ELIZABETH DONOGHUE
CHAIR
15 MAIDEN LANE, 17TH FLOOR
NEW YORK, NY 10038
Phone: (212) 349-3000
Fax: (212) 587-0744
edonoghue@hmgdjlaw.com

PETER M. KOUGASIAN
VICE CHAIR
80 CENTRE STREET, ROOM 624
NEW YORK, NY 10013
Phone: (212) 815-0495
Fax: (212) 815-0498
pkougasian@specnarc.org

STEPHEN S. MADSEN
VICE CHAIR
825 EIGHTH AVENUE, 41ST FLOOR
NEW YORK, NY 10019
Phone: (212) 474-1886
Fax: (212) 474-3700
smadsen@cravath.com

MIRIAM M. BREIER
SECRETARY
156 FIFTH AVENUE, SUITE 600
NEW YORK, NEW YORK 10010
Phone: (212) 791-3900
Fax: (646) 649-9650
mmb@bdulaw.com

STEPHANIE G. WHEELER
SECRETARY
125 BROAD STREET
NEW YORK, NY 10004
Phone: (212) 558-7384
Fax: (212) 291-9166
wheelers@sullcrom.com

ELIZABETH DORFMAN
ADMINISTRATIVE ASSISTANT
42 W. 44TH STREET
NEW YORK, NY 10036
PHONE: (212) 382-6772
Fax: (212) 869-2145
edorfman@nycbar.org

June 14, 2011

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

We are pleased to inform you that the Committee on the Judiciary of the New York City Bar has found Katherine Forrest, Esq., APPROVED for appointment to the United States District Court for the Southern District of New York.

Very truly yours,

Elizabeth Donoghue
Chair

COMMITTEE ON THE JUDICIARY

ELIZABETH DONOGHUE
CHAIR
15 MAIDEN LANE, 17TH FLOOR
NEW YORK, NY 10038
Phone: (212) 349-3000
Fax: (212) 587-0744
edonoghue@hmgdjlaw.com

PETER M. KOUGASIAN
VICE CHAIR
80 CENTRE STREET, ROOM 624
NEW YORK, NY 10013
Phone: (212) 815-0495
Fax: (212) 815-0498
pkougasian@specnarc.org

STEPHEN S. MADSEN
VICE CHAIR
825 EIGHTH AVENUE, 41ST FLOOR
NEW YORK, NY 10019
Phone: (212) 474-1886
Fax: (212) 474-3700
smadsen@cravath.com

MIRIAM M. BREIER
SECRETARY
156 FIFTH AVENUE, SUITE 600
NEW YORK, NEW YORK 10010
Phone: (212) 791-3900
Fax: (646) 649-9650
mmb@bdulaw.com

STEPHANIE G. WHEELER
SECRETARY
125 BROAD STREET
NEW YORK, NY 10004
Phone: (212) 558-7384
Fax: (212) 291-9166
wheelers@sullcrom.com

ELIZABETH DORFMAN
ADMINISTRATIVE ASSISTANT
42 W. 44TH STREET
NEW YORK, NY 10036
PHONE: (212) 382-6772
Fax: (212) 869-2145
edorfman@nycbar.org

May 10, 2011

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

We are pleased to inform you that the Committee on the Judiciary of the New York City Bar has found Alison J. Nathan, Esq., APPROVED for appointment to the United States District Court for the Southern District of New York.

Very truly yours,

Elizabeth Donoghue
Chair

NOMINATIONS OF CHRISTOPHER DRONEY, NOMINEE TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT; ROBERT D. MARIANI, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA; CATHY BISSOON, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA; MARK R. HORNAK, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA; AND, ROBERT N. SCOLA, JR., NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

WEDNESDAY, JUNE 22, 2011

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 2:35 p.m., Room 226, Dirksen Senate Office Building, Hon. Richard Blumenthal presiding.

Present: Senators Whitehouse and Grassley.

OPENING STATEMENT OF HON. RICHARD BLUMENTHAL, A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator BLUMENTHAL. Good afternoon. I am pleased to call to order this nominations hearing. I want to thank my colleagues for being here, and everyone who is attending this hearing of the Senate Judiciary Committee.

I am grateful to Chairman Leahy for giving me this opportunity to preside this afternoon and to Senator Grassley, the Ranking Member, for being here with us. And I know that I am joined by Senator Grassley in the strong feeling that we have an obligation to move forward and advance this nominations process in the Senate, and I am encouraged by the spirit of bipartisanship that I have seen in my short time on the Judiciary Committee and in the U.S. Senate.

And, obviously, we are responding to very widely and strongly felt feelings on the part of the American public that they want us to work together in a bipartisan spirit to advance the Nation, to create jobs, and to make sure that our justice system works efficiently.

There are still over 90 Federal judicial vacancies and nearly half of those vacancies have been declared judicial emergencies. And I am very pleased that this afternoon we will take another step toward filling some of those vacancies with some very distinguished nominees.

I hope that we will be joined by other of my colleagues on the Judiciary Committee. But in the meantime, I would like to yield to the Ranking Member, Senator Grassley, for any remarks he may have.

STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. I, of course, welcome all of the nominees who are coming before the committee, and particularly know that their family and friends are proud of them.

As I mentioned at our last nomination hearing, this is an important event for the nominees, as well as for the institution and for the public. The nominations before us today illustrate the critical role of the constitutional advice and consent function of our Senate. This Committee previously reviewed the qualifications of a nominee to the seat to which Judge Droney is now nominated. The Committee found that nomination to be lacking and returned it to the President without final action.

The three district nominees from the President were first nominated shortly after the election last November. I would note that there is a new Senator from Pennsylvania, and when the nominations were resubmitted to this Congress, I made sure that the rights of that Senator were protected. Working with the chairman, we agreed that all home State Senators, particularly the new Senators, would be given time to review nominations and return blue slips before proceeding, and I, obviously, thank Chairman Leahy for that courtesy to us as a minority.

I think that this was a fair process to the Senate, as well as to the nominees. We know it is crucial for nominees to have the support of home State Senators. Generally, nominations do not move forward without their support.

We have arrived at the point where we can now consider the nominations. I look forward to the testimony of the people before us. So I will have questions.

I have a much longer statement that talks about each nominee but I am not going to read it. I am going to put it in the record. And I would ask that the nominees read what I had to say about them.

Senator BLUMENTHAL. Without objection, that statement will be in the record.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Senator BLUMENTHAL. And we are going to proceed from Senator Lieberman onward in introductions. But let me just say that we

are going to welcome, first—and he will introduce him—Judge Christopher Droney, who has been nominated to be a judge on the Court of Appeals for the Second Circuit. He is from the State of Connecticut and he has served on the United States District Court for the District of Connecticut for 14 years.

After Senator Lieberman, we will hear from Senator Nelson, who will welcome Robert Mariani—I am sorry—who will welcome Robert Scola, who has been nominated to be a United States District Judge for the Southern District of Florida.

For the last 16 years, Judge Scola has served as a state circuit judge for the 11th Circuit of Florida, and he previously worked both as a criminal defense attorney and as a state prosecutor. And he will be introduced by both Senator Nelson and Senator Rubio, if he arrives.

We also want to welcome Robert Mariani, who has been nominated to be a United States District Judge for the Middle District of Pennsylvania. He has worked as a solo practitioner in Scranton, Pennsylvania since 1993, and he has an impressive resume as a litigator in private practice.

He will be introduced by his home State Senators, Casey and Toomey, who are both here. Thank you.

And we also welcome Judge Cathy Bissoon and Mark Hornak, who have both been nominated to be United States District Judge for the Western District of Pennsylvania.

Mr. Hornak has worked in private practice in Pittsburgh for the law firm of Ingersoll & Rooney for nearly his entire legal career. And both of them will be introduced by, again, Senators Casey and Toomey.

So with that, Senator Lieberman, the floor is yours.

PRESENTATION OF CHRISTOPHER DRONEY, NOMINEE TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT BY HON. JOSEPH LIEBERMAN, A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator LIEBERMAN. Thank you very much, Chairman Blumenthal. It is an honor to be here to introduce Judge Droney to the committee, Senator Grassley.

I must say it is a special personal pleasure to see you, Senator Blumenthal, chairing this hearing.

It really is a personal thrill for me to be able to introduce Judge Droney to the Committee as a nominee for the second circuit court. I have known Chris Droney and his family for a long time.

Let me just say, by way of introduction, that his wife, Liz, and his three daughters, Sarah, Emily and Katherine, are here, and they are the best argument for voting to confirm Chris Droney, even though he has an extraordinary record.

I first came to know Chris when he was a private attorney in the Hartford area and involved in West Hartford town government as a member of the town council and then ultimately as mayor. In 1993, President Clinton nominated Chris to be our U.S. Attorney in Connecticut.

Incidentally, we were both remembering, when I had the honor of swearing him in as U.S. Attorney in the fall of 1993, he was

holding one of his daughters in his hand. This would be hard to do today.

We have come a long ways, and Chris did a great job as U.S. Attorney for the 4 years he served in that capacity, initiating cooperative law enforcement efforts against gangs, health care fraud and financial fraud investigations, and trying some major cases in Connecticut and across New England, including some successful arguments before the United States Second Circuit Court of Appeals.

In 1997, President Clinton nominated Chris Droney to be a member of the district court in Connecticut. I remember saying, when I had the honor to introduce him that day before this committee, that I hoped that I would—that Chris was young enough and I hoped that I would serve long enough in the U.S. Senate that I would be able to return when he was nominated for a higher court, because I felt sure that his service on the district court would justify that nomination.

You can see what I meant when I said that it is a real personal thrill to be here today to actually introduce him.

He has served with great distinction for 13 years as a member of the district bench, presiding over hundreds of Federal, civil and criminal trials. He has a profound commitment to the rule of law, widespread respect he enjoys among lawyers practicing in the Federal courts.

To my way of thinking, he is just a mainstream, bright, sensible jurist. In fact, during his 13 years as a district judge, Judge Droney has served on second circuit panels a number of times and actually written opinions for the second circuit court on topics as varied as antitrust law, criminal procedure, and Federal labor law.

So this is a person of great character, hard work, and a real love for the law. He has shown that as U.S. Attorney, as a district judge, and I am confident, with the support of this Committee and our colleagues in the Senate, that he will do the same on the second circuit court.

Actually, his nomination was unanimously confirmed by the Senate in 1997 to the district court. That does not happen much anymore, but since Leon Panetta was confirmed 100–0 the other day, I want to say that I hope we can do the same for Chris Droney when he comes before the Senate.

With that, I introduce him to this honorable committee. Thank you, Mr. Chairman.

Senator BLUMENTHAL. Thank you, Senator Lieberman.

Senator Nelson, thank you for being here today. I might say, about all of my colleagues, that your being here really is very meaningful to the Committee and to the nominees who are here today for this hearing.

Senator Nelson, thank you very much.

PRESENTATION OF ROBERT N. SCOLA, JR., NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA BY HON. BILL NELSON, A U.S. SENATOR FROM THE STATE OF FLORDIA

Senator NELSON. And, Mr. Chairman, as Senator Lieberman just mentioned, it is nice when you have a nominee up for confirmation before the Senate like Leon Panetta. I saw him today and, through

mock surprise, said, "Boy that was a squeaker getting you through." And, likewise, I bring to the Senate—Senator Rubio and I both bring to the Senate a judge that is one of the most esteemed and respected judges in a huge, huge state court district, and that being Miami-Dade County.

And the even better news is that Judge Scola is married to a judge, Judge Jackie Scola. So we are getting two for the price of one. And their whole family is here today, their sons, Bobby and Billy, and the judge will introduce them later on in his testimony.

I could go through all the particulars, but you know the tremendous bipartisan process that we have in Florida, where we try to take politics out of the selection of our judges by impaneling a judicial nominating commission that is done by custom rather than law and has been done by the two Senators from Florida for some period of time.

And they go through all of the applications. They receive the applications. They do the interviews, and they select, from outstanding applicants, three for a particular vacancy and those three are submitted to the two Senators, who then interview them. And then with our recommendations, it goes on to the White House.

Now, the President, of course, constitutionally, is going to be the one to make the nomination, but since we do the confirmation, it is a collaborative process. And it is working and it is working well, and it has produced the kind of quality that we find in this nominee, Judge Scola.

And, Marco, I just told them about our bipartisan process. And so Judge Scola is a product of that. He, without a doubt, over and over, it has been told to me as I run into members of the bar in Miami, that this man is outstanding and he deserves this appointment.

So I ask you all to consider that. As you said, Mr. Chairman, he has been a prosecutor. He has been for years a circuit judge in the state court system. He is an adjunct professor at Florida International University College of Law and the University of Miami School of Law. And he is a faculty member of the Florida New Judges College and the Florida College of Advanced Judicial Studies.

So you have here all in one package—scholarly, well thought of, ethical, experienced, jurist and longstanding member of the bar, and, of course, Senator Rubio and I highly recommend him.

Senator Blumenthal. Thank you, Senator Nelson. Thank you for being here.

And thank you to Senator Rubio for joining us. I know you had another obligation and appreciate your being here.

If you would like to introduce Judge Scola.

PRESENTATION OF ROBERT N. SCOLA, JR., NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORDIA BY HON. MARCO RUBIO, A U.S. SENATOR FROM THE STATE OF FLORDIA

Senator RUBIO. Sure, Mr. Chairman. Thank you. And I will be brief, because I think Senator Nelson has touched upon all these things and just echo all of that and tell you that Judge Scola is

very well regarded in the legal community, particularly in south Florida, where I am from.

I have had numerous friends of mine in the legal community call and recommend him. And so we are proud to present him to the Committee and we know you will give him your full and fair consideration.

It is an honor to be here with him. I know he will introduce his family in a moment, and I think you will be impressed by his resume.

Senator BLUMENTHAL. Thank you very much.

Now, I would like to turn to Senators Casey and Toomey.

PRESENTATION OF ROBERT D. MARIANI, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA; CATHY BISSOON NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA; AND MARK R. HORNAK, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA BY HON. ROBERT P. CASEY JR., A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator CASEY. Thank you, Mr. Chairman. We are honored to be here and want to thank you for this opportunity. It is a great honor to be able to introduce, in this case, three Pennsylvanians to be considered before this committee, and I want to thank you and thank Senator Grassley.

I am particularly grateful for the work done by Senator Toomey. As is true in a number of states, there is a process that results in individuals being considered and then recommended to come before this Committee and it is a process that I have worked on over a number years with Senator Specter and have continued that work with Senator Toomey and I am grateful for all the work that he put into this today to make this possible.

I will do a very quick biographical sketch—it will not do justice to the achievements and the resumes—of each of our nominees. But before I do that, I wanted to say two things.

One is that often, I think, when we have hearings in Washington that involve something as fundamental as the confirmation of judges, we can often lose sight of how critical this is to our system of justice and, also, how, even with all of our challenges and all of our problems in the United States, our system of justice is still the envy of the world. It separates us from almost every country in the world and the basic problem that a lot of nations have is they can never get to the point where they have a system of justice that is strong, that people have confidence in, and that delivers justice on a regular basis. So we should be very proud that we have such a system in place.

Second, I would say, with regard to the nominees, they come here with their experience and they come here with their achievements and their commitments about the future, if they were to become Federal judges. But each of them, in their own way, comes with their families, as well, and it is a commitment that families make leading up to today and beyond today, and we especially want to commend the work and the commitment of each member

of these three nominees—Bob Mariani's family and the families of Cathy Bissoon and Mark Hornak.

Let me just do a quick sketch for each of them. I have known Bob Mariani the longest of the three. I practiced law in the same town, in the same bar with him. And even then, all those years ago, he commanded great respect, starting from the time he left Syracuse University for his law degree.

As you will hear more of, he has practiced law as a civil litigator for more than 3 decades, almost 35 years now. He has run a business. Obviously, when you are a lawyer that—for a good part of his life as a lawyer, as a sole proprietor running that business and doing all the things you have to do to run a business.

So I cannot say enough about his ability, his integrity, and his commitment to do justice. And I think our only regret here today is that his wife, Sally, is not with us today. We are thinking of her today and remembering her. I knew her, as well, from the neighborhood that we live in.

I am so grateful to Bob and his family for making this commitment.

Cathy Bissoon, if you look at her story, her resume, it is a remarkable American story of achievement and success and overcoming obstacles. A graduate of Harvard Law School, serving as a magistrate judge in our Federal system in the Western District of Pennsylvania, a member of a number of major law firms in Pennsylvania, in Pittsburgh, Pennsylvania.

But I think more than anything else, you can see from her background that it is a story of great achievement, and I have no doubt that she will do a great job as a member of the United States District Court for the Western District of Pennsylvania.

Second, in the Western District of Pennsylvania, Mark Hornak. Mark I have known for the better part of 15 or more years. He is a graduate of the University of Pittsburgh Law School. He has been, as you noted earlier, at Buchanan, Ingersoll & Rooney, that law firm, in one iteration or another, all these years, since, I guess, 1982.

A tremendous lawyer, great skill and ability and commitment to public service. And I am grateful that his family is with him today.

So I could say about all three—Bob Mariani, Cathy Bissoon and Mark Hornak—that they are all—each one of them and in a collective sense, as well—fully qualified and prepared and I think in each instance we will have the kind of integrity and the kind of commitment to honesty in the rule of law and a commitment to justice that will serve the Western District of Pennsylvania well, in the case of Cathy Bissoon and Mark Hornak, and in the case of Bob Mariani, the Middle District of Pennsylvania.

I cannot say enough about them. I am grateful to be here, and I am also to be joined by Senator Toomey.

Senator BLUMENTHAL. Thank you, Senator Casey, for those very meaningful and significant comments.

And, Senator Toomey, if you would care to follow him.

PRESENTATION OF ROBERT D. MARIANI, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA; CATHY BISSOON NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA; AND MARK R. HORNAK, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA BY HON. PATRICK J. TOOMEY, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator TOOMEY. Thank you very much, Mr. Chairman and Ranking Member Grassley. Let me thank each of you and Senator Leahy, as well, for the courtesies you have extended to me as we have gone through this process.

Thanks, also, for giving me this chance to help to welcome Judge Cathy Bissoon, Mark Hornak, and Robert Mariani before the committee.

The President first nominated these really outstanding individuals for the Federal bench in Pennsylvania last year, before I was sworn into the Senate, as Senator Grassley observed. They were renominated in early January and I was pleased to submit the blue slips and to support them. And I also appreciate your timely scheduling of this hearing.

Before I talk briefly about the nominees, I just wanted to note how pleased I am to be here alongside my colleague, Senator Casey. In my brief time, about 6 months thus far here in the Senate for me, he and I have not only been working to advance these three nominees, but also in really a genuinely bipartisan fashion, we have been working to help with the remaining five Federal district court vacancies in Pennsylvania, and I see today's hearing as an important milestone in making real progress in this direction.

Over the last few weeks and after a thorough review process, I have had the opportunity to sit down with and to discuss at some length with each of the Pennsylvania nominees before you today. As you have heard, they each have very different legal backgrounds, but I am confident that each of these distinguished nominees carry the important qualities that Pennsylvania and America really need on the Federal bench—intellect, experience, integrity, a commitment to public service, impartiality in justice.

Since Senator Casey has already talked a fair amount about the backgrounds of these nominees, I will not take too much time, but let me just touch on some of the items that you have heard.

Judge Bissoon is, of course, a very well respected Federal magistrate judge, and I agree she has a very compelling life story. She is widely lauded in the community for her commitment to mentoring young lawyers, in particular, and encouraging greater diversity in the legal progression.

Mr. Hornak is an active and very well respected member of both the Pittsburgh legal community and the community at-large, serving, as he does, on the board of a number of nonprofit organizations, including the Steel Valley School District, the Pittsburgh Foundation, and the Girl Scouts of America.

And, last, Mr. Mariani, a litigator with over 3 decades of experience, is an expert in his field, one of the top lawyers in the Scranton area, and deeply committed to his family and his community.

So all three Pennsylvania nominees before you today have extensive experience in the courtroom. They have excelled at their craft. They are well respected members of their communities, and they have already presided over legal disputes, whether that be as a magistrate judge, as an arbitrator, or as a mediator. They have also pledged to be impartial, fairminded upholders of the law.

Taken together, I believe that these attributes will serve them very well, if they are confirmed for the bench, and I hope that the Committee favorably reports all three nominees to the full Senate, which I hope will then promptly confirm them.

Again, thanks very much for providing me the opportunity to say a few words and to welcome and to recommend Judge Bissoon, Mr. Hornak, and Mr. Mariani to the Committee today.

Senator BLUMENTHAL. Thank you, Senator Toomey and Senator Casey.

I might just explain to the folks who are visiting that Senators often have other obligations, cannot stay for the whole hearing. So we thank you for being here and for making this hearing informed about the unique perspectives that you bring to each of these nominees.

I am going to ask Senator Whitehouse to comment. He is a member of this Committee and he may not be able to stay himself for the full hearing, but I think he wants to make some remarks about one of the nominees.

PRESENTATION OF CHRISTOPHER DRONEY, NOMINEE TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT BY HON. SHELDON WHITEHOUSE, A U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator WHITEHOUSE. I cannot stay, but I appreciate both your courtesy, Mr. Chairman, and the Ranking Member's courtesy, Senator Grassley's courtesy, in allowing me just to say a brief word.

I know that as the chief law enforcement officer for your home State of Connecticut for many, many years and a very distinguished practitioner who I think probably has more Supreme Court arguments than anybody in the Senate does, you are keenly aware of the talents that Chris Droney brings to the table.

I just wanted to share briefly that he and I were United States Attorneys together. In the world of 93 United States Attorneys, there is a certain amount of sort of jockeying and prestige and trying to sort out——

Senator BLUMENTHAL. I would not know that.

Senator WHITEHOUSE [continuing]. Trying to sort out who the really superstar ones are and all of that. And not only did I have a very high regard for Chris Droney during his time as United States Attorney, but I believe that all of his colleagues did. He was seen as one of the finest of the U.S. Attorneys, and that is a pretty competitive crowd.

So I just wanted to stop by briefly to wish him well, to hope that his process is uncontroversial and smooth, and, of course, if there is anything that I can do to assist with any of my colleagues in trying to understand how good a nominee he is, to see to it that they agree that he should be noncontroversial, I am all in for that.

He is a very good lawyer, he has been a great U.S. Attorney, and I look forward to his smooth confirmation.

Thank you, Mr. Chairman. And I thank the Ranking Member, also.

Senator BLUMENTHAL. Thank you, Senator Whitehouse. And let me say that I bring a little bit of the same perspective, having been United States Attorney in Connecticut for 4.5 years before I was Attorney General, and I have worked with Judge Droney both as a United States Attorney, when he served in that position, and then later as a judge when my office—and I personally had cases before him.

So today is a day of particular pride for me as a citizen of Connecticut, as a public official, as well as a member of the bar in Connecticut, a former prosecutor, and now a Senator, to be presiding.

Judge Droney brings to this nomination a really rare, if not unique set of qualifications and experience. Having been a prosecutor, as well as a private practitioner, and a citizen involved in his community, speaking to some of the qualifications that Senator Lieberman mentioned in his very able opening remarks.

I had occasion to work with Judge Droney when he was United States Attorney on some of the most challenging and difficult cases and observed those cases that he had. He was particularly successful in prosecuting street gangs. He presided in an office that pursued more than 150 gang-related convictions, securing very significant sentences and other results. And he succeeded in coordinating state, local and Federal prosecutorial and law enforcement officials to crack down on street crime and organized crime, deterring that kind of activity, as well as prosecuting it.

He served as a member of the United States District Court for the District of Connecticut for 14 years and, in that capacity, presided over more than 3,000 civil cases and nearly 400 criminal cases, and he had very significant experience on the court of appeals to which he has now been nominated, where he served as a visiting judge on more than 50 appeals.

He has written more than 700 opinions, including six while sitting by designation on the second circuit. I might say by way of qualification, or disqualification, he has presided as a judge over a number of arguments and cases that my office had before him as an attorney general, and we won some and we lost some, but we always had extraordinary and deep respect for the scholarship and judgment that Judge Droney brought to those cases.

He has also been involved in his community, very significantly in the Science Museum of Connecticut, St. Francis Hospital and Medical Center, the American Cancer Society's Connecticut chapter, and he has received numerous awards.

These distinctions are all in the record and I am not going to go over them in great detail, but I might just mention for the record that the ABA standing Committee on the Federal Judiciary unanimously rated Judge Droney well qualified, which is its highest ranking.

He is accompanied today by his family, which, as Senator Lieberman mentioned, is one of his major, I think, distinctions. His wife, Elizabeth, and his daughters, Emily, Sarah and Katherine.

And I might just say to the families of all the nominees—I know Judge Droney personally, I do not know the others—but you should all be very, very proud of the family members who are before this committee. They have served with tremendous distinction and great dedication as public servants to this point in their lives and whatever the outcome before the U.S. Senate, you should be very, very proud of what they have done for this Nation.

So having said that, I am going to ask Judge Droney to please take the witness stand, and we will give you the opportunity to make an opening statement; first, to be sworn and then to make an opening statement.

[Nominee sworn.]

Senator BLUMENTHAL. Thank you. Please be seated. And if you would like to make an opening statement, please feel free.

STATEMENT OF HON. CHRISTOPHER DRONEY, NOMINEE TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT

Judge DRONEY. Thank you, Mr. Chairman. I do not have an opening statement to make. I would like to thank the Committee for having the hearing.

Senator BLUMENTHAL. Please turn on your microphone. Thank you.

Judge DRONEY. Thank you, Mr. Chairman. I would like to thank, first, the Committee for having the hearing. I would like to thank you, Senator Whitehouse and Senator Lieberman for their very kind words today and their comments earlier.

I do not know if it is necessary to introduce my family again, but I will. My wife, Liz, is here and my daughters, Sarah, who is studying for the Connecticut bar is here. Emily is a registered nurse in Hartford, she is also here. And then Katherine, my youngest, just finished her freshman year in college.

So I know that they are very proud and happy to be here, as well.

And I am happy to answer any questions you might have.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Christopher Droney
   Christopher Fitzgerald Droney

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

   United States Circuit Judge for the Second Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Office: United States District Court
   District of Connecticut
   Abraham A. Ribicoff Federal Building
   450 Main Street
   Hartford, Connecticut 06103

   Residence: West Hartford, Connecticut

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

   1954; Hartford, Connecticut

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1976 – 1979; University of Connecticut School of Law; J.D., 1979

   1972 – 1976; College of the Holy Cross; A.B. (*magna cum laude*), 1976

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1997 – present
United States District Court
District of Connecticut
450 Main Street
Hartford, Connecticut 06103
United States District Judge

1993 – 1997
United States Attorney's Office
District of Connecticut
157 Church Street, 23rd Floor
New Haven, Connecticut 06510
United States Attorney

1984 – 1993
Reid & Riege, P.C.
One Financial Plaza
Hartford, Connecticut 06103
Vice President and Stockholder (1987 – 1993)
Associate Attorney (1984 – 1987)

1983 – 1989
Town of West Hartford
50 South Main Street
West Hartford, Connecticut 06107
Town Council Member (1983 – 1989)
Mayor (1985 – 1989)
Deputy Mayor (1983 – 1985)

1981 – 1984
Buckley & Santos, P.C. (now Santos & Seeley, P.C.)
51 Russ Street
Hartford, Connecticut 06106
Associate Attorney

1981
Aetna Life & Casualty (now Aetna, Inc.)
151 Farmington Avenue
Hartford, Connecticut 06156
Attorney

1979 – 1981
Day, Berry & Howard (now Day Pitney LLP)
242 Trumbull Street
Hartford, Connecticut 06103
Associate Attorney

Summer 1978
Day, Berry & Howard (now Day Pitney LLP)
242 Trumbull Street
Hartford, Connecticut 06103
Summer Associate

Summer 1977
Hartford County State's Attorney (prosecutor's office)
80 Washington Street
Hartford, Connecticut 06106
Intern - Law Student

Summer 1976
Heublein, Inc. (bottling plant)
New Park Avenue
Hartford, Connecticut 06106
Laborer

Other Affiliations (uncompensated):

1990 – 1995 (approximate)
Greater Hartford Arts Council
100 Pearl Street, 1st Floor
Hartford, Connecticut 06103
Board of Directors

1990 – 1993
St. Francis Hospital and Medical Center
114 Woodland Street
Hartford, Connecticut 06105
Secretary and Member of Board of Directors

1986 – 1992
Hartford County Bar Association
100 Pearl Street, 4th Floor
Hartford, Connecticut 06103
Board of Directors

1991
Science Museum of Connecticut
950 Trout Brook Drive
West Hartford, Connecticut 06119
Board of Directors

1985 – 1988
West Hartford/University of Hartford Scholarship Fund
210 Bloomfield Avenue
West Hartford, Connecticut 06117
Board of Directors

1985 – 1988
Great Hartford Homes, Inc.
210 Bloomfield Avenue
West Hartford, Connecticut 06117
Board of Directors

1985 – 1988 (approximate)
American Cancer Society (Connecticut Chapter)
538 Preston Street
Meriden, Connecticut 06540
Board of Directors

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I registered for selective service while in high school.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   College
   Graduated *magna cum laude*
   Jesuit honor society (Alpha Signa Nu)
   History honor society (Phi Alpha Theta)

   Law School
   Member and Notes and Comments Editor of Connecticut Law Review (1977 – 1979)

   Community Awards
   Citizen of the Year, Nutmeg District, Boy Scouts of America (1994)
   Distinguished Law Enforcement Award, Hartford Police Union (1994)
   Honors Award, Mushaba Force Youth Foundation (1995)
   Special Recognition Award, Spanish American Merchants Association (1997)
   Distinguished Graduate Award, University of Connecticut School of Law (2007)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association
Connecticut Bar Association
Member of Executive Committee of Federal Practice Section (1983 – present, ex officio)
Chairperson of Law Day (1995)
Federal Bar Council
Hartford County Bar Association
Member of Board of Directors (1986 – 1992)
Member of Continuing Legal Education Committee (1981 – 1986)
Chair of Bench/Bar Committee (1985 – 1987)
Judicial Council of the Second Circuit Committee on Bankruptcy (2010 – present)
United States Department of Justice
Member of Attorney General's Advisory Committee of U.S. Attorneys (1994 – 1996)
Chair, Civil Issues Committee, Advisory Committee of U.S. Attorneys (1994 – 1997)
United States District Court for the District of Connecticut
Chair, Security Committee (2001 – present)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Connecticut, 1979.

There has been no lapse in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1990
United States Court of Appeals for the Second Circuit, 1982
United States District Court for the District of Connecticut, 1980
Connecticut (all courts), 1979

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Greater Hartford Arts Council
Member of Board of Directors (approx. 1990 – 1995)
Greater Hartford Homes, Inc. (affordable housing coalition with the University of Hartford)
Member of Board of Directors (1985 – 1988)
Hartford Golf Club (1989 – 1996)
New York Sports Club (2008 – present)
Science Museum of Connecticut
Member of Board of Directors (1991)
St. Francis Hospital and Medical Center
Secretary and Member of Board of Directors (1990 – 1993)
Town of West Hartford
Member, Charter Revision Commission (1982 – 1983)
Vice Chair, Finance Advisory Board (1981 – 1982)
Wampanoag Country Club (2006 – present)
West Hartford/University of Hartford Scholarship Fund
Member of Board of Directors (1985 – 1988)
West Hartford Girls Lacrosse League
Coach (1998 – 2000)
West Hartford YMCA/YWCA (approx. 1990 – 2005)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

From 1989 to 1996, I was a member of the Hartford Golf Club in West Hartford. Although its bylaws prohibited discrimination, the club had no African American members at the time I joined. I was a founding member of the membership diversity committee, and we were successful in assisting African American members in joining the club. To my knowledge, none of the other organizations listed in response to Question 11a currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Don't Stop War on Gangs Just Because It's Quiet Now, Hartford Courant, Jan. 19, 1997. Copy supplied.

The Continuing Importance of Prosecuting Financial Fraud, Connecticut Law Tribune, Dec. 1, 1995 (co-authored with then-Assistant U.S. Attorney Barbara J. Jongbloed). Copy supplied.

'Straw' Buyers Evade Gun Laws to Fuel State's Gang Violence, New Haven Register, July 16, 1995. Copy supplied.

Letter to the Editor: FBI's Wiretap Capability Essential to Effective Crime-Fighting, New Haven Register, approx. mid-1990s. Copy supplied.

Safeguards on Wiretaps Aren't Imperiled, Hartford Courant, Apr. 16, 1994. Copy supplied.

Letter to the Editor: In Defense of the Prosecution, Connecticut Law Tribune, Dec. 6, 1993. Copy supplied.

Mayor Offers Explanation of Bond Referendum, West Hartford News, Oct. 20, 1988. Copy supplied.

Letter to the Editor: Mayor Disagrees with WHTA, West Hartford News, Oct. 13, 1988. Copy supplied.

Respect for West Hartford Police, Fire Departments, Hartford Courant, Dec. 29, 1983. Copy supplied.

I authored a student case note while on the law review in law school entitled *The Briefcase Caper, Standing and Due Process Exclusion*, 10 Conn. L. Rev. 210 (1977). Copy supplied.

I edited numerous student case notes while I was Notes and Comments Editor of Connecticut Law Review (1978 to 1979).

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If

you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In 2009, I served on an ad hoc committee of the Connecticut Bar Association's Federal Practice Session, which made recommendations about cell phone and electronic device use by non-attorneys in federal courtrooms. A written report was not issued, but the recommendations were delivered in remarks by Jonathan Tropp on September 29, 2009 during a meeting of the Executive Committee of the Federal Practice. Meeting minutes supplied.

In 2006 and 2007, I chaired an ad hoc committee to consider revising the District of Connecticut's local rule on the secrecy of jury deliberations. Following our committee's work, the Judges of the District Court adopted a revised local rule (Rule 83.5) in January, 2007. The revised rule sets forth the guidelines for contact with trial and grand jurors by the public, attorneys, and members of the press. A copy of the local rule is attached.

In 1994, I served on the Advisory Committee on Local Civil Rules, which issued a report on how to comply with the 1993 Federal Rules of Civil Procedure. I have been unable to obtain a copy of the report, but press coverage is supplied.

From 1982 to 1983, I served on the West Hartford Charter Revision Committee, which issued a report on potential changes. I have been unable to obtain a copy of the report, but press coverage is supplied.

Between 1983 and 1989, while Deputy Mayor and Mayor of West Hartford, I contributed to a number of policy decisions and recommendations. Press coverage regarding some of these decisions and recommendations is supplied in response to Question 12e.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

On June 25, 1997, I testified before the United States Senate Committee on the Judiciary, in connection with my nomination to be a United States District Judge for the District of Connecticut. Transcript supplied.

On January 13, 1995, I testified in my capacity as U.S. Attorney before the Connecticut General Assembly Joint Committee on the Judiciary regarding violent incidents at abortion clinics. Transcript supplied.

In 1994, I wrote a letter, as U.S. Attorney, to Connecticut's three U.S. bankruptcy judges and U.S. Trustee's Office about a new system to detect and investigate

bankruptcy fraud. I have been unable to obtain a copy of the letter but press coverage is supplied.

On March 11, 1987, I testified before the Connecticut General Assembly's Planning & Development Committee about annexing part of Croyden Drive. I have been unable to obtain a copy of my testimony, but press coverage is supplied.

In July 1986, I wrote a letter to Hartford Mayor Thirman L. Milner about purchasing property on Farmington Avenue for West Hartford. I have been unable to obtain a copy of the letter but press coverage is supplied.

As a member of the West Hartford Town Council and as Mayor of West Hartford (1983 – 1989), I made statements concerning local issues at Town Council meetings. The minutes and transcripts of those meetings are voluminous, and they are maintained at the Town Clerk's office in hard copy format only.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The list below represents my best efforts, through searches of my records and Internet databases, to identify speeches and talks that I have delivered. There may, however, be additional speeches or talks that I have been unable to identify or recall.

February 23, 2011 and March 31, 2009: I participated in classes at Yale Law School as part of its prosecutors' externship program. Notes for each class are supplied.

December 9, 2010: I was a panelist for a Hartford County Bar Association seminar on experts in the federal courts. Notes supplied.

November 17, 2010: I was a panelist on a construction law program for the Connecticut Bar Association. I spoke on issues in such cases in the federal courts. Notes supplied.

November 15, 2010: I was a guest lecturer at a University of Connecticut Law School Criminal Procedure course on federal trial practice. Notes supplied.

November 7, 2010; December 7, 2009; December 4, 2006; and October 18, 2004: I was a guest lecturer at a trial practice class at the University of Connecticut School of Law. Notes for the 2010 and 2009 lectures are supplied. Although I do not have my notes for the 2006 and 2004 lectures, they were similar in content to those supplied for 2010 and 2009.

October 8, 2010: I led a panel discussion at the Connecticut Bar Association Federal Practice Section biennial bench-bar conference on the relationship between U.S. Attorneys' Offices and the Department of Justice. Notes supplied.

August 27, 2010, and August 27, 2001: I addressed the entering class of first-year law students at the University of Connecticut School of Law. Remarks for both speeches are supplied.

September 24, 2009: I addressed a group of students at the University of Connecticut School of Law as a participant in their "Litigation Week" panel. Notes supplied.

June 8, 2009: At the Connecticut Bar Association annual meeting, I was a panelist on the use of expert witnesses in the federal court. Notes supplied.

December 17, 2008: I addressed the Young Lawyers' Section of the Connecticut Bar Association on "Federal Practice and Procedure." Notes supplied.

October 3, 2007: I received the Distinguished Graduate Award of the University of Connecticut School of Law Alumni Association at its annual meeting. Remarks supplied.

June 29, 2007: I addressed the new class of Connecticut State Police concerning the qualities of law enforcement witnesses. Notes supplied.

October 26, 2006: I served as a judge for the Alva P. Loiselle Moot Court Competition's final round at the University of Connecticut School of Law. I have no notes, transcript or recording. The address of the university is 65 Elizabeth Street, Hartford, Connecticut 06105.

September 18, 2006: I addressed the Young Lawyers Section of the Federal Practice Section of the Connecticut Bar Association concerning "Tips from the Bench." Notes supplied.

October 14, 2005, May 5, 2001 and May 21, 1999: I gave presentations to the Federal Practice Committee of the Hartford County Bar Association on effective federal court techniques. Notes for the 2005 and 2001 sessions are supplied. I have no notes for the 1999 session, but the content was similar to that in the 2001 and 2005 sessions.

October 15, 2004: I was a panel member discussing "The 60 to 90 Days Before the Trial" at the Litigating Employment Cases: Views from the Bench program. The program was sponsored by Georgetown and Fordham University's Schools of Law. I have no notes, transcript or recording. The address of Georgetown is 600 New Jersey Avenue NE, Washington, DC 20001.

October 5, 2004: I addressed the annual meeting of the University of Connecticut School of Law Alumni Association. I introduced John Durham, the recipient of its Distinguished Service Award. Remarks supplied.

February 17 – 26, 2001: I moderated a panel on DNA evidence at the annual retreat for the Federal Bar Council. I have no notes, transcript or recording. The address of the FBC is 123 Main Street, Suite L100, White Plains, New York 10601.

October 19 – 22, 2000: I was a panelist at a CLE on employment law sponsored by Georgetown University Law Center. I have no notes, transcript or recording. The address of Georgetown is 600 New Jersey Avenue NE, Washington, DC 20001.

November 21, 1999 and November 17, 1999: On November 21, I addressed a seniors' community organization in West Hartford known as the "Old Guard" concerning my work as the United States Attorney for Connecticut, especially our efforts in controlling gang violence. On November 17, I gave a similar presentation to the Exchange Club of West Hartford. Notes supplied.

Since becoming a District Judge in 1997, I have presided over approximately ten to twelve naturalization ceremonies each year. A copy of the speech I deliver at those ceremonies is supplied.

June 3, 1997: I co-presented Weed and Seed Program volunteers with awards for their work. My co-presenter was Hartford Police Chief Joseph Croughwell. I have no notes, transcript or recording. The Weed and Seed Program is overseen by the U.S. Department of Justice, which is located at 950 Pennsylvania Avenue NW, Washington, DC 20530.

May 21, 1997: I spoke at a ceremony to honor fallen law enforcement officers. Remarks supplied.

May 19, 1997: I spoke about anti-gang efforts during the Connecticut Exchange Club's awards ceremony. Notes supplied.

April 16, 1997: I spoke before a group of Hartford lawyers and judges about the U.S. Attorney's Office and its anti-gang efforts. Notes supplied.

February 27, 1997: I spoke before the Connecticut Bar Association about the Weed and Seed program. Remarks supplied.

December 18, 1996: I gave remarks to the Hartford Police during a training session on the use of cameras at crime scenes. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Hartford Police is 550 Main Street, Hartford, Connecticut 06103.

December 5, 1996: I addressed a group of fifth-grade students at J. Milton Elementary School about gangs and drugs. I have no notes, transcript, or recording, but press coverage is supplied. The address of the school is 331 Copse Road, Madison, Connecticut 06443.

December 2, 1996: I gave remarks at the Chief State's Attorney's Crime Summit on cooperation between law enforcement agencies. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Chief State's Attorney is 300 Corporate Place, Rocky Hill, Connecticut 06067.

November 15, 1996: I gave remarks at a conference held by the Connecticut Police and Urban Youth Task Force about barriers between police and students. I have no notes, transcript, or recording, but press coverage is supplied. The task force is overseen by the U.S. Attorney's Office for the District of Connecticut, which is located at 450 Main Street, #328, Hartford, Connecticut 06103.

October 1996: I spoke at a forum entitled, "Security and Freedom in the Age of Information," which was sponsored by the ACLU of Fairfield County. I have no notes, transcript or recording, but press coverage is supplied. The ACLU meets at the Ferguson Library, 96 Broad Street, Stamford, Connecticut 06904.

August 27, 1996: I spoke to a group of Fairfield law enforcement officials about promoting security awareness in the community. I have no notes, transcript or recording, but press coverage is supplied.

July 8, 1996: I spoke at a White House event about a national campaign on gun-tracing. I have no notes, transcript or recording, but press coverage is supplied.

May 13, 1996: I gave remarks at the White House about Connecticut's efforts to reduce gang violence during an event attended by President Clinton and Attorney General Reno. Transcript supplied.

December 22, 1995: I gave award acceptance remarks at the Hartford Police Union awards banquet. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Hartford Police is 550 Main Street, Hartford, Connecticut 06103.

March 3, 1995: I gave remarks at a graduation ceremony for new Hartford police officers. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Hartford Police is 550 Main Street, Hartford, Connecticut 06103.

February 27, 1995: I was a guest speaker at the Valley United Way Annual Government Breakfast. I spoke about law enforcement efforts to reduce violent crime. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Valley United Way is 3 Corporate Drive, Suite 501, Shelton, Connecticut 06401.

February 15, 1995: I addressed resident safety concerns at a community meeting organized by Hartford Areas Rally Together. I have no notes, transcript, or recording, but press coverage is supplied. The address of HART is 385 Washington Street, Hartford, Connecticut 06106.

January 25, 1995: I spoke to the Hartford County Bar Association about changes in federal and state criminal laws. Notes supplied.

January 11, 1995: I participated in a community meeting on police corruption and welfare fraud that was organized by Hartford Areas Rally Together. I have no notes, transcript, or recording, but press coverage is supplied. The address of HART is 385 Washington Street, Hartford, Connecticut 06106.

January 4, 1995: I addressed a rally concerning the shootings at Massachusetts abortion clinics. I have no notes, transcript, or recording, but press coverage is supplied.

1995 and 1996: I chaired monthly community meetings at Stowe Village housing project about crime and crime prevention efforts. Remarks from a May 11, 1995 appearance and press coverage about these meetings are supplied.

December 12, 1994: I gave a speech to state leaders about my priorities as U.S. Attorney and other crime issues. Remarks supplied.

September 12, 1994: I gave remarks to the Association of Corporate Counsel about changes in the U.S. Attorney's Office and the U.S. Department of Justice that affected corporations and in-house counsel. Notes supplied.

April 6, 1994: I sat on a panel during a Frog Hollow neighborhood meeting organized by Hartford Areas Rally Together. I have no notes, transcript, or recording, but press coverage is supplied. The address of HART is 385 Washington Street, Hartford, Connecticut 06106.

December 1, 1993: I presented five New Haven police agencies with funds and equipment from the Federal Asset Forfeiture Program. I have no notes, transcript,

or recording, but press coverage is supplied. The address of the New Haven Police is 1 Union Avenue, New Haven, Connecticut 06519.

November 4, 1987: I gave an election night victory speech after my re-election to the Town Council. I have no notes, transcript, or recording, but press coverage is supplied.

December 16, 1985: I participated in a live call-in program for WHC-TV on "Issues for '86." I have no notes, transcript, or recording, but press coverage is supplied. The address of WHC-TV is 50 South Main Street, West Hartford, Connecticut 06107.

December 1985: I spoke to a class of second-grade students at Braeburn Elementary about being the Mayor of West Hartford. I have no notes, transcript, or recording, but press coverage is supplied. The address of the school is 45 Braeburn Road, West Hartford, Connecticut 06107.

November 19, 1985: I was sworn-in as Mayor of West Hartford. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Town Council is 50 South Main Street, West Hartford, Connecticut 06107.

July 23, 1985: I spoke during the West Hartford Democrats' nominating convention. I have no notes, transcript, or recording, but press coverage is supplied.

September 24, 1984: I spoke at a rally in support of building a new municipal center. I have no notes, transcript, or recording, but press coverage is supplied. The event was held at the Town Hall, which is located at 50 South Main Street, West Hartford, Connecticut 06107.

October 1983: I participated in a "Meet the Candidates" event at Conard High School. I have no notes, transcript, or recording, but press coverage is supplied. The event was sponsored by the West Hartford League of Women Voters and the Neighborhood Advisory Council. The address of the League is P.O. Box 270191, West Hartford, Connecticut 06127.

On two occasions I presided over mock trials as part of training sessions for new federal prosecutors at The National Advocacy Center. One occasion was January 29 to February 1, 2001, but I have been unable to identify the date of the second event. I have no notes, transcripts, or recordings from these sessions. The address of the National Advocacy Center is 1620 Pendleton Street, Columbia, South Carolina 29201.

I presided over mock trials during the annual competition of the Thomas Swan Barristers' Union of the Yale Law School. I have no notes, transcripts, or

recordings from these sessions. The address of Yale Law School is 127 Wall Street, New Haven, Connecticut 06511.

From 1986 to 1993, I lectured on evidence, trials and appellate practices for the National Business Institute and the Connecticut Society of Certified Public Accountants. I have been unable to recall specific instances, and I have no notes, transcripts or recordings.

From 1983 to 1989, I served on the Town Council of West Hartford, as Deputy Mayor from 1983 to 1985 and as Mayor from 1985 to 1989. In these capacities, I gave numerous speeches, but I have been unable to recall or identify specific events, and I have no notes, transcripts, or recordings.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

As a United States District Judge I have generally not given interviews. The list below represents my best efforts, though searches of my records and Internet databases, to identify interviews I have given. There may, however, be articles that I have been unable to identify or recall.

Douglas S. Malan, *False Alarm Begs Real Safety Questions*, Connecticut Law Tribune, Oct. 25, 2010. Copy supplied.

Christian Nolan, *Federal Judges Face Increase in Threats*, Connecticut Law Tribune, Jan. 11, 2010. Copy supplied.

Bob Sudyk, *Jamrog's Cutting Out*, Hartford Courant, May 25, 2008. Copy supplied.

Focus on Judge Christopher F. Droney, Federal Bar Council News, Apr. 2005. Copy supplied.

Rachel Gottlieb, *Taking the Controls*, Hartford Courant, Dec. 1, 2003. Copy supplied.

Kellie A. Wagner, *New U.S. Attorney Not Rushing to Judgment*, Connecticut Law Tribune, Nov. 25, 2002. Copy supplied.

Dave Altimari, *Man Will Plead Guilty to Using Net to Entice Girl*, New Haven Register, Jan. 27, 1998. Copy supplied.

Mark Pazniokas, *Ex-Prosecutor Sworn In*, Hartford Courant, Nov. 4, 1997. Copy supplied.

Noelle Crombe, *Asbestos Remover at Groton Complex Sentenced to Prison for Illegal Dumping*, The Day, Sept. 12, 1997. Copy available at http://news.google.com/newspapers?id=xJRGAAAAIBAJ&sjid=SfgMAAAAIBAJ&pg=4462.2127369&dq=chris+droney&hl=en.

The Blotter, New Haven Register, Sept. 11, 1997. Copy supplied.

Staff, *Lawyer Pleads Guilty to Income Tax Fraud*, Hartford Courant, Sept. 11, 1997. Copy supplied.

Dave Altimari, *Man Pleads to Wire Fraud in Gambling*, New Haven Register, Sept. 10, 1997. Copy supplied.

Paul Frisman, *Reeling in Suspension*, Connecticut Law Tribune, Sept. 8, 1997. Copy supplied.

In Brief, New Haven Register, Sept. 6, 1997. Copy supplied.

The Blotter, New Haven Register, Sept. 4, 1997. Copy supplied.

Staff, *Man Pleads Guilty to Bank Robberies*, Hartford Courant, Aug. 29, 1997. Copy supplied.

Maxine Bernstein, *12 Arrests Cripple Drug Operation, Officials Say*, Hartford Courant, Aug. 28, 1997. Copy supplied.

Staff, *Man, 35, Indicted on Income Tax Charges*, Hartford Courant, Aug. 20, 1997. Copy supplied.

In Brief, New Haven Register, Aug. 16, 1997. Copy supplied.

Staff, *Fine to Help State Buy Canaan Wetland*, Hartford Courant, Aug. 13, 1997. Copy supplied.

Matthew W. Hebberd, *3 Area Sites Will Share Funds from Iroquois Penalties*, New Haven Register, Aug. 13, 1997. Copy supplied.

David M. Herszenhorn, *Environmental Projects to Share in Fines Paid by Pipeline Company*, New York Times, Aug. 13, 1997. Copy supplied.

Man Sentenced for Firebombing, Boston Globe, Aug. 3, 1997. Copy supplied.

Matthew McAllester, *News Bytes/Internet Sex Trap*, Newsday, July 27, 1997. Copy supplied.

Ann DeMatteo, *Company, President Indicted in Oil Spill*, New Haven Register, July 25, 1997. Copy supplied.

Mark Pazniokas, *Trial in State to Test Law on Net, Sex and Minors*, Hartford Courant, July 24, 1997. Copy supplied.

Dave Altimari, *State Girl, 13, Enticed by 'Vallleyguy' on Web*, New Haven Register, July 24, 1997. Copy supplied.

Man Admits Stealing $400,000 from Employer, Hartford Courant, July 23, 1997. Copy supplied.

Alaine Griffin, *Raid Nets 29 Suspect [sic] in City Drug Crackdown*, New Haven Register, July 22, 1997. Copy supplied.

City Man Indicted in Killing at Park, Hartford Courant, July 18, 1997. Copy supplied.

The Blotter, New Haven Register, July 15, 1997. Copy supplied.

Dave Altimari, *27 Latin Kings Indicted Again*, New Haven Register, July 11, 1997. Copy supplied.

Chiropractor Gets Prison in Billing Case, Hartford Courant, July 10, 1997. Copy supplied.

Press release, *United States and Connecticut Move to Shield Stratford Homeowners from Lawsuits Brought by Raymark*, U.S. Department of Justice, July 8, 1997.

Nine Arrested on Federal Drug Charges, Hartford Courant, July 4, 1997. Copy supplied.

The Blotter, New Haven Register, July 4, 1997. Copy supplied.

In Brief, New Haven Register, June 29, 1997. Copy supplied.

Ex-Guard Pleads Guilty to Sex Crime, Hartford Courant, June 28, 1997. Copy supplied.

Mark Pazniokas, *Cartel Used Firm's Products, Official Says*, Hartford Courant, June 25, 1997. Copy supplied.

Man Admits Fraud with Food Stamps, Hartford Courant, June 25, 1997. Copy supplied.

Steven Fromm, *Death, the Federal Way*, Connecticut Law Tribune, June 16, 1997. Copy supplied.

The Blotter, New Haven Register, June 14, 1997. Copy supplied.

Staff, *Man Gets One Year for Embezzling Funds*, Hartford Courant, June 13, 1997. Copy supplied.

Mark Pazniokas, *Santopietro Loses Freedom, Gets 3 Years*, Hartford Courant, May 31, 1997. Copy supplied.

Staff, *Two Plead Guilty to Drug Charges*, Hartford Courant, May 30, 1997. Copy supplied.

The Blotter, New Haven Register, May 29, 1997. Copy supplied.

Joseph Rocha, *Crime in Hartford Falls to 10-Year Low*, Hartford Courant, May 27, 1997. Copy supplied.

Stan DeCoster, *Medicare Overbilling Settled*, The Day, May 22, 1997. Copy available at http://news.google.com/newspapers?id=4JNGAAAAIBAJ&sjid=DfgMAAAAIBAJ&pg=4755,4609051&dq=chris+droney&hl=en.

Staff, *Gang Member Pleads Guilty*, Hartford Courant, May 14, 1997. Copy supplied.

Staff, *Federal Grand Jury Indicts Psychiatrist*, Hartford Courant, May 14, 1997. Copy supplied.

Christian Miller, *Psychiatrist Charged with Insurance Scam*, New Haven Register, May 14, 1997. Copy supplied.

Staff, *Two Admit Trying to Rob Bank in West Hartford*, Hartford Courant, May 10, 1997. Copy supplied.

In Brief, New Haven Register, May 10, 1997. Copy supplied.

Cheshire Man Pleads Guilty to Fraud Scheme, Hartford Courant, May 9, 1997. Copy supplied.

Federal Grand Jury Indicts 6 in Campaign Against Gang, Hartford Courant, May 8, 1997. Copy supplied.

Bill Leukhardt, *New Britain Firm, Its Owner Fined Over Illegal Waste Disposal*, Hartford Courant, May 3, 1997. Copy supplied.

Press release, *Connecticut Metal Finisher Fined in Federal Court on Environmental Charges*, Environmental Protection Agency, May 2, 1997. Copy supplied.

Dave Altimari, *6 Plead Guilty to Federal Financial Fraud Charges*, New Haven Register, May 1, 1997. Copy supplied.

Karen Ali, *Indictment Says Leonard Was Cheating the IRS*, Danbury News-Times, Apr. 25, 1997. Copy supplied.

Dave Altimari, *Police Bust City-Based Heroin Ring*, New Haven Register, Apr. 24, 1997. Copy supplied.

Al Lara, *Federal Grand Jury in New Haven Indicts Bristol Abduction Suspect*, Hartford Courant, Apr. 24, 1997. Copy supplied.

Press release, *Justice Department Sues Connecticut Town for Discriminating Against African Americans and Hispanics*, U.S. Department of Justice, Apr. 24, 1997. Copy supplied.

Al Lara, *Kidnapping Suspect Won't Fight Extradition*, Hartford Courant, Apr. 23, 1997. Copy supplied.

Two Plead Guilty in Extortion Case, Hartford Courant, Apr. 9, 1997. Copy supplied.

Genovese Associate Pleads to Charges, Hartford Courant, Apr. 9, 1997. Copy supplied.

Owner of Employment Agencies Sent to Prison, New Haven Register, Apr. 8, 1997. Copy supplied.

Susan D. Etkind, *Not Alone in the Zone*, Connecticut Law Tribune, Apr. 7, 1997. Copy supplied.

Waterbury Man Pleads Guilty to Extortion, Hartford Courant, Apr. 5, 1997. Copy supplied.

Mark Pazniokas, *Court Rules Against Abortion Opponent*, Hartford Courant, Apr. 3, 1997. Copy supplied.

Dave Altimari, *Judge Restrains Abortion Protester*, New Haven Register, Apr. 3, 1997. Copy supplied.

Reputed Gang Member Being Held Without Bail, Hartford Courant, Apr. 2, 1997. Copy supplied.

The Blotter, New Haven Register, Apr. 1, 1997. Copy supplied.

Dave Altimari, *Feds Say Murder Attempt was Gang Hit*, New Haven Register, Mar. 27, 1997. Copy supplied.

FBI Agents Arrest Alleged Gang Member, Hartford Courant, Mar. 27, 1997. Copy supplied.

Four Plead Guilty in Mob-Related Case, Hartford Courant, Mar. 27, 1997. Copy supplied.

Dave Altimari, *Cop, FBI Agent Accused of Impropriety in Drug Case*, New Haven Register, Mar. 26, 1997. Copy supplied.

Dave Altimari, *Feds Indict 32 'Kings' in Drug Case*, New Haven Register, Mar. 21, 1997. Copy supplied.

Mark Pazniokas, *Gang's Hierarchy Targeted*, Hartford Courant, Mar. 14, 1997. Copy supplied.

John Pirro, *Local Raids Aim at Latin Kings*, Danbury News-Times, Mar. 14, 1997. Copy supplied.

Man Pleads Guilty to Robbery Attempt, Hartford Courant, Mar. 14, 1997. Copy supplied.

20 Arrested, Others Sought in Gang Sweep, Record-Journal, Mar. 14, 1997. Copy available at http://news.google.com/newspapers?id=UmBIAAAAIBAJ&sjid=bAINAAAAIBAJ&pg=2690,2320445&dq=chris+droney&hl=en.

Man Sentenced in Counterfeiting Case, Hartford Courant, Mar. 13, 1997. Copy supplied.

Susan D. Etkind, *In the Zone? Government Lawyers Want U.S. District Judge Alan H. Neves to Rule that People Walking Into a Bridgeport Women's Clinic are Protected by Buffer Zones*, Connecticut Law Tribune, Mar. 10, 1997. Copy supplied.

Staff, *Manager Pleads Guilty to Money Laundering*, Hartford Courant, Mar. 8, 1997. Copy supplied.

Daniel P. Jones, *Waterbury Company Being Investigated Over '94 Chemical Spill*, Hartford Courant, Mar. 4, 1997. Copy supplied.

The Blotter, New Haven Register, Feb. 26, 1997. Copy supplied.

Pornography Charge Gets Man Jail Term, Hartford Courant, Feb. 25, 1997. Copy supplied.

Dave Altimari, *Car Seller in Milford Sentenced to 2 ¼ Years*, New Haven Register, Feb. 25, 1997. Copy supplied.

Mark Pazniokas, *U.S. Sues Rite Aid Over Painkiller Records*, Hartford Courant, Feb. 25, 1997. Copy supplied.

Dave Altimari, *Rite-Aid Faces Fine for Faulty Records*, New Haven Register, Feb. 25, 1997. Copy supplied.

Andi Rierden, *The Law, Order and Life on the Streets*, New York Times, Feb. 23, 1997. Copy supplied.

Indictments Seek Eight on Gun Charges, Hartford Courant, Feb. 22, 1997. Copy supplied.

Michael Remez, *Abortion-Protest Limits Eased*, Hartford Courant, Feb. 20, 1997. Copy supplied.

Dave Altimari, *Felon from North Haven Faces Tough Penalty on Gun Charge*, New Haven Register, Feb. 20, 1997. Copy supplied.

Mark Pazniokas, *Deaf Troupe's Ex-Director Admits Misusing Money*, Hartford Courant, Feb. 19, 1997. Copy supplied.

February 15, 1997: Press conference on arrests of 16 Love gang members. Press coverage is listed below:

> Mark Pazniokas, *Gang Task Force Hits 20 Love in Manchester*, Hartford Courant, Feb. 15, 1997. Copy supplied.

Woman Given Probation in Conspiracy Case, Hartford Courant, Feb. 1, 1997. Copy supplied.

Staff, *Telemarketer Indicted on New Fraud Charges*, Hartford Courant, Jan. 30, 1997. Copy supplied.

Mark Pazniokas, *Ex-Solido Admits Coverup*, Hartford Courant, Jan. 22, 1997. Copy supplied.

Edmund Mahony, *Three Arrested in Boy's Kidnapping*, Hartford Courant, Jan. 18, 1997. Copy supplied.

Pharmacist Pleads Guilty in U.S. Court, Hartford Courant, Jan. 16, 1997. Copy supplied.

The Blotter, New Haven Register, Jan. 11, 1997. Copy supplied.

Press release, *U.S. Sues Raymark Industries for Estimated $192 Million Cleanup of Connecticut Superfund Site*, Environmental Protection Agency, Jan. 7, 1997. Copy supplied.

Brad Smith, *Jailings Won't Relax Mob's Grip*, Sunday Republican, Jan. 5, 1997. Copy supplied.

Dave Altimari, *3 Guilty in Colombian Drug Case*, New Haven Register, Jan. 1, 1997. Copy supplied.

Alex Wood, *Former Executive Draw Prison Terms for $2 Million Fraud*, Manchester Journal Inquirer, Dec. 10, 1996. Copy supplied.

Mark Pazniokas, *Los Solidos Gang Member Sentenced to Life in Prison for Racketeering*, Hartford Courant, Dec. 6, 1996. Copy supplied.

Eric M. Weiss, *Kidnapped Boy Recovers at Home*, Hartford Courant, Dec. 5, 1996. Copy supplied.

Mark Pazniokas, *Former Mayor's Appeal Rejected*, Hartford Courant, Dec. 4, 1996. Copy supplied.

Dave Altimari, *'YACS' Member Gets 21 Months in Theft*, New Haven Register, Dec. 4, 1996. Copy supplied.

Hartford Police News, Hartford Courant, Dec. 4, 1996. Copy supplied.

The Blotter, New Haven Register, Dec. 3, 1996. Copy supplied.

Mark Pazniokas, *Four Men Involved with Genovese Crime Family Sentenced for Racketeering*, Hartford Courant, Dec. 3, 1996. Copy supplied.

Susan E. Kinsman, *Groups Urge Shutdown of State's 4 Nuclear Plants*, Hartford Courant, Nov. 26, 1996. Copy supplied.

Mark Pazniokas, *Gang Member Gets Life for Murdering Girl*, Hartford Courant, Nov. 19, 1996. Copy supplied.

The Blotter, New Haven Register, Nov. 19, 1996. Copy supplied.

The Blotter, New Haven Register, Nov. 16, 1996. Copy supplied.

Diablos Members Enter Guilty Pleas, Hartford Courant, Nov. 13, 1996. Copy supplied.

Man Convicted of Financial Fraud, Hartford Courant, Nov. 9, 1996. Copy supplied.

Daniel P. Jones, *Clean-Water Violator Given Home Confinement*, Hartford Courant, Nov. 9, 1996. Copy supplied.

Pamela McLoughlin, *Pair Who Ran Jobs Agency Convicted of Fraud*, New Haven Register, Nov. 7, 1996. Copy supplied.

State News, New Haven Register, Oct. 30, 1996. Copy supplied.

Mark Pazniokas, *Man Sentenced in Drug Conspiracy*, Hartford Courant, Oct. 29, 1996. Copy supplied.

Man Convicted of Fraud Charges, Hartford Courant, Oct. 23, 1996. Copy supplied.

Bill Leukhardt, *Violation of Clean Water Act Charged*, Hartford Courant, Oct. 22, 1996. Copy supplied.

Mark Pazniokas, *Hartford Man Convicted for Role in Drug Trafficking Ring*, Hartford Courant, Oct. 19, 1996. Copy supplied.

The Blotter, New Haven Register, Oct. 12, 1996. Copy supplied.

Paul Frisman, *The Next Nominee?*, Connecticut Law Tribune, Oct. 7, 1996. Copy supplied.

The Blotter, New Haven Register, Oct. 6, 1996. Copy supplied.

Mark Pazniokas, *Gang Member Faces Retrial, New Charges*, Hartford Courant, Oct. 3, 1996. Copy supplied.

The Blotter, New Haven Register, Oct. 3, 1996. Copy supplied.

Lawyer Pleads Guilty to False Statement, Hartford Courant, Oct. 2, 1996. Copy supplied.

October 1, 1996: Press conference on indictment against seven Diablos motorcycle gang members for racketeering. Related press coverage is listed below:

> Press release, *Seven Members of Diablos Motorcycle Gang Charged with Racketeering*, U.S. Attorney's Office for the District of Massachusetts, Oct. 1, 1996. Copy supplied.

Mark Pazniokas, *Consultant Pleads Guilty in $210,000 Bilking of FDIC*, Hartford Courant, Sept. 28, 1996. Copy supplied.

In Brief, New Haven Register, Sept. 28, 1996. Copy supplied.

Woman Pleads Guilty to Conspiracy Count, Hartford Courant, Sept. 21, 1996. Copy supplied.

Mark Pazniokas and Mike McIntire, *Santopietro to be Freed from Prison*, Hartford Courant, Sept. 13, 1996. Copy supplied.

Gang Member Held in '93 Killing to be Tried in U.S. Court as Adult, Hartford Courant, Sept. 12, 1996. Copy supplied.

Hartford Man Guilty in Bank Fraud Case, Hartford Courant, Sept. 12, 1996. Copy supplied.

Man Pleads Guilty to Ripping Off FBI, Hartford Courant, Sept. 12, 1996. Copy supplied.

Steven Fromm, *Supporting Child Support*, Connecticut Law Tribune, Sept. 9, 1996. Copy supplied.

Bloomfield Man Pleads Guilty to Bank-Fraud Charge, Hartford Courant, Sept. 8, 1996. Copy supplied.

In Brief, New Haven Register, Sept. 7, 1996. Copy supplied.

Staff, *Man, 61, Convicted in Tax Evasion Case*, Hartford Courant, Aug. 29, 1996. Copy supplied.

Staff, *In Gambino Probe, Another Guilty Plea*, Hartford Courant, Aug. 29, 1996. Copy supplied.

Gang Member Sentenced, Hartford Courant, Aug. 29, 1996. Copy supplied.

Mark Pazniokas, *Judge Again Spares Man in Child Porn Case*, Hartford Courant, Aug. 28, 1996. Copy supplied.

The Blotter, New Haven Register, Aug. 24, 1996. Copy supplied.

The Blotter, New Haven Register, Aug. 22, 1996. Copy supplied.

Third Hearing Set for Land-Use Study, Augusta Chronicle, Aug. 17, 1996. Copy supplied.

Grand Jury Indicts Couple Accused of Transporting Pipe Bombs to State, Hartford Courant, Aug. 17, 1996. Copy supplied.

U.S. Begins Crime Inquiry on A-Plants, New York Times, Aug. 16, 1996. Copy supplied.

Hartford Man Guilty of Cocaine Charges, Hartford Courant, Aug. 13, 1996. Copy supplied.

Missing Stories, New Haven Register, Aug. 10, 1996. Copy supplied.

Tracey Thomas, *2 Held Without Bail*, Hartford Courant, Aug. 4, 1996. Copy supplied.

Lawyer Gets 30 Months in Fraud Case, Hartford Courant, Aug. 1, 1996. Copy supplied.

Insurance Firm Head Indicted on Fraud, Hartford Courant, July 31, 1996. Copy supplied.

Scuba Divers Netted on Cocaine Charges, Hartford Courant, July 31, 1996. Copy supplied.

4 Guilty in Trial of Hartford Gangsters, New Haven Register, July 27, 1996. Copy supplied.

Man Pleads Guilty to Racketeering, Boston Globe, July 14, 1996. Copy supplied.

Man, 61, Convicted in Bank-Loan Case, Hartford Courant, July 12, 1996. Copy supplied.

Shelton Mail Carrier Guilty of Stealing, New Haven Register, July 12, 1996. Copy supplied.

Al Lara, *Robbery Suspects Face Decades in Prison*, Hartford Courant, July 10, 1996. Copy supplied.

David Lightman, *Clinton Announces Plan to Track Guns*, Hartford Courant, July 9, 1996. Copy supplied.

Missing Stories, New Haven Register, June 28, 1996. Copy supplied.

Michael Foley, *Man, 37, Pleads Guilty to Internet Kiddie Porn*, New Haven Register, June 26, 1996. Copy supplied.

In Brief, New Haven Register, June 25, 1996. Copy supplied.

Bronislaus B. Kush, *Springfield-Area Mastrototoro Associates Plead Guilty*, Worcester Telegram & Gazette, June 21, 1996. Copy supplied.

Kevin Claffey, *Scibelli, Bruno Face Jail Terms*, Springfield Union-News, June 21, 1996. Copy supplied.

William Hanrahan, *Man Gets 366 Days in Extortion Attempt*, New Haven Register, June 20, 1996. Copy supplied.

John Ferraro, *City Worker Indicted in Waste-Dumping*, New Haven Register, June 6, 1996. Copy supplied.

'Spring Cleaning' Sweeps Up Drug Suspects, New Haven Register, June 6, 1996. Copy supplied.

Missing Stories, New Haven Register, June 4, 1996. Copy supplied.

Prison Guard Charged with Sexual Abuse, Hartford Courant, May 29, 1996. Copy supplied.

Former Norwich Executive Admits Fraud, Hartford Courant, May 25, 1996. Copy supplied.

Michael Foley, *Iroquois to Draft Maintenance Plan*, New Haven Register, May 24, 1996. Copy supplied.

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Susan A. Zavadsky, *Top Exec Says Charges are Blackmail*, New Haven Register, June 10, 1994. Copy supplied.

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Mark Pazniokas, *Indictment Documents Drug Probe*, Hartford Courant, May 28, 1994. Copy supplied.

Dan Haar, *U.S. Investigating Science Center*, Hartford Courant, May 28, 1994. Copy supplied.

Klan Leader Guilty of Possessing Bomb, Boston Herald, May 27, 1994. Copy supplied.

Michael Foley, *Former Car Dealer Indicted on Laundering Money for Drug Dealers*, New Haven Register, May 27, 1994. Copy supplied.

John Curtis, *Klan Leader Pleads Guilty*, New Haven Register, May 27, 1994. Copy supplied.

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Gang Leader Pleads Guilty in Cocaine Case, New Haven Register, May 21, 1994. Copy supplied.

Karla Schuster and Josh Kovner, *Killer May Have Taken Gun from Cop's Son*, New Haven Register, May 18, 1994. Copy supplied.

Josh Kovner, *Crack Law is Biased, Attorneys Tell Court*, New Haven Register, May 11, 1994. Copy supplied.

Jaret Seiberg, *Senators Act on Vacancies*, Connecticut Law Tribune, May 9, 1994. Copy supplied.

Mike McIntire, *U.S. Probe Sought Into Incident at Bar*, Hartford Courant, May 6, 1994. Copy supplied.

Man Pleads Guilty in KKK Gun Case, Boston Globe, May 5, 1994. Copy supplied.

Mark Pazniokas, *Foley Seeks Release During Appeal*, Hartford Courant, May 4, 1994. Copy supplied.

Mark Pazniokas, *Agreement Will Settle Government Complaint*, Hartford Courant, Apr. 29, 1994. Copy supplied.

Susan Houriet, *Bristol Man Gets 15-Month Term in Pornography Case*, Hartford Courant, Apr. 22, 1994. Copy supplied.

Christine Hanley, *Settlements Offered in Superfund Case*, The Hour, Apr. 22, 1994. Copy available at

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Amy Ash Nixon, *Klan Member Guilty of Weapons Count*, Hartford Courant, Apr. 6, 1994. Copy supplied.

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Eileen Davis, *Smut on the Wires*, Danbury News-Times, Apr. 6, 1994. Copy supplied.

Mark Pazniokas, *Suit Claimed Fraud, Coverup Attempt by UTC*, Hartford Courant, Apr. 1, 1994. Copy supplied.

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Keith M. Phaneuf, *First Hartford, HUD Agree*, Manchester Journal Inquirer, Mar. 3, 1994. Copy supplied.

Chris Sheridan, *New Haven Model for Federal Crime Fight*, Hartford Courant, Mar. 2, 1994. Copy supplied.

City Man Faces Federal Charges Related to Guns, Hartford Courant, Mar. 2, 1994. Copy supplied.

Chris Sheridan, *Funding Hopes Not Dead*, Hartford Courant, Mar. 1, 1994. Copy supplied.

John Curtis, *Judge Rules KKK Leader Might Flee, Denies Bail*, New Haven Register, Feb. 15, 1994. Copy supplied.

John Curtis, *KKK Suspect to Remain in Custody*, New Haven Register, Feb. 12, 1994. Copy supplied.

Amy Ash Nixon and Rene Romo, *Ku Klux Klan Grows More Active in State*, Hartford Courant, Feb. 11, 1994. Copy supplied.

Kevin Mayhood, *Droney Promises Federal Help to Towns in Fight Against Gangs*, Manchester Journal Inquirer, Feb. 10, 1994. Copy supplied.

Adrienne Appel, *Connecticut Cracks Down on Health Fraud*, Waterbury Republican-American, Feb. 6, 1994. Copy supplied.

Susette J. Burton, *Owners of Dante's Sentenced in Tax Case*, New Haven Register, Feb. 5, 1994. Copy supplied.

Matthew Hay Brown, *Federal Officials Pledge to Help Fight Violence*, New Haven Register, Feb. 1, 1994. Copy supplied.

Don Michak, *Federal Officials Join Health Fraud Fight*, Manchester Journal Inquirer, Feb. 1, 1994. Copy supplied.

Fire Station; Fire Causes Damage; Town Budget Review; Impersonating Federal Marshal, Union Leader, Jan. 28, 1994. Copy supplied.

Spotlight, New Haven Register, Jan. 28, 1994. Copy supplied.

Craig W. Baggott, *Larson Probe Ends*, Hartford Courant, Jan. 27, 1994. Copy supplied.

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Reputed KKK Leader, Four Others Arraigned in Alleged Bomb Plan, Boston Globe, Jan. 26, 1994. Copy supplied.

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Matthew Kauffman, *Prosecutor Says Agent Taped Threat by Klan*, Hartford Courant, Jan. 25, 1994. Copy supplied.

Jaret Seiberg, *Theft Case Leads to Closer Scrutiny of Bankruptcy Trustees*, Connecticut Law Tribune, Jan. 24, 1994. Copy supplied.

Richard Carelli, *Justices Let Stand Convictions of Three Waterbury Officials*, The Hour, Jan. 24, 1994. Copy available at http://news.google.com/newspapers?id=FgYhAAAAIBAJ&sjid=ZXYFAAAAIBAJ&pg=1466,2938842&dq=christopher+droney&hl=en.

January 21, 1994: Press conference to announce arrest of KKK member and three others on weapons charges. Related press coverage is listed below:

> Kevin B. O'Leary, *Reputed Klan Leader Held in Alleged Bomb Scheme*, Boston Globe, Jan. 23, 1994. Copy supplied.

Ad Agency Head Accused in Scam, Boston Globe, Jan. 20, 1994. Copy supplied.

Jaret Seiberg, *Second Circuit Launches Minority and Gender Fairness Probe*, Connecticut Law Tribune, Jan. 17, 1994. Copy supplied.

Josh Kovner, *Status of City Corruption Probe is Uncertain*, New Haven Register, Jan. 16, 1994. Copy supplied.

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Waterbury Man Gets 20 Years in Robberies, New Haven Register, Jan. 7, 1994. Copy supplied.

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Ex-Bankruptcy Trustee Sent to Prison, Record-Journal, Jan. 4, 1994. Copy available at http://news.google.com/newspapers?id=aMhHAAAAIBAJ&sjid=tP8MAAAAIBAJ&pg=2109,489570&dq=christopher+droney&hl=en.

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Man Pleads Guilty to Bank Robberies, Boston Globe, Dec. 15, 1993. Copy supplied.

Charges Filed on Child Pornography, Boston Globe, Dec. 15, 1993. Copy supplied.

N.Y. Man Guilty of Death Threat, Boston Globe, Dec. 2, 1993. Copy supplied.

Conn. Pair Guilty of Tax Evasion, Boston Globe, Dec. 2, 1993. Copy supplied.

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Susan Houriet, *Pornography Seized at Home of Bristol Man*, Hartford Courant, Nov. 20, 1993. Copy supplied.

Lawrence Strauss, *Bradley Drug Seizure a Record for Airport*, Hartford Courant, Nov. 18, 1993. Copy supplied.

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Peter Dalpe, *Shelton Man Guilty of Tapping Phones*, New Haven Register, Nov. 13, 1993. Copy supplied.

Jaret Seiberg, *Droney's Priorities Greeted with Praise by Defense Counsel*, Connecticut Law Tribune, Nov. 8, 1993. Copy supplied.

Paula Brackenbury, *Cocaine Trafficker Forfeits Property*, New Haven Register, Nov. 6, 1993. Copy supplied.

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Derby Man, Shelton Gunshop Tied to Illegal Weapon Scheme, New Haven Register, Nov. 2, 1993. Copy supplied.

Jaret Seiberg, *Doing Biz the Ex Parte Way Rarely Troubles State Judges*, Connecticut Law Tribune, Nov. 1, 1993. Copy supplied.

October 29, 1993: Press conference on recent anti-Semitic vandalism incidents. Related press coverage is listed below:

> Steven G. Vegh, *Taking Extra Steps to Solve, Prevent Crimes*, Hartford Courant, Oct. 30, 1993. Copy supplied.
>
> John Curtis, Alvin Powell and Helen Bennett Harvey, *Leaders Respond to Rash of Hate Crimes*, New Haven Register, Oct. 30, 1993. Copy supplied

Peter Dalpe, *Crime Unit Benefits from Sale of House*, New Haven Register, Oct. 29, 1993. Copy supplied.

Dan Mangan, *U.S. Attorney Willing to Discuss Police Conduct*, publication unknown, Oct. 29, 1993.

Michael Foley, *50 Years for Death Plots*, New Haven Register, Oct. 26, 1993. Copy supplied.

Witnesses Say Suspect Didn't Shoot Himself, Record-Journal, Oct. 24, 1993. Copy available at http://news.google.com/newspapers?id=Xq1HAAAAIBAJ&sjid=Yv8MAAAAIBAJ&pg=1976,4110931&dq=christopher+droney&hl=en.

Lawyer Says Woman Saw Norwalk Officer Fatally Shoot a Young Black Man, New York Times, Oct. 23, 1993. Copy supplied.

Maxine Bernstein, *Lieberman Proposes Effort to Combat Crime*, Hartford Courant, Oct. 19, 1993. Copy supplied.

West Hartford Mayor's Home Defaced with Anti-Semitic Graffiti, Associated Press, Oct. 18, 1993. Copy supplied.

Peter Dalpe, *Ex-Cop Admits to Bank Fraud*, New Haven Register, Oct. 9, 1993. Copy supplied.

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Rachel Gottlieb, *Droney Gets Nod for U.S. Attorney*, Hartford Courant, Sept. 18, 1993. Copy supplied.

Miranda S. Spivack, *Lawyer in Line for Top Post*, Hartford Courant, Jan. 16, 1993. Copy supplied.

Patricia Seremet, *How Will City Fare in '93? Count on Lawyers for Plenty of Opinions*, Hartford Courant, Dec. 28, 1992. Copy supplied.

Mark Pazniokas, *Visit to Lunchonette Puts Gore Under a Microscope*, Hartford Courant, Aug. 11, 1992. Copy supplied.

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Thomas Scheffey, *Silent Knight*, Connecticut Law Tribune, Feb. 17, 1992. Copy supplied.

Michael Remez, *Rights for Disabled to Bring Change in Workplace*, Hartford Courant, July 22, 1991. Copy supplied.

Thomas Scheffey, *On Paper, He's Perfect*, Connecticut Law Tribune, Apr. 22, 1991. Copy supplied.

Gregory B. Hladky, *Gejdenson Backs Morrison*, New Haven Register, Mar. 31, 1990. Copy supplied.

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Gregory B. Hladky, *O'Neill's Had Enough*, New Haven Register, Mar. 21, 1990. Copy supplied.

Jonathan Turner, *Council Approves New Partnership*, West Hartford News, Feb. 16, 1989. Copy supplied.

Mark Jahne, *Droney's Name Mentioned for State's Attorney General*, West Hartford News, Feb. 9, 1989. Copy supplied.

Jonathan Turner, *Try Finding Affordable Housing*, West Hartford News, Nov. 17, 1988. Copy supplied.

Mark Jahne, *Mayors Agree*, West Hartford News, Oct. 27, 1988. Copy supplied.

October 14, 1988: Press conference criticizing U.S. Senator Weicker for voting against measures to combat illegal drug use and trafficking. I do not have a copy or any press reports concerning this interview.

Mark Jahne, *Gross Exceeds Bounds*, West Hartford News, Aug. 25, 1988. Copy supplied.

Elisabeth Flink, *Public Input Sought on Steele Road Use*, West Hartford News, Aug. 18, 1988. Copy supplied.

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Elisabeth Flink, *Bonding Opposed*, West Hartford News, July 28, 1988. Copy supplied.

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Strange Campaign in Connecticut, Lewiston Daily Sun, Mar. 29, 1988. Copy available at

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James Mutrie Jr., *Dush [sic], Dukakis Seen as Likely Winners in State*, New Haven Register, Mar. 10, 1988. Copy supplied.

Tamara Lytte, *Gore Picks Up $50,000 in Jog Through Elm City*, New Haven Register, Mar. 5, 1988. Copy supplied.

James Mutrie Jr., *State's Primary Late and Low-Key*, New Haven Register, Feb. 27, 1988. Copy supplied.

Elisabeth Flink, *Steele Road Continues as Hot Council Issue*, West Hartford News, Nov. 12, 1987. Copy supplied.

Mark Jahne, *Sweep*, West Hartford News, Nov. 5, 1987. Copy supplied.

Richard Woodworth, *Droney a Changed Man*, West Hartford News, Sept. 24, 1987. Copy supplied.

Mark Jahne, *Mayor Droney to Travel to Israel*, West Hartford News, Aug. 13, 1987. Copy supplied.

Mark Jahne, *Mayor Seeks End to Area Burglaries*, West Hartford News, Aug. 6, 1987. Copy supplied.

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Mark Jahne, *Six Hopefuls in Democratic Team*, West Hartford News, July 16, 1987. Copy supplied.

Eileen Doczy, *Task Force May Give a Voice to Residents*, West Hartford News, May 28, 1987. Copy supplied.

Mark Jahne, *Council Approves Budget*, West Hartford News, April 23, 1987. Copy supplied.

Mark Jahne, *Mayor Seeks to Trim Trees to Avoid Blackouts*, West Hartford News, Dec. 11, 1986. Copy supplied.

Sharon L. Bass, *Youths Question Effectiveness of West Hartford Tobacco Ban*, New York Times, July 27, 1986. Copy supplied.

Mark Jahne, *Council Gives Coleco Go-Ahead*, West Hartford News, May 29, 1986. Copy supplied.

Mark Cheatham, *Time is Relative for Users of Tower Clock*, Hartford Courant, Dec. 24, 1985. Copy supplied.

Dave Drury, *Auditors Give West Hartford Bookkeeping a Clean Bill*, Hartford Courant, Dec. 19, 1985. Copy supplied.

Dave Drury, *Counsel Position is Filled*, Hartford Courant, Dec. 12, 1985. Copy supplied.

Frances Grandy, *GOP Objects to Town Hall Office for Ex-Mayor*, Hartford Courant, Dec. 12, 1985. Copy supplied.

Dave Drury, *West Hartford Counsel Decides to Leave Post*, Hartford Courant, Dec. 6, 1985. Copy supplied.

Dave Drury, *West Hartford Asked to Pay Probate Court Postage Costs*, Hartford Courant, Dec. 5, 1985. Copy supplied.

Dave Drury, *Droney Style Suits West Hartford Voters*, Hartford Courant, Nov. 28, 1985. Copy supplied.

Dave Drury, *Droney, Sullivan Bound for Mayoral Showdown*, Hartford Courant, Nov. 7, 1985. Copy supplied.

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Dave Drury, *Finance Reports Tallied as Local Campaigns Near End*, Hartford Courant, Nov. 1, 1985. Copy supplied.

Frances Grandy, *Leadership Appears Key Issues in West Hartford Contest*, Hartford Courant, Oct. 31, 1985. Copy supplied.

Elizabeth Bartus, *State Action Sought on Newington Road*, West Hartford News, Oct. 24, 1985. Copy supplied

Donna Larcen, *Pornography; Governments Grapple with Complexity*, Hartford Courant, Oct. 20, 1985. Copy supplied.

Dave Lesher, *W. Hartford Council Squelches Mini-Bonds*, Hartford Courant, Aug. 22, 1985. Copy supplied.

Mark Jahne, *Feldman Names Finance Director*, West Hartford News, Aug. 16, 1985. Copy supplied.

Dave Lesher, *West Hartford May Pick Finance Director Soon*, Hartford Courant, Aug. 13, 1985. Copy supplied.

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Karl Schoenberger, *$300,000 Approved for Telephone System*, Hartford Courant, June 12, 1985. Copy supplied.

Karl Schoenberger, *West Hartford Studies New Approach to Financing*, Hartford Courant, June 11, 1985. Copy supplied.

Karl Schoenberger, *Town Hopes to Tap Loyalty*, Hartford Courant, June 6, 1985. Copy supplied.

Karl Schoenberger, *Finance Director Dismissed*, Hartford Courant, May 30, 1985. Copy supplied.

Patricia Weiss, *Undercurrents*, Hartford Courant, May 5, 1985. Copy supplied.

Karl Schoenberger, *Special District Plan Defeated in West Hartford*, Hartford Courant, Apr. 11, 1985. Copy supplied.

Karl Schoenberger, *U of H Offers Services for Tax Break*, Hartford Courant, Apr. 6, 1985. Copy supplied.

Brant Houston, *School Budget Proposed*, Hartford Courant, Mar. 1, 1985. Copy supplied.

Karl Schoenberger, *Auditor Pans West Hartford Bookkeeping Methods*, Hartford Courant, Jan. 17, 1985. Copy supplied.

Mark Cheatham, *Effort to Honor Coach Continues After Board Rejects Plan*, Hartford Courant, Jan. 9, 1985. Copy supplied.

Dave Lesher, *West Hartford to Ask Residents if They Would Buy 'Minibonds'*, Hartford Courant, Jan. 4, 1985. Copy supplied.

Official Says City to Get Clean Audit, Hartford Courant, Jan. 4, 1985. Copy supplied.

Mark Cheatham, *West Hartford Officials Resist State Education Mandates*, Hartford Courant, Dec. 21, 1984. Copy supplied.

Dave Lesher, *Minister Challenges Authority of Town*, Hartford Courant, Nov. 30, 1984. Copy supplied.

Dave Lesher, *Plan Could Cut Cost of West Hartford Complex*, Hartford Courant, Nov. 6, 1984. Copy supplied.

Dave Lesher, *Council Members Say Brady Weak on Planning*, Hartford Courant, Sept. 27, 1984. Copy supplied.

West Hartford to Decide Uses for $134,500 Anonymous Gift, Hartford Courant, Sept. 22, 1984. Copy supplied.

Dave Lesher, *W. Hartford Budget Committee Wants Finance Program Kept*, Hartford Courant, June 2, 1984. Copy supplied.

Tao Woolfe, *West Hartford Acts to Save More History*, Hartford Courant, May 25, 1984. Copy supplied.

New Auditing Firm Recommended, Hartford Courant, May 17, 1984. Copy supplied.

Committee Opposes Veto of Pact, Hartford Courant, Apr. 3, 1984. Copy supplied.

April 1984: I participated in "T.V. Pursuit," a WHC-TV trivia competition. I have been unable to obtain a recording, but press coverage is supplied.

Dave Lesher, *Chamber Offers Town 3 Point Plan*, Hartford Courant, Mar. 1, 1984. Copy supplied.

Council to Try 'Office Hours' Again, Hartford Courant, Feb. 10, 1984. Copy supplied.

Dave Lesher, *Scoler's Gains Permission for Move to Bishops Corner*, Hartford Courant, Jan. 25, 1984. Copy supplied.

Dave Lesher, *New Council Committee to Oversee Development*, Hartford Courant, Dec. 29, 1983. Copy supplied.

Council Leaders Agree to Changes, Hartford Courant, Dec. 6, 1983. Copy supplied.

Dave Lesher, *W. Hartford May Face 20% Tax Increase*, Hartford Courant, Nov. 30, 1983. Copy supplied.

Patricia Seremet, *While Connecticut Barristers Have a Ball, Poets and Friends Recall Wallace Stevens*, Hartford Courant, Nov. 21, 1983. Copy supplied.

Dave Lesher, *Sullivan Set as Mayor in W. Hartford*, Hartford Courant, Nov. 15, 1983. Copy supplied.

Dave Lesher, *Democrats Credit Campaigning for West Hartford Success*, Hartford Courant, Nov. 10, 1983. Copy supplied.

Dave Lesher and Tao Woolfe, *W. Hartford Democrats Win Control of Council for First Time in 10 Years*, Hartford Courant, Nov. 9, 1983. Copy supplied.

November 8, 1983: I was interviewed on West Hartford Community TV about budget issues. I have been unable to obtain a recording.

Dave Lesher, *West Hartford Candidates Admit Campaign Issues Lacking*, Hartford Courant, Oct. 20, 1983. Copy supplied.

Marjorie Howard and Constance Neyer, *Crimes Overshadow Election Campaign*, Hartford Courant, Sept. 28, 1983. Copy supplied.

From 1983 to 1989, I served on the Town Council of West Hartford, as Deputy Mayor from 1983 to 1985 and as Mayor from 1985 to 1989. In these capacities, I gave numerous interviews and I have listed above those I was able to identify. However, there are most likely others that I have been unable to recall or identify.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

On September 22, 1997, after confirmation by the United States Senate, I was appointed by President Clinton to serve as a United States District Judge for the District of Connecticut.

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

I have presided over approximately 60 trials. I have presided over approximately 40 civil trials and 20 criminal trials. All together, I have presided over approximately 3,209 civil cases and 399 criminal cases.

1. Of these, approximately what percent were:

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

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

See attached list of opinions.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. United States v. Paris, Case No. 3-06-cr-64

Defendant Paris was the leader of a sex trafficking ring operating out of the Hartford area. The other nine defendants pled guilty and received various sentences up to 156 months imprisonment. Paris proceeded to trial and was convicted on seventeen counts, including sex trafficking of minors and by force, fraud and coercion. He received a sentence of thirty years imprisonment. See 2007 WL 3124724 (D. Conn. Oct. 24, 2007), aff'd, sub. nom United States v. Martinez, 621 F.3d 101 (2d Cir. 2010).

For the Government: James G. Genco, Assistant U.S. Attorney (retired), 25 Vermillion Drive, Avon, CT 06001, Tel.: (860) 678-7109; Andrew J. Kline, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530, Tel.: (202) 307-2897.
For Defendant Paris: Jeremiah F. Donovan, 123 Elm Street, Old Saybrook, CT 06475, Tel.: (860) 388-3750.

2. Bridgeport & Port Jefferson Steamboat Co. v. Bridgeport Port Auth., Case No. 3-03-cv-599

The operator of the ferry service between Bridgeport, Connecticut, and Port Jefferson, New York, filed this action challenging a passenger wharfage fee imposed by the Bridgeport Port Authority as violating the Commerce Clause of the U.S. Constitution. Following a bench trial, I issued a decision determining that the wharfage fee was unconstitutional. 566 F. Supp. 2d 81 (D. Conn. 2008), aff'd, 567 F.3d 79 (2d Cir. 2009), cert. denied, 130 S. Ct. 1075 (2010).

For Plaintiff Ferry Company: Martin Domb, Akerman Senterfitt, 335 Madison Avenue, Suite 2600, New York, NY 10017, Tel.: (212) 880-3800; Stewart I. Edelstein, Cohen & Wolf, P.C., 1115 Broad Street, Bridgeport, CT 06604, Tel.: (203) 368-0211.
For Defendant Port Authority: Timothy F. Noelker, Thompson Coburn, LLP, One U.S. Bank Plaza, St. Louis, MO 63101, Tel.: (314) 552-6091.

3. Fenn v. Yale Univ., Case No. 3-96-cv-1647

The plaintiff, a chemistry professor at Yale University, brought this action for ownership of a medical diagnostic invention that he patented. Yale counterclaimed that it should own the patent because Fenn committed fraud in failing to disclose to Yale the invention while he was on its faculty. Dr. Fenn subsequently received the Nobel Prize in Chemistry for the invention. Following a bench trial, I ruled in favor of Yale and awarded the patent to it. 2005 WL 327138 (D. Conn. Feb. 8, 2005) (Memorandum of Decision), aff'd, 184 F. App'x 21 (2d Cir. 2006); 393 F. Supp. 2d 133 (D. Conn. 2004) (ruling on counterclaims); 283 F. Supp. 2d 615 (D. Conn. 2003) (Memorandum of Decision), aff'd, 184 F. App'x 21 (2d Cir. 2006).

For Plaintiff Dr. Fenn: Hubert J. Santos, Santos & Seeley, P.C., 51 Russ Street, Hartford, CT 06106, Tel.: (860) 249-6548.
For Defendant Yale University: Jonathan M. Freiman, Wiggin & Dana, One Century Tower, 265 Church Street, New Haven, CT 06508, Tel.: (203) 498-4584.

4. United States v. Ferguson, Case No. 3-06-cr-137

This was a criminal prosecution against five senior insurance company executives for fraud in connection with the issuance of various SEC filings. All the defendants were convicted at trial, and were sentenced to various periods of incarceration. Those convictions are presently on appeal before the Second Circuit. The following are the various rulings I made in this case:

2008 WL 5137320 (D. Conn. Dec. 5, 2008) (ruling on motion for reconsideration)
584 F. Supp. 2d 447 (D. Conn. 2008) (ruling on sentencing issues)
553 F. Supp. 2d 145 (D. Conn. 2008) (ruling on post-trial motions)
545 F. Supp. 2d 238 (D. Conn. 2008) (ruling on motion in limine)
2008 WL 113662 (D. Conn. Jan. 5, 2008) (ruling on motions in limine)
2008 WL 113660 (D. Conn. Jan. 5, 2008) (ruling on indictment)
2008 WL 104078 (D. Conn. Jan. 4, 2008) (ruling on Brady and Giglio issues)
2008 WL 113663 (D. Conn. Jan. 2, 2008) (ruling on motions to quash)
2007 WL 4591635 (D. Conn. Dec. 28, 2007) (ruling on motions in limine)
2007 WL 4577303 (D. Conn. Dec. 26, 2007) (ruling on motions to quash and compel)
2007 WL 4556625 (D. Conn. Dec. 20, 2007) (ruling on motions in limine)
2007 WL 4539646 (D. Conn. Dec. 14, 2007) (ruling on motion in limine)
2007 WL 4240782 (D. Conn. Oct. 30, 2007) (ruling on motions in limine)
2007 WL 2815068 (D. Conn. Sept. 26, 2007) (ruling on motions to compel and quash)
2007 WL 1793796 (D. Conn. June 19, 2007) (ruling on motion concerning peremptory challenges)
478 F. Supp. 2d 220 (D. Conn. 2007) (ruling on pretrial motions)

For the Government: Eric J. Glover, Assistant U.S. Attorney, 157 Church Street, New Haven, CT 06510, Tel.: (203) 821-3700; Raymond E. Patricco, Assistant U.S. Attorney, 2100 Jamieson Avenue, Alexandria, VA 22314, Tel.: (703) 299-3876.
For Defendant Ferguson: Michael F. Horowitz, Cadwalader, Wickersham & Taft, LLP, 700 Sixth Street, N.W., Washington, D.C. 20001, Tel.: (202) 862-2407.
For Defendant Graham: Alan M. Vinegrad, Covington & Burling LLP, 620 Eighth Avenue, New York, NY 10018; Tel.: (212) 841-1022.
For Defendant Milton: Frederick P. Hafetz, Tracy E. Sivitz, Hafetz, Necheles & Rocco, 500 Fifth Avenue, New York, NY 10110, Tel.: (212) 997-7595.
For Defendant Monrad: Reid H. Weingarten, Steptoe & Johnson, LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036, Tel.: (202) 429-6238.
For Defendant Garand: Anthony Pacheco, Proskauer Rose LLP, 2049 Century Park East, Los Angeles, CA 90067, Tel.: (310) 284-5647.

5. Detroit Inst. of Fine Arts v. Rose, Case No. 3-99-cv-21

This was a dispute over the ownership of the famous Howdy Doody puppet between a museum and the heirs of the puppeteer. I decided summary judgment in favor of the museum, and the parties did not appeal my decision. 127 F. Supp. 2d 117 (D. Conn. 2001) (ruling on motions for summary judgment).

For Plaintiff Detroit Institute of Fine Arts: Stuart D. Rosen, Bingham McCutcheon LLP, One State Street, Hartford, CT 06103, Tel.: (860) 240-2997.
For Defendants heirs of the puppeteer: Frank N. Eppinger, O'Brien, Stuart, Eppinger & Collier, 9 Mason's Island Road, Mystic, CT 06355, Tel. (860) 536-3388.

6. Doe ex rel. A.N. v. East Haven Bd. of Educ., Case No. 3-02-cv-780

This was an action brought on behalf of a female high school student against the East Haven Board of Education under Title IX of the Educational Amendments of 1972. The high school student was the subject of sexual harassment by other students at school following her sexual assault. The allegations included that teachers and administrators had failed to adequately respond to the harassment. After a jury trial, a verdict was returned in the plaintiff's favor and judgment was entered. 430 F. Supp. 2d 54 (D. Conn. 2006), aff'd, 200 F. App'x 46 (2d Cir. 2006).

For Plaintiff Doe: John R. Williams, 51 Elm Street, New Haven, CT 06510, Tel.: (203) 562-9931.
For Defendant East Haven Board of Education: Hugh F. Keefe, Lynch, Traub, Keefe & Errante, 52 Trumbull Street, New Haven, CT 06510, Tel.: (203) 787-0275.

7. Collins v. Olin Corp., Case No. 3-03-cv-945

This was a class action brought by a group of homeowners in Hamden, Connecticut, against the Olin Corporation and the Town of Hamden under various federal and state environmental statutes and state common law. The plaintiffs' properties had been polluted by residue from a firearms manufacturer in New Haven that for many years had deposited its hazardous waste in landfills in Hamden. Following resolution of motions to dismiss and summary judgment, the action was settled. 2009 WL 279027 (D. Conn. Jan. 12, 2009) (ruling on motion for partial summary judgment); 248 F.R.D. 95 (D. Conn. 2008) (ruling on class certification); 418 F. Supp. 2d 34 (D. Conn. 2006) (ruling on motions to dismiss and for partial summary judgment); 2010 WL 1677764 (D. Conn. Apr. 21, 2010) (ruling on proposed settlement).

For Plaintiffs: Andrew A. Rainer, Mark W. Roberts, McRoberts & Roberts, LLP, 15 Broad Street, Boston, MA 02109, Tel.: (617) 722-8222; Monte E. Frank, Cohen & Wolf, 158 Deer Hill Avenue, Danbury, CT 06810, Tel.: (203) 792-2771.
For Defendant Olin Corporation: Michael H. Wetmore, Husch Blackwell, 190 Carondelet Plaza, St. Louis, MO 63105, Tel.: (314) 480-1841.
For Defendant Town of Hamden: Ann Marie Catino, Halloran & Sage, 225 Asylum Street, Hartford, CT 06103, Tel.: (860) 297-4682.

8. Doe I v. Ciolli, Case No. 3-07-cv-909

This was an action brought by two female Yale Law School students against individuals using pseudonyms on the internet. The defendants had participated in a campaign of pornographic abuse of the plaintiffs on various internet blogs. The action was brought under federal copyright law and Connecticut common law. Following my various rulings requiring disclosure of the defendants' actual identities and resolving jurisdictional issues, the case was settled. 611 F. Supp. 2d 216 (D. Conn. 2009) (ruling on motion to dismiss).

For Plaintiffs: David N. Rosen, 400 Orange Street, New Haven, CT 06511, Tel.: (203) 787-3513.
For Defendants: Joseph G. Fortner, Jr., Halloran & Sage LLP, 225 Asylum Street, Hartford, CT 06103, Tel.: (860) 297-4609.

9. United States v. Massie, Case No. 3-01-cr-17

This was a prosecution against a physician and a number of pharmacists who had engaged in a conspiracy to sell prescription narcotics in the New Haven area. All the defendants, except one, entered guilty pleas, and a trial was held concerning the remaining defendant, a pharmacist. He was convicted and no appeals were taken. United States v. Funaro, 222 F.R.D. 41 (D. Conn. 2004) (ruling on post trial motions); United States v. Funaro, 253 F. Supp. 2d 286 (D. Conn. 2003) (ruling on motion to suppress).

For the Government: Jonathan Biran, Assistant U.S. Attorney, U.S. Attorney's Office for the District of Maryland, 36 South Charles Street, Baltimore, MD 21201, Tel.: (401) 209-4800; Peter A. Clark, Assistant U.S. Attorney (Retired), 525 Bridgeport Avenue, Shelton, CT 06484, Tel.: (203) 925-9688.
For Defendant Massie: Charles E. Tiernan, III, Lynch, Traub, Keefe & Errante, 52 Trumbull Street, New Haven, CT 06506, Tel.: (888) 692-7403.
For Defendant Umstead: Michael O. Sheehan, Sheehan & Reeve, 139 Orange Street, New Haven, CT 06510, Tel.: (203) 787-9026.
For Defendant Calash: William M. Bloss, Koskoff, Koskoff & Bieder, P.C., 350 Fairfield Avenue, Bridgeport, CT 06604, Tel.: (203) 336-4421.
For Defendant Caponera: Jonathan J. Einhorn, 412 Orange Street, New Haven, CT 06511, Tel.: (203) 777-3777.
For Defendant Melanidis: Robert M. Casale, 250 West Main Street, Branford, CT 06405, Tel.: (203) 488-6363.
For Defendant Funaro: Alan J. Sobol, Pullman & Comley, 90 State House Square, Hartford, CT 06103, Tel.: (860) 424-4361.
For Defendant Wozniak: Vincent T. McManus, Jr., 1 Blackberry Lane, Wallingford, CT 06492, Tel.: (203) 284-2002.
For Defendant Santa: William F. Dow, III, Jacobs, Grudberg, Belt, Dow & Katz, P.C., 350 Orange Street, New Haven, CT 06511, Tel. No.(203) 772-3100.

10. Comair Rotron, Inc. v. Nippon Densan Corp., Case No. 2-91-cv-32

This was a patent infringement action concerning electromagnetic technology in computers. Following extensive pretrial resolution of jurisdictional and dispositive motions, a jury trial was conducted. A plaintiff's verdict was returned and the action was subsequently resolved by the parties. 154 F. Supp. 2d 326 (D. Conn. 2001) (Markman ruling).

For Plaintiff Comair Rotron: Lee Carl Bromberg, McCarter & English, LLP, 265 Franklin Street, Boston, MA 02110, Tel.: (617) 449-6500.
For Defendants: Francis H. Morrison, III, Axim, Veltrop & Harkrider LLP, 90 State House Square, Hartford, CT 06103, Tel.: (860) 275-8155.

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. Lafaro v. New York Cardiothoracic Grp., PLLC, 570 F.3d 471 (2d Cir. 2009).

For Petitioner: Richard G. Menaker, Menaker & Hermann LLP, 10 East 40th Street, New York, NY 10016, Tel.: (212) 545-1900.
For Respondent: Jordy Rabinowitz, Westchester County Health Care Corp., Westchester Medical Center, Valhalla, NY 10595, Tel.: (914) 493-2101.

2. United States v. Kliti, 156 F.3d 150 (2d Cir. 1998).

For Government: David C. James, Assistant U.S. Attorney, David P. Porter, Assistant U.S. Attorney, U.S. Attorney's Office, Eastern District of New York, 271 Cadman Plaza East, Brooklyn, NY 11201, Tel.: (718) 254-7000.
For Defendant: Paul Kenneth, 111 Broadway, Room 701, New York, NY 10006, Tel.: (212) 586-8000.

3. Doe I v. Ciolli, 611 F. Supp. 2d 216 (D. Conn. 2009).

For Plaintiffs: David N. Rosen, 400 Orange Street, New Haven, CT 06511, Tel.: (203) 787-3513.
For Defendants: Joseph G. Fortner, Jr., Halloran & Sage LLP, 225 Asylum Street, Hartford, CT 06103, Tel.: (860) 297-4609.

4. Bridgeport & Port Jefferson Steamboat Co. v. Bridgeport Port Auth., 566 F. Supp. 2d 81 (D. Conn. 2008), aff'd, 567 F.3d 79 (2d Cir. 2009), cert. denied, 130 S. Ct. 1075 (2010).

For Plaintiff: Martin Domb, Akerman Senterfitt, 335 Madison Avenue, Suite 2600, New York, NY 10017, Tel.: (212) 880-3800; Stewart I. Edelstein, Cohen & Wolf, P.C., 1115 Broad Street, Bridgeport, CT 06604, Tel.: (203) 368-0211.
For Defendant: Timothy F. Noelker, Thompson Coburn, LLP, One U.S. Bank Plaza, St. Louis, MO 63101, Tel.: (314) 552-6091.

5. United States v. Paris, No. 3:06-cr-64, 2007 WL 3124724 (D. Conn. Oct. 24, 2007), aff'd sub. nom United States v. Martinez, 621 F.3d 101 (2d Cir. 2010).

For Government: James G. Genco, Assistant U.S. Attorney (Retired), 25 Vermillion Drive, Avon, CT 06001, Tel.: (860) 678-7109; Andrew J. Kline, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530, Tel.: (202) 307-2897
For Defendant: Jeremiah F. Donovan, 123 Elm Street, Old Saybrook, CT 06475, Tel.: (860) 388-3750

6. United States v. Madera, 521 F. Supp. 2d 149 (D. Conn. 2007)

For Government: Brian P. Leaming, Assistant U.S. Attorney, U.S. Attorney's Office, 450 Main Street, Hartford, CT 06103, (860) 760-7954
For Defendant: Terence S. Ward, Assistant Federal Defender, Federal Public Defender's Office, 10 Columbus Boulevard, 6th Floor, Hartford, CT 06106, Tel.: (860) 493-6260

7. United States v. Gomes, 305 F. Supp. 2d 158 (D. Conn. 2004), aff'd, 387 F.3d 157 (2d Cir. 2004), cert. denied, 543 U.S. 1128 (2005).

For Government: Hon. John A. Danaher, III, Connecticut Superior Court, 15 West Street, Litchfield, CT 06759, Tel.: (860) 567-5438; Thomas V. Dailey, Reid & Riege, P.C., One Financial Plaza, Hartford, CT 06103, Tel.: (860) 278-1150
For Defendant: Jeremiah F. Donovan, 123 Elm Street, Old Saybrook, CT 06475, Tel.: (860) 388-3750.

8. Collins v. Olin Corp., 434 F. Supp. 2d 97 (D. Conn. 2006).

For Plaintiff: Andrew A. Rainer, Mark W. Roberts, McRoberts & Roberts, LLP, 15 Broad Street, Boston, MA 02109, Tel.: (617) 722-8222; Monte E. Frank, Cohen & Wolf, 158 Deer Hill Avenue, Danbury, CT 06810, Tel.: (203) 792-2771.
For Defendant Olin Corporation: Michael H. Wetmore, Husch Blackwell, 190 Carondelet Plaza, St. Louis, MO 63105, Tel.: (314) 480-1841.
For Defendant Town of Hamden: Ann Marie Catino, Halloran & Sage, 225 Asylum Street, Hartford, CT 06103, Tel.: (860) 297-4682.

9. Doe ex rel. A.N. v. East Haven Bd. of Educ., 430 F. Supp. 2d 54 (D. Conn. 2006), aff'd, 200 F. App'x 46 (2d Cir. 2006).

For Plaintiff: John R. Williams, 51 Elm Street, New Haven, CT 06510, Tel.: (203) 562-9931.
For Defendant: Hugh F. Keefe, Lynch, Traub, Keefe & Errante, 52 Trumbull Street, New Haven, CT 06510, Tel.: (203) 787-0275.

10. Fenn v. Yale Univ., 283 F. Supp. 2d 615 (D. Conn. 2003); Fenn v. Yale Univ., Case No. 3-96-cv-1647, 2005 WL 327138 (D. Conn. Feb. 8, 2005), aff'd, 184 F. App'x 21 (2d Cir. 2006).

For Plaintiff: Hubert J. Santos, Santos & Seeley, P.C., 51 Russ Street, Hartford, CT 06106, Tel.: (860) 249-6548.
For Defendant: Jonathan M. Freiman, Wiggin & Dana, One Century Tower, 265 Church Street, New Haven, CT 06508, Tel.: (203) 498-4584.

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

District Court

1. Bridgeport & Port Jefferson Steamboat Co. v. Bridgeport Port Auth., 566 F. Supp. 2d 81 (D. Conn. 2008), aff'd, 567 F.3d 79 (2d Cir. 2009), cert. denied, 130 S. Ct. 1075 (2010).

2. United States v. Gomes, 3:98-cr-195, vacated and remanded, 289 F.3d 71 (2d Cir. 2002), cert. granted, judgment vacated in light of Sell v. U.S., 539 U.S.

166 (2003), 539 U.S. 939 (2003), remanded, 69 F. App'x 36 (2d Cir. 2003), 305 F. Supp. 2d 158 (D. Conn. 2004), aff'd, 387 F.3d 157 (2d Cir. 2004), cert. denied, 543 U.S. 1128 (2005).

3. Charts v. Nationwide Mut. Ins. Co., 397 F. Supp. 2d 357 (D. Conn. 2005), rev'd sub. nom, Chartschlaa v. Nationwide Mut. Ins. Co., 538 F.3d 116 (2d Cir. 2008), cert. denied, 129 S. Ct. 1534 (2009).

4. United States v. Pugh, No. 3:02-cr-69, 2003 WL 22132912 (D. Conn. Aug. 29, 2003), aff'd and remanded, 175 F. App'x 390 (2d. Cir. 2006), cert. denied, 549 U.S. 897.

Court of Appeals (sitting by designation)

1. United States v. Mercado, 573 F.3d 138 (2d Cir.), cert. denied, 130 S. Ct. 645 (2010).

2. United States v. Sperling, 367 F. App'x 213 (2d Cir.), cert. denied, 131 S. Ct. 441 (2009).

3. Pyke v. Cuomo, 567 F.3d 74 (2d Cir.), cert. denied, 130 S. Ct. 741 (2009).

4. United States v. Rojas, 346 F. App'x 686 (2d Cir. 2009), cert. denied, sub nom Salazar-Espinosa v. United States, 130 S. Ct. 1311 (2010).

5. Arista Records, LLC v. Launch Media, Inc., 578 F.3d 148 (2d Cir. 2009); 344 F. App'x 648 (2d Cir. 2009), cert. denied, 130 S. Ct. 1290 (2010).

6. Gulino v. New York State Educ. Dept., 460 F.3d 361 (2d Cir. 2006), cert. denied, 554 U.S. 917 (2008).

7. United States v. Pimentel, 346 F.3d 285 (2d Cir. 2003), cert. denied, 543 U.S. 955 (2004).

8. Israel v. Carpenter, 67 F. App'x 56 (2d Cir. 2003), cert. denied, 540 U.S. 1109 (2004).

9. United States v. Lucas, 68 F. App'x 265 (2d Cir. 2003), cert. denied, 540 U.S. 1024 (2003).

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Reversals, Remands or Vacaturs (full or partial)

1. Connecticut Bar Ass'n v. United States, 394 B.R. 274 (D. Conn. 2008), aff'd in part, vacated in part, 620 F.3d 81 (2d Cir. 2010).

This was an action by bankruptcy attorneys challenging the constitutionality of certain provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA"). Following the U.S. Supreme Court's decision in Milavetz, Gallop & Milavetz, P.A. v. United States, 130 S. Ct. 1324 (2010), the Second Circuit affirmed in part and vacated in part my decision on the parties' motions to dismiss and for a preliminary injunction.

2. Taravella v. Town of Wolcott, No. 3:04-cv-895, 2008 WL 1821507 (D. Conn. Apr. 22, 2008), rev'd, 599 F.3d 129 (2d Cir. 2010).

This was an action brought by a former municipal employee against a town, its mayor and another municipal employee asserting constitutional and state law causes of action arising from her employment termination. The Second Circuit reversed my denial of qualified immunity for the mayor in a ruling on a summary judgment motion. Judge Straub dissented.

3. Wiener v. Health Net of Connecticut, Inc., No. 3:04-cv-1300, 2007 WL 2815199 (D. Conn. Sept. 26, 2007), aff'd in part, vacated in part, 311 F. App'x 438 (2d Cir. 2009).

Parents brought this action on behalf of their son for payment by an ERISA plan administrator of growth hormone therapy. The Second Circuit affirmed my decision following a bench trial that the administrator's denial of benefits was arbitrary and capricious, but remanded to have the administrator reconsider the claim.

4. Hoyer v. DiCocco, 457 F. Supp. 2d 110 (D. Conn. 2006), rev'd, 224 F. App'x 103 (2d Cir. 2007).

This was a claim of false arrest and imprisonment by a plaintiff who was suffering from mental illness and was arrested by the defendant police officer and involuntarily committed for psychiatric evaluation. The Second Circuit reversed my denial of qualified immunity in my summary judgment decision.

5. Staehr v. Hartford Fin. Servs. Grp., Inc., 460 F. Supp. 2d 329 (D. Conn. 2006), vacated and remanded, 547 F.3d 406 (2d Cir. 2008).

My dismissal of this securities action for contingency commission kickback arrangements on the basis of a statute of limitations was reversed on the basis that there were inadequate "storm warnings" to the investor plaintiffs.

6. Charts v. Nationwide Mut. Ins. Co., 397 F. Supp. 2d 357 (D. Conn. 2005), rev'd sub nom. Chartschlaa v. Nationwide Mut. Ins. Co., 538 F.3d 116 (2d Cir. 2008), cert. denied, 129 S. Ct. 1534 (2009).

Denial of motion for judgment as a matter of law following jury verdict in plaintiff's favor was reversed on the basis that plaintiff insurance agent's claims for state law violations were part of earlier bankruptcy estate rather than owned by plaintiff.

7. Ellis v. Tribune Television Co., 363 F. Supp. 2d 121 (D. Conn. 2005), vacated and remanded, 443 F.3d 71 (2d Cir. 2006).

The plaintiff was granted summary judgment to compel defendant to comply with Federal Communication Commission ("FCC") cross-ownership rules. The Second Circuit vacated and remanded to have the FCC address the waiver request of the defendant.

8. Brookridge Funding Corp. v. Nw. Human Servs., Inc., No. 3:99-cv-2339, 2004 WL 1897004 (D. Conn. Aug. 18, 2004), aff'd in part, rev'd in part, 170 F. App'x 170 (2d Cir. 2006).

This was a breach of contract action brought by a lender against a non-profit agency that developed a minor league baseball stadium. Following a bench trial that resulted in an award of substantial damages to the plaintiff, the Second Circuit remanded for a specific finding on consideration or promissory estoppel to support the contract.

9. Ryckman v. Listec USA, Inc., No. 3:00-cv-1123, 2004 WL 3524740 (D. Conn. Apr. 8, 2004), rev'd sub nom., Shapiro v. Logistec USA, Inc., 412 F.3d 307 (2d Cir. 2005).

Reversal of remand order in personal injury action based on diversity of citizenship.

10. Perricone v. Medicis Pharm. Corp., 267 F. Supp. 2d 229 (D. Conn. 2003), aff'd in part, rev'd in part, 432 F.3d 1368 (Fed. Cir. 2005).

This case involved two patents for methods of treating sunburn and skin disorders. I granted summary judgment for the defendant on the basis of invalidity of the patents. The Federal Circuit affirmed the majority of my conclusions, but vacated as to certain claims of one of the patents concerning invalidity and non-infringement. Judge Bryson dissented.

11. Anton/Bauer, Inc. v. PAG, Ltd., No. 3:01-cv-577, 2002 WL 1359673 (D. Conn. June 13, 2002), rev'd, 329 F.3d 1343 (Fed. Cir. 2003).

Reversal of grant of preliminary injunction in favor of owner of patent for battery pack connection. The Federal Circuit concluded, in reversing, that the patent owner had granted implied licenses to purchasers.

12. Bishop v. Nat'l. Health Ins. Co., No. 3:00-cv-256, 2002 WL 519712 (D. Conn. Mar. 11, 2002), vacated and remanded, 334 F.3d 305 (2d Cir. 2003).

The Second Circuit reversed my grant of summary judgment to the plaintiff who had sought coverage under a medical insurance policy against defendant insurer. The Second Circuit held that the intoxication exclusion of the policy barred coverage.

13. Commercial Cleaning Servs., LLC v. Colin Serv. Sys., Inc., No. 3:99-cv-109, 2000 WL 545126 (D. Conn. Mar. 21, 2000), 271 F.3d 374 (2d. Cir. 2001).

This was a putative class action brought by a commercial cleaning service against its competitor under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), claiming that RICO was violated by the defendant's hiring of undocumented aliens. The Second Circuit reversed my dismissal of the action, holding that there were sufficient allegations of proximate injury and that failure to supply information under a local standing order was not a sufficient additional basis for dismissal.

14. Edwards v. Tarascio, No. 3:97-cv-2410, 2000 WL 306607 (D. Conn. Feb. 22, 2000), vacated and remanded, 119 F. App'x 327 (2d Cir. 2000).

This was a prisoner's action for constitutional violations resulting from a body and cavity search by prison officials. I dismissed this action on the basis that the plaintiff had failed to demonstrate exhaustion of administrative grievance procedures. The Second Circuit reversed and remanded for a determination whether prior communications constituted estoppel of the defendant's ability to pursue dismissal on the basis of failure to follow the procedures.

15. Bassett v. Mashantucket Pequot Tribe, No. 3:96-cv-1947, aff'd in part, vacated in part, 204 F.3d 343 (2d Cir. 2000).

A film producer brought this action against the Mashantucket Pequot Tribe and related defendants, claiming that the defendants had breached their contract and committed copyright violations in connection with the producer's development of a film for the defendant Tribe's museum. I dismissed the action on the basis that the copyright claims were merely incidental to the contract claims. The Second Circuit reversed, abrogating the prior test for copyright jurisdiction, and setting

forth a new test. The Second Circuit also remanded for a fuller determination of whether the defendant Tribe was an indispensable party.

16. United States v. Gomes, 3:98-cr-195, vacated and remanded, 289 F.3d 71 (2d Cir. 2002), cert. granted, vacated in light of Sell v. U.S., 539 U.S. 166 (2003), 539 U.S. 939 (2003), remanded, 69 F. App'x 36 (2d Cir. 2003), 305 F. Supp. 2d 158 (D. Conn. 2004), aff'd, 387 F.3d 157 (2d Cir. 2004), cert. denied, 543 U.S. 1128.

This case involved a request by the Government for involuntary medication of a defendant in a criminal prosecution following my finding of incompetency. My order of involuntary medication was vacated by the Second Circuit, but following the U.S. Supreme Court's decision in Sell v. United States, affirmed.

17. Green-Younger v. Barnhart, 3:99-cv-1425, rev'd and remanded, 335 F.3d 99 (2d Cir. 2003).

This was an appeal of the denial of a social security disability petition. United States Magistrate Judge William I. Garfinkel issued a recommended ruling sustaining the Administrative Law Judge's denial, which I accepted. The Second Circuit reversed, holding that the treating physician's diagnosis of fibromyalgia must be given controlling weight.

Criticism

1. Beason v. United Techs. Corp., 213 F. Supp. 2d 103 (D. Conn. 2002), aff'd, F.3d 271 (2d Cir. 2003).

The Court of Appeals stated that the definition of disability under the Americans with Disabilities Act was not co-extensive with the similar Connecticut act.

2. Fireman's Fund Ins. Co. v. TD Banknorth Ins. Agency, Inc., No.3:08-cv-364, 2010 WL 420041(D. Conn. Feb. 1, 2010), adjudication of appeal stayed, No. 10-0797-cv, 2011 WL 1601993(2d Cir. Apr. 29, 2011) (certifying question to Connecticut Supreme Court).

   The Second Circuit disagreed that a contract abrogated the "make whole" doctrine of insurance law, but certified a question to the Connecticut Supreme Court.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

I have filed all my decisions with our Clerk's Office, which in recent years has used the CM/ECF system to make all written decisions available to the public and

attorneys online. Most of my decisions have also been published electronically by Westlaw or Lexis or reported in the Federal Supplement.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

1. U.S. v. Kliti, 156 F.3d 150 (2d Cir. 1998).

2. Andrews v. Peet, No. 3:08-cv-150, 2010 WL 2976921 (D. Conn. July 21, 2010).

3. Doe I v. Ciolli, 611 F. Supp. 2d 216 (D. Conn. 2009).

4. Connecticut Bar Ass'n v. United States, 394 B.R. 274 (D. Conn. 2008), aff'd in part, vacated in part, 620 F.3d 81 (2d Cir. 2010).

5. Bridgeport & Port Jefferson Steamboat Co. v. Bridgeport Port Auth., 566 F. Supp. 2d 81 (D. Conn. 2008), aff'd, 567 F.3d 79 (2d Cir. 2009), cert. denied, 130 S. Ct. 1075 (2010).

6. United States v. Paris, No. 3:06-cr-64, 2007 WL 3124724 (D. Conn. Oct. 24, 2007), aff'd sub nom., United States v. Martinez, 621 F.3d 101 (2d Cir. 2010).

7. United States v. Gomes, 3:98-cr-195, vacated and remanded, 289 F.3d 71 (2d Cir. 2002), cert. granted, judgment vacated in light of Sell v. United States, 539 U.S. 166 (2003), 539 U.S. 939 (2003), remanded, 69 F. App'x 36 (2d Cir. 2003), 305 F. Supp. 2d 158 (D. Conn. 2004), aff'd, 387 F.3d 157 (2d Cir. 2004), cert. denied, 543 U.S. 1128 (2005).

8. Piscottanno v. Town of Somers, 396 F. Supp. 2d 187 (D. Conn. 2005).

9. Ross ex rel. Dunham v. Lantz, 3:05-cv-758, 2005 WL 1124704 (D. Conn. May 12, 2005), stay denied, 409 F.3d 121 (2d Cir. 2005).

10. Inturri v. City of Hartford, 365 F. Supp. 2d 240 (D. Conn. 2005), aff'd, 165 F. App'x 66 (2d Cir. 2006).

11. Juvenile Matters Trial Lawyers Ass'n v. Judicial Dept., 363 F. Supp. 2d 239 (D. Conn. 2005).

12. Ross ex rel. Ross v. Rell, 392 F. Supp. 2d 224 (D. Conn. 2005).

13. Leocata ex rel. Gilbride v. Wilson-Coker, 343 F. Supp. 2d 144 (D. Conn. 2004), aff'd sub nom. Leocata v. Leavitt, 148 F. App'x 64 (2d Cir. 2005).

14. Hartwig v. Albertus Magnus College, 93 F. Supp. 2d 200 (D. Conn. 2000).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

Opinions I have authored for the Second Circuit:

1. Lafaro v. New York Cardiothoracic Group, PLLC, 570 F.3d 471 (2d Cir. 2009).

The Court of Appeals reversed the District Court's grant of a motion for judgment on the pleadings. My opinion held that a factual determination was necessary for the private plaintiffs to avail themselves of governmental immunity under the Sherman Act.

2. Robert Lewis Rosen Assocs., Ltd. v. Webb, 473 F.3d 498 (2d Cir. 2007).

The Court of Appeals affirmed the District Court's award of a supplemental judgment pursuant to Fed. R. Civ. P. 60(a).

3. NLRB v. Local 3, Intern. Broth. of Elec. Workers, 471 F.3d 399 (2d Cir. 2006).

The Court of Appeals affirmed a special master's findings concerning remedies for civil contempt against a labor union. A portion of the findings were modified.

4. United States v. Fermin, 252 F.3d 102 (2d Cir. 2001).

The Court of Appeals affirmed the District Court's decision not to depart downward for a sentence concerning illegal re-entry of a removed alien.

5. United States v. Kliti, 156 F.3d 150 (2d Cir. 1998).

The Court of Appeals vacated and remanded a criminal conviction on the basis that the District Court had failed to conduct a hearing concerning a potential conflict of interest involving defense counsel.

6. United States v. Mercado, 573 F.3d 138 (2d Cir.), cert. denied, 130 S. Ct. 645 (2009).

I filed a dissenting opinion to a decision by the Court of Appeals that affirmed the defendant's conviction for drug offenses. In my dissent I stated that the District Court erred in its application of Federal Rule of Evidence 404(b) to evidence of prior involvement of the defendant in firearms transactions.

Other Second Circuit cases on which I sat by designation:

Sudusinghe v. Holder, 369 F. App'x 219 (2d Cir. 2010)

United States v. Pepin, 367 F. App'x 262 (2d Cir. 2010)

Landmark Dev. Grp., LLC v. Town of East Lyme, 374 F. App'x 58 (2d Cir. 2010)

United States v. One 2004 Land Rover Range Rover, 369 F. App'x 208 (2d Cir. 2010)

Brown v. Legal Aid Soc., 367 F. App'x 215 (2d Cir. 2010), cert. denied, 131 S. Ct. 441 (2010)

United States v. Sperling, 367 F. App'x 213 (2d Cir. 2010), cert. denied, 131 S. Ct. 441 (2010)

Rojas v. Schkoda, 319 F. App'x 43 (2d Cir. 2009)

In Re Smith, 321 F. App'x 32 (2d Cir. 2009)

Pyke v. Cuomo, 567 F.3d 74 (2d Cir.), cert. denied, 130 S. Ct. 741 (2009)

Cuadro-Vidres v. Holder, 321 F. App'x 30 (2d Cir. 2009)

United States v. Rojas, 346 F. App'x 686 (2d Cir. 2009), cert. denied, sub nom. Salazar-Espinosa v. United States, 130 S. Ct. 1311 (2010)

Arista Records, LLC v. Launch Media, Inc., 578 F.3d 148 (2d Cir. 2009); and 344 F. App'x 648 (2d Cir. 2009), cert. denied, 130 S. Ct. 1290 (2010)

United States v. Francis, 319 F. App'x 27 (2d Cir. 2009)

United States v. Mercado, 573 F.3d 138 (2d Cir. 2009), cert. denied, 130 S. Ct. 645 (2009)

Simmons v. Local Union 1199, 319 F. App'x 33 (2d Cir. 2009)

United States v. Munroe, 167 F. App'x 253 (2d Cir. 2006)

Morrison v. I.N.S., 166 F. App'x 583 (2d Cir. 2006)

Gibbs ex rel. Gibbs v. Cigna Corp., 440 F.3d 571 (2d Cir. 2006)

United States v. Hartery, 169 F. App'x 604 (2d Cir. 2006)

Diaoune v. McElroy, 170 F. App'x 162 (2d Cir. 2006)

United States v. Munoz, 167 F. App'x 850 (2d Cir. 2006)

Li v. Gonzales, 167 F. App'x 272 (2d Cir. 2006)

Eastman Kodak Co. v. STWB, Inc., 452 F.3d 215 (2d Cir. 2006)

Surgutneftegaz v. President & Fellows of Harvard, 167 F. App'x 266 (2d Cir. 2006)

Williams v. Fletcher, 167 F. App'x 862 (2d Cir. 2006)

Smith v. Collins, 167 F. App'x 830 (2d Cir. 2006)

Haghpassand v. Reuters Am. Inc., 120 F. App'x 859 (2d Cir. 2005)

Carter v. Jablonsky, 121 F. App'x 888 (2d Cir. 2005)

Camaj v. I.N.S., 121 F. App'x 416 (2d Cir. 2005)

Gulino v. New York State Educ. Dept., 460 F.3d 361 (2d Cir. 2006), cert. denied, 554 U.S. 917 (2008)

McGuire v. City of New York, 142 F. App'x 1 (2d Cir. 2005)

United States v. Konstantakakos, 121 F. App'x 902 (2d Cir. 2005)

Boise v. Bouffard, 121 F. App'x 890 (2d Cir. 2005)

Ivorno v. Dupont Pharm. Co., 129 F. App'x 637 (2d Cir. 2005)

Zhao v. Attorney General, 121 F. App'x 909 (2d Cir. 2005)

Rodriguez v. Artuz, 123 F. App'x 428 (2d Cir. 2005)

Singh v. Ashcroft, 64 F. App'x 834 (2d Cir. 2003)

United States v. Pimentel, 346 F.3d 285 (2d Cir. 2003), cert. denied, 543 U.S. 955 (2004)

Israel v. Carpenter, 67 F. App'x 56 (2d Cir. 2003), cert. denied, 540 U.S. 1109 (2004)

Cortes v. Sky Chiefs, Inc., 67 F. App'x 66 (2d Cir. 2003)

London v. Berkshire Life Ins. Co., 71 F. App'x 881 (2d Cir. 2003)

Fieger v. Pitney Bowes Credit Corp., 69 F. App'x 31 (2d Cir. 2003)

Rossi v. City of New York, 75 F. App'x 18 (2d Cir. 2003)

United States v. Lucas, 68 F. App'x 265 (2d Cir. 2003), cert. denied, 540 U.S. 1024 (2003)

Formanek v. Pines, 69 F. App'x 504 (2d Cir. 2003)

United States v. Vasquez, 242 F.3d 368 (2d Cir. 2000)

Eastern Equip. & Servs. Corp. v. Factory Point Nat. Bank, Bennington, 236 F.3d 117 (2d Cir. 2001)

Windham v. Time Warner, Inc., 275 F.3d 179 (2d Cir. 2001)

Russell v. Bd. of Plumbing, 1 F. App'x 38 (2d Cir. 2001)

Salomone v. Merrill Lynch & Co., Inc., 242 F.3d 367 (2d Cir. 2000)

Potter v. Xerox, 1 F. App'x 34 (2d Cir. 2001)

Corning, Inc. v. Shin Etsu Quartz Prods. Co., Ltd., 242 F.3d 364 (2d Cir. 2000)

United States v. Frederick, 242 F.3d 368 (2d Cir. 2000)

Danzer v. Norden Sys., Inc., 151 F.3d 50 (2d Cir. 1998)

Messner Vetere Berger McNamee Schmetterer Euro RSCG Inc. v. Aegis Grp. PLC, 150 F.3d 194 (2d Cir. 1998)

George Haug Co., Inc. v. Rolls Royce Motor Cars, Inc., 148 F.3d 136 (2d Cir. 1998)

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Our Court has an automatic recusal system. The Clerk's Office maintains a list of persons or entities whose involvement automatically causes my recusal before I am assigned the case. I regularly update my list for the Clerk's Office for such automatic recusal based on financial interests, prior clients, close personal relationships, and other conflicts. Also, if one of my listed conflicts arises after the case has been assigned to me, e.g., a counsel appears who is on my recusal list, I then transfer the case through a random case assignment approach.

I only recall two instances in which my recusal was requested by a party. In Hanson v. Ocwen Fed. Bank, No. 3:02-cv-960 (2003), the plaintiff claimed in a motion that I was biased against him because I had been employed from 1979 to 1981 at the law firm representing a defendant. Following a hearing, I issued an opinion denying the motion. I concluded there was no factual basis for a claim of bias. Following continued litigation of the case, it was transferred to the Northern District of Illinois as a Multidistrict Litigation matter.

Recusal was also recently requested in a pending case, Baltayan v. Tito, No. 3:10-cv-1327, on the basis that I should not have imposed a stay on discovery. That motion was denied.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

United States Attorney for the District of Connecticut (1993 – 1997) (appointed by President William J. Clinton)

Town Council Member, Town of West Hartford (1983 – 1989) (elected)
(Deputy Mayor: 1983 – 1985; Mayor: 1985 – 1989)

Member, Charter Revision Commission, Town of West Hartford (1982 – 1983)
(Appointed by the Town Council)

Vice Chair, Finance Advisory Board, Town of West Hartford (1981 – 1982)
(Appointed by the Town Council)

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed offices.

List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

In 1981, I was the finance coordinator for Kevin Sullivan, candidate for Town Council.

In 1984, I volunteered for the campaign of Gerald Roisman for State Senate.

In 1984, I, along with the Democrats of the West Hartford Town Council, endorsed Walter Mondale for President.

In 1988, I was Chair of the Connecticut campaign of Al Gore for President.

In 1988, I was a district coordinator in Senator Lieberman's campaign.

From 1988 to 1992, I was a member of the Democratic State Central Committee for Connecticut.

In 1992, I volunteered for Senator Dodd's campaign.

In 1992, I was Connecticut Delegate Coordinator for the Presidential campaign and a national Democratic convention delegate

I have had no involvement in political activity since my appointment as United States Attorney in 1993.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not clerked for a judge.

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

I have not practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1979 – 1981
Day, Berry & Howard (now Day Pitney LLP)
242 Trumbull Street
Hartford, Connecticut 06103
Associate Attorney; Member of Trial Department

1981
Aetna Life & Casualty (now Aetna, Inc.)
151 Farmington Avenue
Hartford, Connecticut 06156
Attorney; Member of Law Department

1981 – 1984
Buckley & Santos, P.C.
51 Russ Street
Hartford, Connecticut 06106
Associate Attorney

1984 – 1993
Reid & Riege, P.C.
One Financial Plaza
Hartford, Connecticut 06103
Associate Attorney (1984 – 1987)
Vice President and Stockholder (1987 – 1993)

1993 – 1997
United States Attorney's Office
District of Connecticut
157 Church Street, 23rd Floor
New Haven, Connecticut 06510
United States Attorney

In the period from 1985 to 1989, I also served as a Criminal Justice Act public defender for the United States District Court in Connecticut.

i. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

While in private practice, I served as a mediator on a pro bono basis as a member of the District Court's Panel of Special Masters. I did the same for the Connecticut state courts. I do not recall the specific cases, and I have no notes from that service.

b. Describe:

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

The general character of my practice was litigation and trial experience since 1979, except for a brief period in 1981 when I practiced investment law.

Following my graduation from the University of Connecticut School of Law in 1979, I joined the Hartford office of the law firm of Day, Berry & Howard (now Day Pitney LLC) as an associate attorney. At the time, there were approximately 100 lawyers at the firm. I joined the litigation department and was responsible for civil matters such as personal injury defense, products liability, antitrust, and corporate disputes. I tried a number of cases in this period, usually with senior lawyers, but also as chief trial attorney.

In 1981, I joined the law department of Aetna Life & Casualty for a brief period, approximately eight months. (Day, Berry & Howard and Aetna had a close relationship.) I worked on investment law matters at Aetna.

In 1981, following my time at Aetna, I joined the private law firm of Buckley & Santos (now Santos and Seeley, P.C.) in Hartford. That firm had four other lawyers and specialized exclusively in complex civil and criminal trial work. While at Buckley & Santos, I handled a number of important civil and criminal matters, including wrongful death, federal civil rights, capital felony, and others. I also argued appeals before the Connecticut Supreme Court and the U.S. Court of Appeals for the Second Circuit.

In 1984, I joined the Hartford law firm of Reid & Riege, P.C., which had approximately fifty lawyers, and I was a member of the trial department for nine years. I became a stockholder and officer in 1987 and practiced exclusively in the area of litigation. I tried many cases as both chief trial counsel and associate trial counsel at Reid & Riege and argued many appeals as well.

In 1993, I was appointed United States Attorney for the District of Connecticut. As United States Attorney, I supervised and directed the Assistant United States Attorneys in prosecuting federal crimes and representing the United States in civil matters. I also personally tried two cases while U.S. Attorney: the first, a prosecution of the leadership of the Ku Klux Klan in Connecticut and the second, the prosecution of a drug dealer from New Haven. While United States Attorney, I also argued three appeals in the United States Court of Appeals for the Second Circuit.

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

It is difficult to describe a typical former client from my time in private practice, as I represented individuals charged with federal felonies, individuals in personal injury cases, and many business entities with complicated civil litigation matters. However, all were in the area of litigation.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Except for a brief period in 1981 when I practiced investment law, all of my practice was in litigation. I appeared in court frequently.

i. Indicate the percentage of your practice in:

1.	federal courts:	50%
2.	state courts of record:	45%
3.	other courts:	0%
4.	administrative agencies:	5%

ii. Indicate the percentage of your practice in:

1.	civil proceedings:	50%
2.	criminal proceedings:	50%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

27. For about half of these I was sole counsel, one quarter chief counsel and one quarter associate counsel.

i. What percentage of these trials were:
   1. jury: 35%
   2. non-jury: 65%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. United States v. Dodge, 61 F.3d 142 (2d Cir. 1995), cert. denied, 516 U.S. 969 (1996); Judges: Trial: Honorable T. F. Gilroy Daly, United States District Judge (deceased); Appeal: U.S. Court of Appeals for the Second Circuit; Date of guilty plea: May 26, 1994.

I and an Assistant U.S. Attorney prosecuted the New England Grand Dragon of the Ku Klux Klan for weapons offenses. This case was one of a series of indictments brought by the U.S. Attorney's Office against members of the Connecticut chapter of the Ku Klux Klan for weapon and bomb offenses. The defendant Dodge entered a conditional plea of guilty to possessing a pipe bomb and appealed his conviction to the United States Court of Appeals for the Second Circuit, attacking the constitutionality of the National Firearms Act. The Second Circuit affirmed the conviction. I was lead trial counsel and lead appellate counsel.

Co-counsel: Assistant U.S. Attorney Anthony E. Kaplan, 157 Church Street, New Haven, CT 06510, Tel. (203) 821-3700; Opposing counsel: Thomas Dennis (Federal Public Defender), 10 Columbus Boulevard, 6th Floor, Hartford, CT 06106, Tel. (860) 240-6260.

2. United States v. Borkoski, 61 F.3d 142 (2d Cir. 1995), cert. denied, 516 U.S. 969 (1996); Judges: Trial: Honorable T.F. Gilroy Daly, United States District Judge (deceased); Appeal: U.S. Court of Appeals for the Second Circuit; Date of verdict: June 19, 1994.

   I and an Assistant U.S. Attorney prosecuted a member of the Connecticut Chapter of the Ku Klux Klan for conspiracy to possess a silencer, for the purpose of shooting an African-American. This was also part of the overall investigation and prosecution of the Ku Klux Klan in Connecticut. The defendant was convicted following a jury trial and his conviction was sustained on appeal. I was lead trial counsel and lead appellate counsel.

   Co-counsel: Assistant U.S. Attorney Anthony E. Kaplan, 157 Church Street, New Haven, CT 06510, Tel. (203) 821-3700; Opposing counsel: Joseph C. Burns, One State Street, Hartford, CT 06103, Tel. (860) 549-1000 (appellate counsel), and John D. Maxwell, 100 Pearl Street, Hartford, CT 06103, Tel. (860) 522-3343 (trial counsel).

3. United States v. Fields, Case Nos. 96-1168, -1257, 1997 WL 239648 (2d Cir. May 12, 1997); Judge: Trial: Senior United States District Judge Peter C. Dorsey; Docket No. 3:94-cr-258; Appeal: U.S. Court of Appeals for the Second Circuit; Date of verdict: September 21, 1995.

   I and then Deputy U.S. Attorney Durham prosecuted this defendant, the leader of a New Haven street gang, for sale of crack cocaine. The investigation and prosecution was a product of a joint federal, state and local task force. Defendant Fields was convicted following a jury trial. I was co-trial counsel. The U.S. Court of Appeals for the Second Circuit affirmed the conviction on appeal.

   Co-counsel: Deputy U.S. Attorney John H. Durham, 157 Church Street, New Haven, CT 06510, Tel. (203) 821-3700; Opposing counsel: Thomas G. Dennis (Federal Public Defender), 10 Columbus Boulevard, Hartford, CT 06106, Tel. (860) 493-6260.

4. United States v. Sage, 92 F. 3d 101 (2d Cir. 1996); Judges: Trial: Senior United States District Judge Dominic J. Squatrito; Appeal: U.S. Court of Appeals for the Second Circuit; Date of guilty plea: October 5, 1995.

   I and an Assistant U.S. Attorney prosecuted the defendant for violating the Child Support Recovery Act. This was the first prosecution by the Office of the U.S. Attorney for the District of Connecticut under the recently enacted Act. The defendant entered a conditional guilty plea and challenged the Act's constitutionality. The U.S. Court of Appeals for the Second Circuit sustained the conviction and the constitutionality of the Act. The Assistant U.S. Attorney was lead trial counsel and I was lead appellate counsel.

Co-counsel: Assistant U.S. Attorney Denise D. Markle (now Superior Court Judge), 54 West Main Street, Meriden, CT 06451, Tel. (203) 238-6137; Opposing counsel: Terence Ward (Assistant Federal Public Defender), 10 Columbus Boulevard, Hartford, CT 06106, Tel. (860) 493-6260

5. State v. Hope, 524 A.2d 1148 (Conn. 1987), and 577 A.2d 1000 (Conn. 1990); Judges: Trial: Honorable Seymour Hendel; Appeal: Connecticut Supreme Court; Date of verdict: August 9, 1983.

   A senior partner at my firm and I represented the defendant in the first prosecution by the State of Connecticut under the then-new Connecticut Death Penalty Act. Our client was prosecuted as part of a claimed murder-for-hire conspiracy, even though he did not commit the actual murder. I was associate trial counsel, argued many motions, and wrote many of the trial briefs. We prevailed at the trial and appellate levels.

   Co-counsel: Hubert J. Santos, Esq., 51 Russ Street, Hartford, CT 06106, Tel. (860) 249-6548; Opposing counsel: C. Robert Satti, Esq., 70 Huntington Street, New London, CT 06320, Tel. (860) 443-2835 (now deceased).

6. Sanderson v. Steve Snyder Enters., Inc., 491 A.2d 389 (Conn. 1985); Judges: Trial: Honorable Arthur Spada; Appeal: Connecticut Appellate Court; Date of verdict: April 21, 1983.

   I represented the estate of a man in a wrongful death action against a parachute equipment designer. I was sole trial counsel and co-appellate counsel. A defendant's verdict was reversed on appeal by the Connecticut Supreme Court on a number of bases. The Court affirmed our positions on a number of important products liability and evidence issues, including the admissibility of evidence of subsequent design changes in a Connecticut products liability action.

   Co-counsel: Hubert J. Santos, Esq., 51 Russ Street, Hartford, CT 06106, Tel. (860) 249-6548; Opposing counsel: George D. Royster, Esq., Halloran & Sage, One Goodwin Square, Hartford, CT 06103, Tel. (860) 297-4631.

7. Kimberly-Clark Corp. v. Dubno, 527 A.2d 679 (Conn. 1987); Judges: Trial: Honorable Robert Satter (now Judge Trial Referee), Appeal: Connecticut Supreme Court; Dates of trial: October 1986; Date of Memorandum of Decision: December 12, 1986.

   I represented a manufacturer in a challenge to the application of the Connecticut sales tax to purchases of large machinery. The Connecticut Commissioner of Tax Revenue initially ruled that my client did not have to pay taxes on the equipment, but later held that taxes and interest were owed. My client challenged this finding, arguing that the doctrine of promissory estoppel applied equally to public officials. I was chief trial and appellate counsel. We prevailed at the state trial and appellate levels.

Opposing counsel: Assistant Attorney General Jonathan L. Ensign (now retired), 110 Sherman Street, Hartford, CT 06105, Tel. (860) 808-5318.

8. Schultz v. Flayderman, Litchfield Superior Court; Trial Judge: Honorable Thomas Gill; Docket No. CV-86-0043652; Dates of trial: December 1987; Date of Memorandum of Decision: September 16, 1988.

   I represented a real estate partnership in claims of first impression arising under options and rights of first refusal under the then recently enacted Connecticut Unfair Trade Practices Act. I was chief trial counsel. A defendant's judgment was rendered and the case was resolved by the parties during the appeal.

   Opposing counsel: D. Randall DiBella, Esq., P.O. Box 3009, New Milford, CT 06776; Tel. (860) 355-1186, and Stewart Edelstein, Esq., Cohen & Wolf, 1115 Broad Street, Bridgeport, CT 06601 Tel. (203)368-0211.

9. Howat v. Passaretti, 528 A.2d 834 (Conn. App. Ct. 1987); Judges: Trial: Honorable William Bieluch; Appeal: Connecticut Appellate Court; Date of verdict: March 8, 1987.

   Along with one of my partners, I represented the estate of a young person in a medical negligence wrongful death action against an orthopedic group. Among the issues we litigated was the professional responsibility of a medical services corporation to patients. I was co-trial counsel and sole appellate counsel. A defendant's verdict was rendered which was sustained on appeal.

   Co-counsel: Maurice T. FitzMaurice, Esq., Reid & Riege, P.C., One Financial Plaza, Hartford, CT 06103, Tel. (860) 278-1150; Opposing counsel: Joseph Adinolfi, Esq., (deceased) and Donald J. McCarthy, Jr., 107 Oak Street, Hartford, CT 06106, Tel. (860) 560-0468.

10. Cally Curtis Co. v. Groppo, 572 A.2d 302 (Conn. 1990), cert. denied, 111 S. Ct., 77 (1990); Judges: Trial: Honorable Ronald Fracasse; Appeal: Connecticut Supreme Court dates of trial: February 1989; Date of Memorandum of Decision: March 31, 1989.

    I represented a California mail order company in a challenge to the application of the Connecticut sales tax statute on interstate sales of out-of-state corporations. The bases of our challenge were the Commerce and Due Process clauses of the U.S. Constitution. I was chief trial and appellate counsel. We prevailed at the state trial and appellate levels and certiorari was denied by the U.S. Supreme Court.

    Opposing counsel: Assistant Attorney General Richard K. Greenberg (now retired), 110 Sherman Street, Hartford, CT 06105, Tel. (860) 808-5318.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    I am proud of my efforts as United States Attorney to bring together state, municipal, and federal law enforcement officials to attack crime in a cooperative approach. In particular, we formed joint task forces in our cities of New Haven, Bridgeport, and Hartford to investigate and prosecute violent street gangs. We convicted over 150 gang members of federal offenses, including the leaders of the Latin Kings, Los Solidos, and 20-Love. I believe this effort significantly reduced violent crime in Connecticut.

    At the same time that we prosecuted street gangs, we initiated programs to rebuild the neighborhoods in the cities. Among these efforts were our Weed and Seed sites and the Police and Urban Youth Task Force (which was created to try to bring police and young people in our cities closer together).

    We also used this cooperative law enforcement model to attack health care fraud, environmental abuse, and other areas. We established working groups of federal, state, and municipal officials to share intelligence and resources and to present the most effective approaches to these problems.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    No.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       If confirmed to the Court of Appeals, I would not sit on cases that I heard as a District Judge, of course. I would also not sit on cases in which I had a financial interest. I also have a number of family members who are attorneys and would not hear cases in which they were involved. Finally, I would not hear cases involving Reid & Riege, P.C., my former law firm.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       I would continue to follow the recusal statutes and the Code of Conduct for United States Judges.

Pro Bono Work: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

From 1983 to 1989, I served without compensation as Deputy Mayor and then Mayor of West Hartford, Connecticut. West Hartford is Connecticut's eighth largest municipality, and presented many problems that arise from a diverse, large community. Although I worked on many initiatives during that time, I am most proud of my efforts to address housing needs, to improve opportunities and programs for senior citizens, and to reduce crime in our region. Prior to my terms as Deputy Mayor and Mayor, I also served on a

number of local boards and commissions, such as the Finance Advisory Board and the Charter Revision Commission.

During my time in private practice, I served for a number of years in the U.S. District Court in Connecticut as a voluntary public defender representing indigent defendants. I also served as an uncompensated mediator in both the U.S. District Court and the Connecticut Superior Court. From 1986 to 1992, I served as a member of the Board of Directors of our county bar association.

Prior to my appointment as United States Attorney, I participated extensively in charitable organizations in our region. Among those were a regional affordable housing cooperative, a local hospital, and a university scholarship fund for needy students.

During my time as United States Attorney, I devoted part of my personal life to improving the relationship between young people in our cities and municipal police. This was related to the initiative I began in my office entitled the "Police and Urban Youth Task Force" which was comprised of young people, law enforcement officials and community leaders. The Task Force hosted gatherings and sponsored events in the major cities to improve the communication between young people and police. We also hosted two statewide events.

I also gave a great deal of time to the Mushaba Force Youth Foundation. The Foundation helps young, impoverished people in the inner city develop respect for themselves and others.

As a District Judge, I have not been able to do quite as much in our community due to the obvious restrictions that accompany that role. However, I have encouraged many lawyers to participate in pro bono representation in both civil and criminal cases. I have also tried to help our community through work at my church, through being a coach of a girls sports league, and work at our local schools.

25. **Selection Process**:

    a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

    There is no selection commission in our jurisdiction for appointments to the U.S. Court of Appeals for the Second Circuit. In January 2011, I spoke with representatives of Senators Lieberman and Blumenthal, and indicated my interest

in a potential appointment to the Court of Appeals. The Senators subsequently recommended me to the White House. Since February 9, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 10, 2011, I interviewed with attorneys from the Office of White House Counsel and the Department of Justice in Washington, DC. On May 4, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2011

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
DRONEY, Christopher	United States Court of Appeals for the Second Circuit	5/4/2011
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
Circuit Judge	☑ Nomination, Date 5/4/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	1/1/2010 to 4/30/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
450 Main Street Suite 228 Hartford, CT 06103-9998	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☑ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.		
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 6	Name of Person Reporting DRONEY, Christopher	Date of Report 5/4/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

	DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.			
2.			
3.			
4.			

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

	DATE	SOURCE AND TYPE
1.	2010	West Hartford (CT) Board of Education
2.		
3.		
4.		

IV. REIMBURSEMENTS – *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	Exempt				
2.					
3.					
4.					
5.					

FINANCIAL DISCLOSURE REPORT Page 3 of 6	Name of Person Reporting DRONEY, Christopher	Date of Report 5/4/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 6

Name of Person Reporting	Date of Report
DRONEY, Christopher	5/4/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	B. (2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	C. (2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	D. (2) Date mm/dd/yy	D. (3) Value Code 2 (J-P)	D. (4) Gain Code 1 (A-H)	D. (5) Identity of buyer/seller (if private transaction)
1. Bank of America, Hartford CT - (savings & checking)	A	Interest	M	T					
2. Estate #1 - See Part VIII.		None	L	T					
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C3)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 5 of 6	Name of Person Reporting DRONEY, Christopher	Date of Report 5/4/2011

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

2. Beneficial interest in Trust U/W of family member. The principal asset in the trust is undeveloped land located in Torrington, Connecticut.

FINANCIAL DISCLOSURE REPORT Page 6 of 6	Name of Person Reporting DRONEY, Christopher	Date of Report 5/4/2011

IX. CERTIFICATION.

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

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

Signature Christopher Droney

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

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		135	000	Notes payable to banks-secured (autos)		27	000
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities				Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		3	000
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		265	926
Real estate owned – personal residence		550	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		26	000				
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		71	810				
Trust interest		75	000				
				Total liabilities		295	926
				Net Worth		561	884
Total Assets		857	810	Total liabilities and net worth		857	810
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts (child's auto loan)		12	000	Are any assets pledged? (Add schedule)	No		
Legal Claims				Are you defendant in any suits or legal actions?	No		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	No		
Other special debt							

AFFIDAVIT

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

April 28, 2011
(DATE)

Christopher Drouy
(NAME)

Renee Alexander
(NOTARY)
my Commission Expires.
10/2011

Senator BLUMENTHAL. Thank you. I will begin with some questions and then ask Senator Grassley whether he has any.

One aspect of your background that has not been mentioned and I should have made reference to it has been your service as the deputy mayor and then mayor of West Hartford. And I wonder if that experience, combined with your prosecutorial and your judicial experience, has given you a perspective on what you will be doing as a judge on the second circuit, if confirmed.

Judge DRONEY. I think it was very important experience for me in all the different roles that I've had. I think service in local government like that teaches you to be fair to people, to be patient, to listen to everybody, and to, also, understand that just because someone is better educated than someone else doesn't mean that person is more intelligent than the one who hasn't the benefits of a great education like I have.

I hope I have brought those qualities to my other positions, too, as U.S. Attorney and as a trial judge.

Senator BLUMENTHAL. And how would you describe your view of the role of precedent or decisions by higher courts in what you do as a judge?

Judge DRONEY. Well, I certainly follow precedent, I'm bound to it, of the Supreme Court and the second circuit. I hope and I think that I have demonstrated that over my 14 years as a district judge, that my own personal views have no place in adjudicating those cases and I am bound by those decisions of the higher courts.

Senator BLUMENTHAL. I am happy to turn to the Ranking Member, Senator Grassley.

Senator GRASSLEY. First of all, congratulations.

Judge DRONEY. Thank you, Senator.

Senator GRASSLEY. I should say you are lucky you earned it, but all these nice comments about you.

When you served as U.S. Attorney in Connecticut, the *New York Times* quoted you as saying, "I believe in redemption, but I also believe in paying for your sins."

Has your time on the Federal bench changed your views you originally held as a U.S. Attorney and if so, how?

Judge DRONEY. I don't think so. I think certainly there is a role for punishment. It's one of the things we think about in applying the Federal sentencing statute. I think it was appropriate in that particular case. It was a gang member who was sentenced to prison and he was arguing in that article that he shouldn't have received a sentence of imprisonment.

But I had hoped that he turned his life around and was going to return as a contributing member of society, but he also, I think, had to pay for some of the misdeeds that he had a member of the Los Solidos.

I still believe—I still believe generally in those principles that I articulated in that article.

Senator GRASSLEY. One, I ask the next question because of your position as a district judge and it is in regard to the issue of terrorism, and I only want to quote Attorney General Holder, because he has a very good quote about Article 3, court system, "our most effective terror-fighting weapon."

What is your reaction to the statement, based on your experience as an Article 3 judge? Is this a burden the Attorney General should put on our court, and what do you think the court's proper role would be in the war on terror?

Judge DRONEY. Well, I think it's for people than I to decide where those cases should be placed. I know it has received a lot of attention, even this week, about whether they should be tried in military tribunals or in the district court.

All I can say is if I have one of those cases, I would certainly adjudicate it and follow the law. But I think as to the decision as to where is the proper forum, I don't think that's something that at least I have encountered.

It's possible, I think, that it could come before me, but I think that it's a prosecutorial decision rather than a judicial decision typically and the Attorney General would make that call, I believe.

Senator GRASSLEY. In your questionnaire, when you were nominated for district judge, you said that judges should use, "traditional methods of legislative interpretation when defining the intent behind certain laws and their scope."

What specifically do you consider—let me go to my second question.

There has been renewed interest in textualism, including criticism of the use of legislative history and statutory interpretation. How does this approach fit into your view of traditional methods of legislative interpretation?

Judge DRONEY. Well, I think my views are the same now as they were 14 years ago when I provided that answer to you. I think it was to you, Senator. And it is that, of course, the first thing that we should look to is the language of the statute or the Constitution itself and try to be guided by that.

Second, we do—I still think it is appropriate to look at legislative history. At times, it's hard to figure it out, but it's our obligation to do our best to see what the legislature intended in passing that statute. And then, finally, of course, the decisions of the higher courts in interpreting the statute, they should be of some guidance, too, and, as I mentioned before, are binding, if it's a precedent that's right on point.

Senator GRASSLEY. Now, you have been a judge for 14 years. And if confirmed to the second circuit, how would your approach to judging change and, specifically, do you think that this will be a difficult transition for you to make?

Judge DRONEY. I don't think my approach will change. As Senator Blumenthal, as the Chairman has pointed out, I have sat on the second circuit eight times in my time as a district judge by invitation.

So I have, I think, a pretty good idea of how the court works. I still, of course, have a lot to learn, but I still think I'd be guided by the same principles.

And, also, as I think either Senator Blumenthal or Senator Lieberman pointed out, I've written, I think, over 700 opinions and, as you well know, the job of a district judge is not just to try cases and preside over court hearings, but also to write a lot, and I have done that.

So I think I've had a lot of experience in that and, as I've mentioned, I still think I have some to learn, but I think I'm very well prepared for that, if I'm fortunate enough to be confirmed.

Senator GRASSLEY. Here is kind of a philosophical approach to how you might judge, and I am going to quote President Obama. He has said that he hopes judges would reach decisions based on, "a broader vision of what America should be."

Do you believe judges should consider, "their broader vision of what America should be" when deciding cases?

Judge DRONEY. Well, I certainly don't think my personal views should be involved in deciding cases. As I've mentioned, I do strongly believe that the decisions of the higher courts should bind the lower courts, and I think I've demonstrated over the 14 years that I've followed those rules, and that's the way I've approached my judging, without—I hope and I think, without having my personal views come into play.

Senator GRASSLEY. This will be the last question, but I might submit some for answer in writing.

We recently had *Brown* v. *Plata*, the case about the 30,000 prisoners from California prisons. Judge Scalia dissented, and you do not have to comment on what he said, but it is kind of a basis for my question, that gets to a broader question, in writing about these types of injunctions, that it turned judges into, "long-term administrators of complex social institutions, such as schools, prisons and police departments, requiring judges to play a role essentially indistinguishable from the role ordinarily played by executive officials."

Do you believe that structural injunctions like this are consistent with the judicial power called for in Article 3 in the U.S. Constitution?

Judge DRONEY. Well, I know the Supreme Court has recently, not just in that California case, but in the last 10 years or so, has reminded all of us that it's better to have those big organizations run by state agencies, because they are better equipped than a district judge to do that, and I firmly believe in that.

But I also, from the Supreme Court decision, know that there are times when the constitutional violations are such that the courts have to intervene and we shouldn't shy away from that. But I do agree that, generally speaking, those agencies, those departments are better served by a state agency running them. They are better equipped to do that.

Senator GRASSLEY. Thank you, Judge Droney.

Judge DRONEY. Thank you, Senator.

Senator BLUMENTHAL. Thank you, Senator Grassley.

There are no other members here, but we really want to thank you very much for being here to testify. And we will turn now to the next panel. Thank you.

Judge DRONEY. Thank you very much.

Senator BLUMENTHAL. I am going to ask now Judge Bissoon, Mr. Mariani and Mr. Hornak to please take the stand. And Judge Scola, as well, I am sorry. I know you would not want to be left out.

[Nominees sworn.]

Senator BLUMENTHAL. Please be seated.

Why do we not go in order from Mr. Mariani across the table, if any of you would like to make opening statements or introduce your families.

STATEMENT OF ROBERT D. MARIANI, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Mr. MARIANI. Thank you, Senator. I would like to introduce my three children behind me, my son, Robert, and my daughters, Christine and Jeanne Michele.

I'd like to thank you and Senator Grassley for the opportunity to respond to your questions, and I'm particularly appreciative of Senators Toomey and Casey being here to speak on my behalf.

Senator BLUMENTHAL. Thank you.

Judge Bissoon.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Robert David Mariani
   (birth certificate states Robert Eugene Mariani)

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

   United States District Judge for the Middle District of Pennsylvania

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   SNB Plaza, Suite 1000
   108 North Washington Avenue
   Scranton, Pennsylvania 18503

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

   1950; Scranton, Pennsylvania

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1973 – 1976, Syracuse University College of Law; J.D. (*cum laude*), 1976
   1968 – 1972, Villanova University; A.B. (*cum laude*), 1972

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   1993 – Present
   Robert D. Mariani, P.C. (formerly Law Office of Robert D. Mariani)
   SNB Plaza – Suite 1000
   108 North Washington Avenue
   Scranton, Pennsylvania 18503
   Attorney & Sole Shareholder (formerly Sole Proprietor)

1995 & 1980
Penn State University
201 Old Main
State College, Pennsylvania 16802
Instructor

1979 – 1993
Mariani & Greco
Bank Towers Building – 11th Floor
Scranton, Pennsylvania 18503
Partner

1980 – 1981
Lackawanna College
501 Vine Street
Scranton, Pennsylvania 18509
Instructor

1980 – 1981
Pennsylvania State University
University Park, Pennsylvania 16802
Instructor

1978 – 1980
Scranton/Dunmore Sewer Authority
312 Adams Avenue
Scranton, Pennsylvania 18503
Solicitor

1976 – 1979
Dunn & Byrne (since dissolved)
Scranton, Pennsylvania 18503
Associate Attorney

Late 1970s
Lackawanna College
501 Vine Street
Scranton, Pennsylvania 18509
Instructor (one semester)

Summer 1975
Lackawanna County Public Defender's Office
Lackawanna County Court House
200 North Washington Avenue, 1st Floor
Scranton, Pennsylvania 18503
Summer Intern

Other Affiliations (uncompensated)

1991 – 1995
Lackawanna County Bar Association
338 North Washington Avenue, 3rd Floor
Scranton, Pennsylvania 18503
Director

1977 – 1981
Scranton School District
425 North Washington Avenue
Scranton, Pennsylvania 18503
President (1980 – 1981)
Director (1977 – 1981)

1978 – 1980
Philharmonic Society of Northeast Pennsylvania
4101 Birney Avenue
Moosic, Pennsylvania 18507
Director

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I registered for selective service upon turning age 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   AV-Rated, Martindale-Hubbell (Highest Legal Ability & Ethical Standards) (1997 – 2010)
   "Super Lawyers," *Philadelphia Magazine* in Labor and Employment Law (since 2005)
   Labor Law Award, Syracuse University College of Law
   Top 10 Percent of Class, Villanova University

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Arbitration Association
American Bar Association
Committee on Development of Law under the National Labor Relations Act
Section on Labor Law
Section on Litigation
Lackawanna County Bar Association
Board of Directors (1991 – 1995)
National Academy of Arbitrators
Annual Conference Advisory Committee (2010)
Pennsylvania Association for Justice
Pennsylvania Bar Association
Labor Relations Division
Third Circuit Bar Association
United States District Court for the Middle District of Pennsylvania
Chair, Magistrate Judge Merit Selection Panel (1991)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Pennsylvania, 1976

There has been no lapse in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1997
United States Court of Appeals for the Third Circuit, 1983
United States District Court for the Middle District of Pennsylvania, 1976
Pennsylvania Supreme Court, 1976
Court of Common Pleas of Lackawanna County, 1976

There have been no lapses in these memberships.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school.

Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Council for Community Affairs, Inc., Annual Joint Celebration of Dr. M.L. King, Jr.'s Birthday (1988 – 2006)
Hill Neighborhood Association (1988 – Present)
Parent Teacher Association for the Scranton School District (1983 – 2007)
Philharmonic Society of Northeast Pennsylvania
Board of Directors (1978 – 1980)
Scranton Skeet Club, Inc. (1982 – Present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

The above-listed organizations do not discriminate and, to the best of my knowledge, have not formerly discriminated on the basis of race, sex, religion, or national origin or upon any other invidious criterion.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Liberty, Pursuit of Happiness Entwined with Decent Jobs, The Scranton Times, (Guest Editorial), Labor Day 1995. Copy supplied.

Contributing Editor of *The Developing Labor Law* (3d ed.) (1990 – 1992), published by the ABA and the Bureau of National Affairs, Inc. and the 1994, 1996, 1997, 1998, and 1999 Supplements; and *The Developing Labor Law* (4th ed.) and the 2002 Supplement. I wrote the text of Subchapter IV of Chapter 28 entitled, "Preemption Under Section 301," and I have updated that subchapter in the above supplements. Copies supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the

name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None that I can recall or have been able to identify.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

On January 29, 1993, I presented oral testimony before the Governor's Panel on Health Care Reform in Pennsylvania at Marywood University, Scranton, Pennsylvania. The speech addressed the need for health care reform and focused on the difficulty of enacting health care reform at the state level because of the preemptive effect of federal labor law and the Employee Retirement Income Security Act (ERISA). I have no notes, transcript, or recording.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

This list represents the speeches and talks that I have identified through searches of my files and the internet. I have tried my best to list all such events, although there may be some that I have not been able to identify or locate.

May 28, 2010: Panelist, National Academy of Arbitrators 2010 Annual Meeting, Philadelphia, Pennsylvania. The subject of the panel discussion was "Abandon Ship! Or Not? – Dilemmas of Mid-Case Recusal." The panel addressed five separate scenarios where the issue of recusal of an arbitrator during a labor arbitration proceeding arose which raised ethical considerations for counsel and the arbitrator. The five scenarios are supplied, as is a transcript of the panel discussion in which I participated.

April 24, 2007: Presenter, Northeastern Pennsylvania Labor Management Council and Pennsylvania Bureau of Mediation, Luzerne County Community College, Nanticoke, Pennsylvania. I participated in a program entitled, "Witness to an Arbitration," which included a mock discharge arbitration and a discussion of the process of and preparation for arbitration. I have no notes, transcript or recording. The address of the Labor Management Council is 100 North Wilkes-Barre Boulevard, 2nd Floor, Wilkes-Barre, Pennsylvania 18702.

October 2004: Panelist, Lackawanna County Economic Development Summit, Scranton, Pennsylvania. The substance of my presentation included an evaluation of the Scranton area which emphasized the work ethic and skills of the local work force as a basis on which to attract new sources of employment in the area. I have no notes, transcript or recording. The address of the County Planning & Economic Development Summit is 135 Jefferson Avenue, Scranton, Pennsylvania 18503.

September 12, 2003: I presented remarks at an American Arbitration Association seminar in Philadelphia, PA, on labor arbitration. Notes supplied.

October 31, 2002: Participant, Sexual Harassment Mock Trial, sponsored by Northeastern Pennsylvania Labor Management Council and Pennsylvania Bureau of Mediation, William J. Nealon Federal Courthouse, Scranton, Pennsylvania. I have no notes, transcript or recording. The address for the Labor Management Council is 100 Wilkes-Barre Blvd., 2nd Floor, Wilkes-Barre, Pennsylvania 18702.

October 4 and 5, 2001: Principal Speaker, Pennsylvania Public Employee Labor Law Conference sponsored by the Pennsylvania Bar Institute. The subject matter of the speech was the most recent decisions of the appellate courts of Pennsylvania applying the Pennsylvania Public Employee Relations Act. I have no notes, transcript, or recording. The address of the Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

November 3, 2000: Speaker, Pennsylvania Bar Institute, First Annual PBI Labor Law Symposium, Philadelphia, Pennsylvania. I submitted a 15-page article entitled, *Application of the Americans with Disabilities Act in the Context of Collective Bargaining Agreement - A Response of the Circuit Courts Thus Far*. I have no notes, transcript, or recording, but a copy of the article I submitted is supplied. The address of the Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

April 2000: Presenter, Pennsylvania Bar Institute's Employment Law Institute, Philadelphia, Pennsylvania. I presented a paper entitled *Enforceability of Arbitration*. I have no notes, transcript, or recording, but a copy of the paper I presented is supplied. The address of the Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

Approx. 2000: Speaker, rededication ceremony of the John Mitchell statue and memorial, Courthouse Square, Scranton, Pennsylvania. From my recollection, I presented a summary of Mr. Mitchell's achievements as a labor leader and his role in improving the working conditions of coal miners in Northeastern Pennsylvania in the early 20th century. I have no notes, transcript, or recording.

September 21, 1999: Speaker, ABA Section of Labor and Employment Law and Region 4 of the NLRB One-Day Program, Law and Procedure under the National Labor Relations Act, Philadelphia, Pennsylvania. I also participated in a panel discussion on the nature of ethical issues arising in communications with current and former employees of an adversarial party. I have no notes, transcript, or recording. The address of the ABA is 321 N. Clark Street, Chicago, Illinois 60610.

1996: Presenter, Lackawanna County Bar Association's "People's Law School," Marywood University, Scranton, Pennsylvania. I delivered a lecture on employer-employee rights and responsibilities under federal and state law. I have no notes, transcript, or recording. The address of the Association is 338 North Washington Avenue, 3rd Floor, Scranton, Pennsylvania 18503.

1995: Commentator, Pennsylvania Bar Institute Seminar, produced by Philadelphia Regional Office of the National Labor Relations Board in cooperation with the Labor and Employment Law Section of the Pennsylvania Bar Association. I have no notes, transcript, or recording. The address of the Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

December 14, 1994: Commentator, National Labor Relations Board and the Pennsylvania Bar Institute seminar, "NLRB Current Perspectives." I do not recall the specific subject matters discussed, but I do recall that the topic, generally, was recent developments under the National Labor Relations Act. I have no notes, transcript, or recording. The address of the Institute is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

Approx. November 1987: Presenter, Fifth Annual Bench-Bar Conference of the Lackawanna County Bar Association. I presented a paper entitled, "The Employment At Will Doctrine In Pennsylvania: A Chronological Assessment." A copy of the paper is supplied.

In addition, for several years in the early- to mid-1990s, I taught courses on labor law in the Union Leadership Academy Program, which was sponsored by Pennsylvania State University. I do not have any course materials.

Finally, as part of the counseling side of my practice, I have occasionally given seminars to local unions on employment- and labor-law related topics. I do not recall the dates or the specifics of these seminars, and I do not have any notes, transcripts, or recordings.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

In responding to this request, I searched my memory, records and the internet to identify interviews I may have given, in particular, as a member of the Board of Directors of the Scranton School District, as an attorney, or as a private citizen. While I recall that there were occasions when I was questioned by reporters from local newspapers or radio or television stations during my tenure as a School Board member with respect to issues related to the operation of the Scranton School District and with respect to matters in which I was engaged as an attorney, I have no specific recollection of the comments or statements I may have made.

Listed below are the newspaper articles I was able to find in which statements, comments, or answers to questions I gave are reported:

Libby A. Nelson, *Obama Nominates Scranton Attorney to District Judge Position*, The Times-Tribune, Dec. 2, 2010. Copy supplied.

Charles Schillinger, *County Union Gets 12 Percent Raise*, The Times-Tribune, July 15, 2010. Copy supplied.

Borys Krawczeniuk, *Sources: Nealon, Minora, Mariani to be Submitted for Nomination to Federal Bench*, The Times-Tribune, July 8, 2010. Copy supplied.

Leo Strupczewski, *Board May Not Solely Rely on Accrediting Agency, Court Rules*, Pennsylvania Law Weekly, July 6, 2010, at 6. Copy supplied.

Mark Guydish, *Schools Fight Health Trust Over Surplus: Dallas and Pittston Area Want Cash from the Insurance Consortium They Withdrew from in June 2007*, Times Leader, Jan. 24, 2010. Copy supplied.

Charles Schillinger, *Lackawanna Deputies Union Files Grievance Over Cipilewski Dismissal*, The Times-Tribune, Aug. 4, 2009. Copy supplied.

Charles Schillinger, *Fired County Deputy Says Dismissal "Reeks Of Politics;" Sheriff Denies Claim*, The Times-Tribune, July 30, 2009. Copy supplied.

Mark Guydish, *Health Trust Trying Mediation: Pittston, Dallas Districts, Which Left, Want Share of Surplus*, Times Leader, Oct. 23, 2007. Copy supplied.

Elizabeth Zygmunt, *Unions, Employers Often Fall into Groupthink*, The Times-Tribune, Mar. 4, 2007. Copy supplied.

Erin L. Nissley, *Sheriff Wins Grievance Over Scheduling*, The Times-Tribune, Mar. 2, 2007. Copy supplied.

Kris Wernowsky, *Union: Don't Leave Health Group*, Times Leader, July 13, 2006. Copy supplied.

Nichole Dobo, *Ten Districts Consider Leaving Health Trust*, Citizen's Voice & Sunday Voice, July 13, 2006. Copy supplied.

Openness of Health Consortium Eyed; Solicitor Says State-Level Case Will Determine Whether Future Meetings Are Open, Times Leader, May 25, 2006, at A12. Copy supplied.

Nichole Dobo, *Health Trust Grapples with $12 M Surplus; Taxpayers in Local Public School Entities Paid the Premiums for Teachers, Staffers*, Citizen's Voice & Sunday Voice, May 24, 2006. Copy supplied.

Michael Race, *Union Files Suit Against County*, The Times-Tribune, Nov. 25, 2005, at A4. Copy supplied.

Joel Berg, *Labor Split Could Spur Local Organizing Drives*, Northeast Pennsylvania Business Journal, Oct. 1, 2005, at 9. Copy supplied.

Kalen Churcher, *Health Trust Finances on the Rebound; Involved School Districts Were Told the Group Would be Debt Free in Two Years*, Times Leader, Feb. 8, 2004, at 3A. Copy supplied.

Bonnie Adams, *New Math Aims to Cut Districts' Health Costs; Health Consortium Has Altered Computation Methods to Use Last Three Years of School Districts' Health Costs to Determine Rates*, Times Leader, Oct. 17, 2002. Copy supplied.

Bonnie Adams, *Health Trust Director Gets Significant Pay Hike; Andrew Marko's Salary Will Go from His Current $35,000 to $60,000 Next Year*, Times Leader, Sept. 19, 2002. Copy supplied.

Christine Fanning, *State of the Unions: Debatable*, Northeast Pennsylvania Business Journal, Sept. 1, 2001, at 1. Copy supplied.

Christina Dubitsky, *Public or Private? School Health Trust's Status Debated; Controversy Stems from Appointment of Andrew Marko as Director of the Consortium at an Unadvertised Meeting*, Times Leader, Aug. 18, 2001, at 7A. Copy supplied.

Bonnie Adams, *10-Year-Old Bias Case Nears Trial; An Appeals Court Ruling Sends a Disabled Area Woman's Claim of Discrimination to Lackawanna County Court for Action*, Times Leader, Mar. 25, 2000, at 1B. Copy supplied.

Chris Johnson, *Crestwood Teachers Shun Deal on Policy Because Union Officials Have So Far Refused to Sign a Health Insurance Pact as Part of a Consortium, Crestwood Could Lose $250,000 a Year on Health Insurance, Says Official*, Times Leader, Aug. 24, 1999, at 1A. Copy supplied.

Joe Healey, *Senior Topps Workers Benefit Most from Deal by a Vote of 253-176, Former Duryea Plant Employees Accept Company's Last Offer of $450 for Every Year of Service, Plus Unused Vacation Pay*, Times Leader, Sept. 29, 1997, at 1A. Copy supplied.

Pamela C. Turfa, *Topps' New Offer Will Go to Vote; the Company's Latest Proposal for Former Employees Would Increase Payments to Those with Higher Seniority and Reduce Payments to Others*, Times Leader, Sept. 27, 1997, at 1A. Copy supplied.

Jennifer L. Henn, *Former Topps Workers Vote to Negotiate Settlement*, Times Leader, Sept. 14, 1997, at 3A. Copy supplied.

Pamela C. Turfa, *Ex-Topps Workers Offered $2,500-$6,000; Schott Glass Technologies is Interested in Buying the Duryea Plant and Adding Jobs*, Times Leader, Sept. 11, 1997, at 1A. Copy supplied.

Sanjay Bhatt, *Parties in Strike Shut Out; Courthouse Meeting Results Only in Lecture from Judge to Attorneys Representing Both Sides in Pittston Area Strike*, Times Leader, Nov. 15, 1996, at 3A. Copy supplied.

Jerry Lynott, *Topps Workers Union Takes Case to NLRB*, Times Leader, Nov. 14, 1996. Copy supplied.

Sanjay Bhatt, *Judge Scolds Union, Board; Court Orders Pittston Area Teachers Back to School and Bargaining Sessions Held Every Day. Judge Raps Board for Not Having Committed Negotiating Team*, Times Leader, Nov. 5, 1996, at 1A. Copy supplied.

Brian Malina, *Topps Denies Rumors of Foreign Production Plans*, Times Leader, Oct. 7, 1996, at 1A. Copy supplied.

John Decker, *Topps Union Votes to Give Concessions; Workers Meet Only Days After Being Told the Plant Where Some Have Been Employed for Decades Might Close*, Times Leader, Oct. 6, 1996, at 1A. Copy supplied.

Rich Mates, *Ex-Affiliated Workers to Split $400,000*, Scranton Times, Sept. 14, 1996, at A3. Copy supplied.

Hauler, Teamsters Agree to Limit Pickets at Pocono Terminal, The Morning Call, Apr. 20, 1994, at B4. Copy supplied.

Mitch Grochowski, *Court Grants Jobless Pay to Strikers*, Scranton Tribune, July 1984. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

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

i. Of these, approximately what percent were:

jury trials:	___%
bench trials:	___%
civil proceedings:	___%
criminal proceedings:	___%

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In 1977, I was elected to a six-year term on the Board of Directors of the Scranton School District. I was elected Board President for the 1980-1981 year by the members of the Board. I resigned from the Board at the conclusion of the fourth year of my term in 1981.

In 1993, I was nominated by Governor Robert P. Casey to fill an interim vacancy on the Pennsylvania Superior Court. I declined the appointment for business reasons.

In 1995, I was an unsuccessful candidate for election to be Judge of the Court of Common Pleas of Lackawanna County.

I have not otherwise held public office, had unsuccessful candidacies for elective office, or had unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held office in or rendered service to a political party or election committee. I have never held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

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

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

I have not practiced alone. In 1993, I opened my own practice but since that time I have always employed other attorneys as associates or as of counsel to my practice.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1976 – 1979
Dunn & Byrne (no longer in existence)
Scranton, Pennsylvania
Associate Attorney

1978 – 1980
Scranton/Dunmore Sewer Authority
312 Adams Avenue
Scranton, Pennsylvania 18503
Solicitor

1979 – 1993
Mariani & Greco
Bank Towers Building - 11th Floor
Scranton, Pennsylvania 18503
Partner

1993 – 2001
Law Office of Robert D. Mariani
SNB Plaza – Suite 1000
108 North Washington Avenue
Scranton, Pennsylvania 18503
Proprietor

2001 – Present
Robert D. Mariani, P.C.
SNB Plaza – Suite 1000
108 North Washington Avenue
Scranton, Pennsylvania 18503
Sole Shareholder

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have served as a mediator and as an arbitrator. Described below are the 10 most significant matters in which I served as an Arbitrator:

(1) *Pre-Fab Panelwall, Inc. & Jewelcor, Inc.*, AAA Case No. 14 110 0382 87 H/E.

I served as Neutral Arbitrator on a tri-partite panel of arbitrators who were selected to hear and decide a dispute arising with respect to the construction of the exterior glass fiber reinforced concrete walls of the building. The building owner claimed that the walls were so defectively constructed that the integrity of the building was jeopardized and the builder counterclaimed that the owner failed to pay pursuant to the AIA Contract entered into by them, and further interfered with the "critical path" of construction thereby delaying and ultimately preventing the project's completion. The panel heard testimony from lay and expert witnesses over 100 days of hearings in the period 1987 to 1989. The panel found for the owner on many of its specific monetary claims as well as on several of the counterclaims of the builder. The result was a molded verdict in favor of the owner.

(2) *In the Matter of the Arbitration between: Elm Park United Methodist Church and Munley, Mattise & Kelly, P.C.*

I served as Neutral Arbitrator on a Board of Arbitrators in 1998 who resolved a dispute between the Elm Park United Methodist Church and the Law Firm of Munley, Mattise & Kelly, P.C., which arose out of a lease agreement between the parties. After hearing, the board found that the Munley Law Firm was entitled under the initial five-year term lease agreement to amortize the sum of $90,000.00 of the $115,591.69 it incurred in costs for repairs and modernization of the leased premises against the monthly rental payment it was required to pay. The board further found that in the second five-year term of the lease, the Munley Law Firm was entitled to amortize against the rental payments due in the sum of $48,321.96, leaving a balance of rent owing in the amount of $88,638.94. Additional issues with respect to the application of the lease agreement were resolved in a written award.

(3) *DeLeo v. Allstate Ins. Co.*, Ct. Com. Pl. of Lackawanna Cnty.

I served as the Neutral Arbitrator in connection with plaintiff's claim for personal injuries arising out of an automobile accident on May 18, 1988. The Panel of Arbitrators was required to determine the existence of coverage in light of his contention that the accident was caused by a "phantom" vehicle, which forced his vehicle off the road, but did not remain at the scene of the accident. The panel ruled that it was not required to decide whether the policy language in question was valid since DeLeo produced competent evidence other than his own testimony, which established that a hit-and-run accident did in fact occur with a "phantom" vehicle. The Panel found that the accident was caused by the negligence of the "phantom" vehicle, but that DeLeo's comparative negligence was also a substantial factor in causing this accident. The Panel apportioned 30% negligence to Mr. DeLeo and reduced its award of damages to him accordingly.

(4) *Jean Pierre, Individually, and as the Ex'x of the Estate of Margaret Hughes, Deceased v. Keystone Ins. Co.*, Ct. Com. Pl. of Lackawanna Cnty., Nos. 90-CIV-3531, and 93-CIV-3523.

In this case, I served as the Neutral Arbitrator in connection with a claim for damages pursuant to the underinsurance arbitration provisions of an automobile insurance policy issued to the decedent. The claim arose from an automobile accident which resulted in the death of the woman whose estate brought the claim. The Panel of Arbitrators, after hearing, awarded damages to plaintiff.

(5) *Mills v. Allstate Ins. Co.*, May 28, 1997.

I served as the Neutral Arbitrator on a Panel of Arbitrators convened pursuant to the underinsurance arbitration provisions of plaintiff's automobile insurance policy. The Panel issued an award of damages to plaintiff, which was molded to take into account certain credits, deductions, and off-sets to which defendant was entitled.

(6) *Garrison v. Cont'l Cas. Co.*, November 11, 1997.

In this underinsured motorist claim, I served as the Neutral Arbitrator on a Panel of Arbitrators convened to hear the claim of plaintiff arising from an automobile accident in which plaintiff's decedent, in attempting to make a left-hand turn across a two lane highway, was struck and killed by an oncoming vehicle. The Arbitration Panel entered an award of damages to the decedent's estate, which was reduced by one-third under the comparative negligence law of Pennsylvania.

(7) *Cody M. Snell, a Minor, by and through his Natural Parents and Legal Guardians, Michael P. Snell, Jr. and Kimberlee Snell v. Encompass Ins. Co.*, May 23, 2003.

In this underinsured motorist arbitration, I served as Neutral Arbitrator on a Panel of Arbitrators, which awarded damages to a 6-year-old child who sustained physical and psychiatric injuries when the vehicle in which he was a passenger was struck by another motor vehicle, which crossed into its lane of travel.

(8) *Nancy Casey & Patrick A. Casey v. Selective Ins. Co.*, August 22, 2003.

In this underinsured motorist arbitration, I served as Neutral Arbitrator on a Panel of Arbitrators convened to hear the claims of plaintiffs arising from a rear end auto collision in which one of the plaintiffs, at that time a 37-year-old mother of five and a certified critical care and trauma nurse, sustained serious injuries. The Panel of Arbitrator awarded damages to plaintiffs, which were reduced by a credit to which defendant insurance company was entitled.

(9) *Bremer v. Prudential Prop. & Cas. Ins. Co.*, September 15, 2003.

In this underinsured motorist arbitration, I served as Neutral Arbitrator on a Panel of Arbitrators convened to hear the claims of plaintiff, who was injured when his vehicle was struck by two other vehicles. The Panel of Arbitrators awarded damages to plaintiff, which were reduced by a credit to which defendant insurance company was entitled.

(10) *Dorsan Constructors, Inc. v. Most Reverend Timlin, D.D., Bishop of the Roman Catholic Diocese of Scranton, PA, as Tr. for Saint Luke's Roman Catholic Parish of Stroudsburg, PA, & Saint Luke's Roman Catholic Church*, April, 1996.

In this dispute between a building contractor and the Roman Catholic Diocese of Scranton, PA, I was selected to serve as Neutral Arbitrator with respect to the contractor's claims for additional payments arising out of work it performed as part of renovations to a church, including the contractor's claims for reimbursement for sales tax which it paid for materials purchased for the project. After hearing, the Panel of Arbitrators found in favor of plaintiff in the amount of $5,394.94, representing the amount of Pennsylvania sales tax found to be owing. Plaintiff's other claims for additional payments were denied.

b. Describe:

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

From 1976 to 1980, I practiced in the area of labor and employment law, as well as in the areas of commercial transactions, real estate, and civil and criminal litigation. I also served as Solicitor to the Scranton-Dunmore Sewer Authority, and in that capacity, I gained experience in municipal law.

Beginning in 1980, I was able to develop my practice with a greater emphasis on labor and employment law so that, by 1984, I began to practice almost exclusively in the area of labor and employment law, although I also devoted time to corporate and real estate law. Thereafter, and continuing to the present, my practice has been almost exclusively in the area of labor and employment law, including collective bargaining and labor arbitration, practice before the NLRB, EEOC, and Pennsylvania HRC, federal and state court labor litigation, and employee pension and benefit law under ERISA and the Internal Revenue Code. In addition, I serve as counsel to two public school health trusts, formed by the public school districts, vocational-technical schools, and intermediate units in Luzerne and Berks Counties.

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

My typical clients have been labor unions, such as Teamsters Local 229, United Food & Commercial Workers, Local 1776, Machinists Locals 847 and 2905, Carpenters Local 645, Laborers' Local 130, Sheet Metal

Workers, Local 44, Operating Engineers, Local 367, Lackawanna County Adult, Juvenile, and Domestic Relations Employees Union, and the Lackawanna County Deputy Sheriffs' Association, individual employees, employee benefit trust funds of Laborers' Local 130, Sheet Metal Workers, Local 44 and the Carpenters' funds, public sector trusts, such as the Northeast Pennsylvania School District Health Trust and the Berks County School Districts Health Trust, and, to a lesser extent, employers, such as the University of Scranton and Connaught Laboratories, now Sanofi Pasteur. My practice is almost exclusively in the area of labor and employment law, including bargaining and labor arbitration, practice before the NLRB, EEOC, the Pennsylvania HRC and the PLRB, federal and state court labor litigation, and employee pension and benefit law under ERISA and the Internal Revenue Code.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Approximately 75% of my practice has been in litigation in federal or state court, before the NLRB or PLRB, and in labor arbitration. I frequently appear in federal court since private sector labor and employment law, including enforcement of the anti-discrimination statutes, is federal in nature.

i. Indicate the percentage of your practice in:
   1. federal courts: 75%
   2. state courts of record: 15%
   3. other courts:
   4. administrative agencies: 10%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 100%
   2. criminal proceedings:

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Approximately 30. In addition, I have tried over 250 cases to decision in labor arbitration proceedings. Further, I have had a number of cases resolved in court on my motion for summary judgment. My involvement in these cases, with one exception, was as sole counsel.

i. What percentage of these trials were:
   1. jury: 5%
   2. non-jury: 95%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Local 730 v. Pa., Unemployment Comp. Bd. of Review*, 480 A.2d 1000 (Pa. 1984). This case further delineated the test for assessing the responsibility for a work stoppage under Pennsylvania unemployment compensation law. I represented Local 730 before the Unemployment Compensation Referee, the Unemployment Compensation Board of Review, the Commonwealth Court, and the Pennsylvania Supreme Court. I wrote all of the briefs submitted on behalf of the union in this case, including the union's brief as appellant in the Commonwealth Court and the union's brief as appellee in the Pennsylvania Supreme Court. Additionally, I represented the union at hearings before the Commonwealth Court and the Supreme Court on The Trane Company's motion for a stay of the Commonwealth Court's Order pending appeal to the Supreme Court. I twice presented oral argument before the Pennsylvania Supreme Court, which upheld my client's position.

The judges of the Commonwealth Court before whom I appeared were Judges Craig, MacPhail, and Blatt. I appeared before Judge Blatt at the hearing on the motion of The Trane Company for a stay of the Commonwealth Court's Order.

I appeared before then-Judge Hutchinson at the hearing on The Trane Company's motion to the Supreme Court for a stay of the Commonwealth Court's Order and I presented oral argument on two occasions before the entire Pennsylvania Supreme Court.

Opposing counsel were Lawrence Zimmerman (no current contact information) and Sondra Berman (retired).

2. *Ne. Dep't ILGWU Health & Welfare Fund v. Teamsters Local 229 Welfare Fund*, 764 F.2d 147 (3d Cir. 1985). I represented the Local 229 Welfare Fund in the district court and also in the Third Circuit, where I wrote the appellant's brief and presented oral argument before the court. The Third Circuit upheld my client's position and applied the fiduciary standards of Section 1104 of ERISA to invalidate escape clauses by which a provider of health insurance benefits under ERISA would exclude an otherwise eligible employee from coverage on the basis that such employee had coverage through his or her spouse's employment.

I appeared before Judge Nealon at the district court and, on appeal, I presented oral argument to a Third Circuit panel consisting of Judges Becker, Sloviter, and Fullam.

Opposing counsel was Charles Johnston, 150 Corporate Center Drive, Camp Hill, PA 17011; (717) 975-5500.

3. *Carpenters Local 261 Health & Welfare Fund, Annuity Fund v. Nat'l Union Fire Ins. of Pittsburgh, Pa.*, 686 A.2d 1373 (Pa. Cmwlth. 1996), *pet. for allowance of app. denied* (May 20, 1997). I represented the Carpenters Local 261 employee benefit trust funds named above in an action to collect unpaid benefit contributions on two public projects pursuant to the Pennsylvania Public Works Contractors' Bond Law from the surety on each such project, which had issued the payment bond required as a prerequisite to the award of a public construction contract. The Courts of Common Pleas of Pike and Monroe Counties entered judgment against the Carpenters' Funds on the basis that their suit to collect the unpaid trust fund contributions was preempted by federal law, specifically Section 514 of ERISA, 29 U.S.C. § 1144.

On appeal to the Commonwealth Court, I successfully argued before the court en banc that the Pennsylvania Bond Law was not preempted by ERISA and that the trust funds were entitled to judgment in their favor for the full amount of the contributions, to be paid by the bankrupt contractors' surety, the National Union Fire Insurance Company. This was a case of first impression in the Commonwealth of Pennsylvania.

Opposing counsel were William D. Clifford and John McGinley, of Dickie, McCamey & Chilcote, Suite 400, Two PPG Place, Pittsburgh, PA 15222; (412) 281-7272. Mr. McGinley's present address is Eckert Seamans, 600 Grant Street, Pittsburgh, PA 15219; (412) 566-1984.

4. *Chipkevich v. Univ. of Scranton*, Civil Action No. 92-1283 (M.D. Pa.). I represented the University of Scranton in a suit brought by plaintiff who claimed that his dismissal from the university's Master's Degree Program violated the Americans with Disabilities Act and the Rehabilitation Act of 1973. I successfully argued to the court that the University of Scranton, as a Catholic, Jesuit university was exempt from the obligations imposed under Subchapter III of the Americans with Disabilities Act by Section 12187 thereof, which exempts "religious organizations or entities controlled by religious organizations." On that basis, the ADA count was dismissed. The plaintiff

appealed, challenging the scope of the Section 12187 exemption. At the conclusion of oral argument, the court suggested that the case be submitted to the court's mediation program where it was subsequently settled. I represented the university in all phases of this matter.

Opposing counsel was Thomas Feissner, 218 North Wyoming Street, Hazleton, PA; (570) 455-4558.

5. *United Food & Commercial Workers Union Local 1776 v. Excel Corp.*, 470 F.3d 143, 180 LRRM 3205 (3d Cir. 2006). In this case, which the Third Circuit termed a "novel issue for this court," I brought suit on behalf of Local 1776 to enforce an arbitration award which ordered the reinstatement with back pay of Excel employee Jose Diaz, who, along with his spouse, had been discharged for allegedly stealing meat from the employer's plant. The company reinstated the spouse and made her whole for lost wages. With respect to Mr. Diaz, however, the company simultaneously reinstated him, paid him two days' wages for the period between the date of his suspension and the date of his discharge, and discharged him a second time on the ground that he had engaged in violent and abusive conduct at the meeting held with respect to his original termination. The union sought to enforce the arbitration award in favor of Mr. Diaz and, in particular, to obtain the back pay owing to him under the arbitration award. The district court held that the grievant must be reinstated pursuant to the initial arbitration award, but that the employer was free to terminate the employee a second time. Both Local 1776 and Excel, also known as Cargill Meat Solutions Corporation, appealed from the district court's order. The Third Circuit held that Excel had an independent reason to terminate the grievant a second time since the arbitrator declined to consider this additional basis for the grievant's discharge, and that the union was free to place the second discharge of Mr. Diaz before another arbitrator. In accordance with the Third Circuit's direction, a second arbitration was held, which resulted in the second discharge of the grievant being reversed and an award of approximately $120,000 in back pay.

I represented Local 1776 at the initial arbitration with respect to the grievant's and his spouse's discharge, in all proceedings before the district court and the Third Circuit, and in the second arbitration reversing the discharge and awarding back pay.

I appeared before Judge Kosik in district court. The Third Circuit opinion was written by Judge Sloviter.

Opposing counsel were Anne Liese Wermuth and Joseph E. Tilson, Meckler, Bulger & Tilson, 123 North Wacker Drive, Chicago, IL 60606; (312) 474-7900; and Vincent Candiello, Post & Schell, 17 North 2nd Street, Harrisburg, PA 17101; (717) 731-1970.

6. *Barcola v. Interim Health Care Servs.*, No. 3:CV-97-1363 (M.D. Pa.), *aff'd*, 31 F. App'x 791, 2002 WL 463286 (3d Cir. 2002). I represented a registered nurse who took a pregnancy-related leave of absence from her job as home care supervisor and then, after the birth of her child, was told that her employer had no work for her. She subsequently learned that her position as Medicare Home Supervisor had been given to another

employee. I brought suit on behalf of plaintiff under the Family and Medical Leave Act, 29 U.S.C. § 2601, *et seq.*, and pursuant to the Pregnancy Discrimination Provisions of Title VII of the Civil Rights Act, 42 U.S.C. § 2000(e), *et seq.*

A three-day jury trial was conducted in December 1999, and the jury returned a verdict in favor of plaintiff against all three defendants. The jury found that defendants were liable under the FMLA and awarded back pay in the amount of $31,400, front pay in the amount of $9,000, and compensatory damages in the amount of $15,000. On March 19, 2001, the district court denied defendants' motion for judgment as a matter of law or a new trial. The court also added $9,000 to the judgment for front pay and entered judgment in favor of plaintiff and against defendants in the amount of $85,057.18. Defendants appealed from the judgment, and plaintiff appealed from the court's order that each party should bear its own costs and attorneys' fees. On appeal, the judgment of the district court was affirmed.

I represented plaintiff in the jury trial and before the district court and on appeal. I served as principal counsel in all of these proceedings.

Defendants were represented by Albert E. Nicholls, 1421 East Drinker Street, Dunmore, PA 18512; (570) 344-7171; and Frank Mroczka, United One Real Estate, 270 North Sherman Street, Wilkes-Barre, PA 18702; (570) 884-7811.

7. *Trowbridge v. Scranton Artificial Limb Co.*, 747 A.2d 862 (Pa. 2000), after remand to the Ct. Com. Pl. of Lackawanna Cnty., at No. 90-CV-3960, *aff'd*, 819 A.2d 125 (Pa. Super. 2003). I represented the Scranton Artificial Limb Company in a suit brought against it by a former employee who suffered from muscular dystrophy and filed suit after she was terminated alleging a violation of Section 955(a) of the Pennsylvania Human Relations Act, 43 P.S. § 951, *et seq.* Plaintiff's suit was dismissed on summary judgment. The trial court applied the doctrine of judicial estoppel and found that plaintiff's representations to the Social Security Administration that she was unable to work because of her disability were irreconcilable with her PHRA claim, which alleged that her disability did not substantially interfere with her ability to perform her job. On appeal, the Superior Court affirmed the trial court in an unpublished opinion.

The Supreme Court of Pennsylvania reversed, holding that appellant's claims made in her application for Social Security disability insurance benefits did not automatically estop her from maintaining a claim under the PHRA. It further ruled, however, that appellant, on remand, was required to "sufficiently explain how the claims she made in her Social Security disability benefits proceedings are consistent with her claims under the PHRA, in which she stated that she suffers from a non-job related handicap or disability." On remand, after trial, the court ruled that plaintiff could not reconcile her claim of disability in her application for Social Security benefits with her claim in the PHRA case that she was able to work and entered judgment in favor of the employer. On appeal, the Pennsylvania Superior Court affirmed.

Plaintiff's counsel was Peter G. Loftus, 1207 North Abington Road, Waverly, PA 18471; (570) 586-8604.

8. *Scott v. Graphic Commc'ns Int'l Union, Local 97-B*, 92 F. App'x 896, 2004 WL 516164, 93 FEP Cases 804 (3d Cir. 2004). I represented Graphic Communications International Union, Local 97B, in a suit brought by one of its members who alleged discrimination, harassment, and retaliation in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2, *et seq.*, and the Pennsylvania Human Relations Act, 43 P.S. § 951, *et seq.*, as well as a claim for breach of the duty of fair representation. Local 97-B was a party to a collective bargaining agreement covering the terms and conditions of plaintiff's employment. Plaintiff alleged that the union had failed to pursue grievances for her in connection with her request for medical/pregnancy leave, which had been denied by her employer, and that she had been subjected to a hostile work environment as to which the union took no action. Defendant Local Union, as well as its International, filed motions to dismiss or for summary judgment, which were granted by the district court (Judge Jones).

On appeal, and after oral argument before Judges Nygaard, Fuentes, and O'Neill, the Third Circuit affirmed, ruling that there was no procedural defect in the summary judgment ruling and that Local 97-B did not discriminate against plaintiff/appellant. It relied upon the union's evidence that it "actively pursued plaintiff's grievance seeking maternity leave she was denied by Eureka," including submitting the grievance to final and binding arbitration where it was denied. The court found that her allegations of a hostile work environment did not reach a level of sufficient severity or pervasiveness to alter the conditions of her employment. The state law discrimination and harassment claims were found preempted by federal labor law.

I represented Local 97-B in all proceedings before the district court, as well as in all proceedings and oral argument before the Third Circuit.

Opposing counsel was Cynthia L. Pollick, 126 S. Main Street, Suite 201, Pittston, PA 18640; (570) 654-9675.

9. *Ronald E. Evans d/b/a Evans Sheet Metal, Barbara Ann Evans d/b/a Evans Sheet Metal, Ronald E. Evans, Inc. t/a Evans Sheet Metal and Evans & Evans, Inc. and Local 44, Sheet Metal Workers*, 337 NLRB No. 182, 170 LRRM 1502, *enforced*, 92 F. App'x 844 (3d Cir. 2003). I represented Sheet Metal Workers Local 44 in unfair practice proceedings before the National Labor Relations Board. I initiated unfair labor practice charges on behalf of Local 44 against the above-referenced respondents and alleged, *inter alia*, that the company known as Evans & Evans, Inc. was the alter ego of Ronald E. Evans d/b/a Evans Sheet Metal and Ronald E. Evans, Inc. The case was tried before Administrative Law Judge Miserendino who found that Ronald E. Evans d/b/a Evans Sheet Metal and Ronald E. Evans, Inc. were the alter ego of Evans & Evans, Inc. and accordingly ruled that each of these entities was bound by the collective bargaining agreement. The evidence at trial showed that respondent employers shared the same physical location, used the same equipment and employed many of the same non-union

workers. Further, Evans & Evans, Inc. was found to be a disguised continuance of Ronald E. Evans d/b/a Evans Sheet Metal. Additionally, the ALJ found that respondent employer was collaterally estopped from re-litigating the continued existence of the agreement by the judgment in *Local Union No. 44 Sheet Metal Workers v. Evans Sheet Metal*, No. 4:CV-96-1991 (M.D. Pa. 1999).

I represented Local 44 in a parallel district court proceeding as well, which was tried before Judge Caputo, who found in favor of Local 44.

In a 2-1 decision, the NLRB affirmed the ALJ's decision in its entirety, with Chairman Hurtgen and Member Liebman voting to affirm and Member Cowen dissenting.

I represented Local 44 throughout all proceedings before the administrative law judge and before the members of the NLRB. Opposing counsel was Thomas R. Davies, 2306 Columbia Avenue, Lancaster, PA 17603; (717) 291-2236.

10. *Affiliated Food Distribs., Inc. v. Teamsters Local 229*, 136 LRRM 2631, 1990 WL 284745 (M.D. Pa. 1990), *aff'd*, 925 F.2d 415, 136 LRRM 2648 (3d Cir. 1991). In this case, the question was whether the employer was obligated to submit to arbitration its decision to transfer a part of its warehouse operation. The employer initially sought to enjoin the union from proceeding to arbitration by an action in state court. On behalf of the union, I removed the action to the district court where I then moved to dismiss the employer's complaint. The district court granted the motion to dismiss and ruled that the employer was obligated to submit to arbitration its decision to transfer part of its warehouse operation to another entity. On appeal, the Third Circuit affirmed and ordered the employer to arbitrate.

This case was presented to Judge Conaboy. No oral argument was held before the Third Circuit. The decision affirming the order of the district court was written by Judge Rosen.

Opposing counsel was Jacob I. Nogi, 415 Wyoming Avenue, Scranton, PA 18503; (570) 963-8880.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As a labor and employment lawyer, I have engaged in a wide range of litigation. But I have also resolved many difficult labor disputes through negotiation and conciliation. For instance, I settled unfair labor practice charges that I brought on behalf of Teamsters Local 229 against the Topps Company, Inc., for the payment of over $5 million in

severance pay to the employees of Topps whose jobs were eliminated by a plant closure. I have negotiated many collective bargaining agreements on behalf of various labor organizations, in most cases reaching an agreement on difficult issues without the necessity of a work stoppage. In 1999, I successfully negotiated a contractual guarantee of full time employment for the warehouse and shipping employees of HarperCollins Publishers at its warehouse in Dunmore, PA who are represented by Teamsters Local 229. The contractual guarantee of full-time employment has been carried forward in every successive collective bargaining agreement to the present time. I have served as both an advocate and counselor to the labor organizations and employers that I have represented, and, in doing so, I have tried to create and maintain positive and constructive relationships between labor and management, both in the private and public sectors.

I have also served as counsel to several private sector employee benefit trust funds, working closely with both labor and management trustees to make certain that the funds are properly administered and the trustees' fiduciary responsibilities are met.

In the public sector, I was selected in 1999 by 13 public school entities in Luzerne County, PA and the 13 unions representing the employees of these public school entities to serve as counsel to form a jointly administered labor-management health trust for the purpose of providing healthcare benefits on a self-insured basis. The trust formation has resulted in the stabilization of healthcare costs and the maintenance of these costs from year to year.

In 2009, I was selected by 19 school districts in Berks County, PA and the labor organizations representing their employees to form a jointly administered labor-management health trust to self-insure the healthcare benefits afforded to the employees of the participating school districts and their eligible dependents. I continue to serve as trust counsel.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

From 1980 to 1981, I taught an undergraduate Labor Law course at the Pennsylvania State University. The course presented an overview of federal labor legislation, specifically including the National Labor Relations Act, the Taft-Hartley Act, the Fair Labor Standards Act, Title VII of the 1964 Civil Rights Act, as amended, and the Age Discrimination in Employment Act. I no longer have a syllabus for the course.

Also from 1980 to 1981, I taught Business Law at Lackawanna College. The course focused on the law of commercial transactions and the law of contracts. I no longer have a syllabus for this course. I taught the same course for one semester in the late 1970s, but I am uncertain which year I did so.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    No.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       I have represented a number of labor unions, employers, and employee benefit trusts during my career as a lawyer. For a period of time, if any of these parties were to come before me, I would give notice of my prior representation of the party and recuse myself.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       If confirmed, I would carefully review each case for conflict or potential appearance of conflict and I would apply the federal recusal statutes and Canon 3 of the Code of Conduct for United States Judges.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    Through the Pennsylvania Bureau of Mediation, I have volunteered my time to present mock trials and arbitrations for the public. In particular, I and Attorney Alexia Blake planned and presented a mock sexual harassment trial in which Judge Thomas I. Vanaskie, at that time a United States District Judge, participated, along with students from the Abington Heights School District. Also, I participated in a mock discharge arbitration with Attorney Richard M. Goldberg and Arbitrator Walter Glogowski.

    I also have granted free consultation and advice to individual members of Teamsters Local 229 on non-employment related matters pursuant to a program established by Local 229, which granted its members free consultation and advice on matters such as divorce, real estate, estate law, mortgage foreclosure, and debt collection.

    I also have spoken on workplace issues at the Lackawanna County Bar Association's "People's Law School."

26. **Selection Process**:

    a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

    There is a selection commission in the Middle District of Pennsylvania to recommend candidates for nomination to the federal court. I completed the Questionnaire for Judicial Nominees and submitted it to the Selection Commission for the Middle District of Pennsylvania. I was interviewed by the Selection Commission on March 31, 2010. Thereafter, the Commission recommended my nomination.

    Since August 2010, I have been in contact with pre-nomination officials at the Department of Justice. On October 5, 2010, I interviewed in Washington, D.C., with attorneys from the White House Counsel's Office and the Department of Justice. On December 1, 2010, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Mariani, Robert D.	U.S. District Court, Middle District of Pennsylvania	12/01/2010
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
U.S. District Judge	☑ Nomination. Date 12/01/2010 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2009 to 11/1/2010
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
SNB Plaza - Suite 1000 108 N. Washington Avenue Scranton, PA 18503	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☑ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.		
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 6	Name of Person Reporting Mariani, Robert D.	Date of Report 12/01/2010

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2008	Robert D. Mariani, P.C., Law Practice Income - Gross Salary, Dividends and Retained Earnings	$286,910.00
2. 2009	Robert D. Mariani, P.C. Law Practice Income - Gross Salary, Dividends and Retained Earnings	$287,371.00
3. 2010	Robert D. Mariani, P.C. Law Practice Income - Gross Salary, Dividends and Retained Earnings	$262,271.00
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 6	Name of Person Reporting Mariani, Robert D.	Date of Report 12/01/2010

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	PNC Bank	Parent Plus Student Loan	K
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 6

Name of Person Reporting	Date of Report
Mariani, Robert D.	12/01/2010

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. PNC Investments (IRA) (CDs)	D	Interest	N	T	Exempt				
2. PNC Bank (Cash Accounts and CDs)	D	Interest	N	T	Exempt				
3. Pa. Municipal Bond Dubois Area School District	A	Interest	J	T	Exempt				
4. Pa. Municipal Bond Franklin, Pa. General Authority	A	Interest	J	T	Exempt				
5. Pa. Municipal Bond Jefferson County, Pa	A	Interest	J	T	Exempt				
6. Pa. Municipal Bond Shade Central Pa. City School District	A	Interest	J	T	Exempt				
7. Pa. Municipal Bond Shade Central Pa. City School District	A	Interest	J	T	Exempt				
8. PNC Investments (Money Market)	A	Interest	L	T	Exempt				
9. First Liberty Bank (CD)	A	Interest	J	T	Exempt				
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 5 of 6	Name of Person Reporting Mariani, Robert D.	Date of Report 12/01/2010

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

FINANCIAL DISCLOSURE REPORT Page 6 of 6	Name of Person Reporting Mariani, Robert D.	Date of Report 12/01/2010

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

Robert Mariani

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		318	000	Notes payable to banks – secured			
U.S. Government securities				Notes payable to banks – unsecured		38	500
Listed securities				Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		1	000
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – personal residence		700	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property				- Auto lease		16	000
Cash value-life insurance							
Other assets itemize:							
- Certificates of Deposit		429	000				
- Pennsylvania School District Municipal Bonds		50	000				
				Total liabilities		55	500
				Net Worth	1	441	500
Total Assets	1	497	000	Total liabilities and net worth	1	497	000
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

AFFIDAVIT

I, **ROBERT DAVID MARIANI**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

11/29/2010
(DATE)

(NAME)

(NOTARY)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Patricia Baron, Notary Public
City of Scranton, Lackawanna County
My Commission Expires Nov. 2, 2014
Member, Pennsylvania Association of Notaries

ROBERT D. MARIANI, P.C.
ATTORNEY-AT-LAW
P.O. BOX 230
SNB PLAZA, SUITE 1000
108 N. WASHINGTON AVENUE
SCRANTON, PA 18501-0230

ROBERT D. MARIANI
STEPHANIE MANLEY SEBASTIANELLI

TELEPHONE NO. (570) 342-9399
FACSIMILE NO. (570) 342-9990

January 5, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on December 1, 2010, to be United States District Judge for the Middle District of Pennsylvania. I certify that the information contained in my Senate Questionnaire as previously submitted is, to the best of my knowledge, true and correct.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Very truly yours,

Robert D. Mariani

cc: The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Mariani, Robert D.	2. Court or Organization U.S. District Court, Middle District of Pennsylvania	3. Date of Report 01/05/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 01/05/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 01/05/2011
7. Chambers or Office Address SNB Plaza - Suite 1000 108 N. Washington Avenue Scranton, PA 18503	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☑ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.		
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 6	Name of Person Reporting Mariani, Robert D.	Date of Report 01/05/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	Robert D. Mariani, P.C. Law Practice Income - Gross Salary, Dividends and Retained Earnings	$287,371.00
2. 2010	Robert D. Mariani, P.C. Law Practice Income - Gross Salary, Dividends and Retained Earnings	$283,421.00
3.		
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 6	Name of Person Reporting Morlani, Robert D.	Date of Report 01/05/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	PNC Bank	Parent Plus Student Loan	K
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 6

Name of Person Reporting	Date of Report
Murlani, Robert D.	01/05/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. PNC Investments (IRA) (CDs)	D	Interest	N	T	Exempt				
2. PNC Bank (Cash Accounts and CDs)	D	Interest	N	T	Exempt				
3. Pa. Municipal Bond Dubois Area School District	A	Interest	J	T	Exempt				
4. Pa. Municipal Bond Franklin, Pa. General Authority	A	Interest	J	T	Exempt				
5. Pa. Municipal Bond Jefferson County, Pa	A	Interest	J	T	Exempt				
6. Pa. Municipal Bond Shade Central Pa. City School District	A	Interest	J	T	Exempt				
7. Pa. Municipal Bond Shade Central Pa. City School District	A	Interest	J	T	Exempt				
8. PNC Investments (Money Market)	A	Interest	L	T	Exempt				
9. First Liberty Bank (CD)	A	Interest	J	T	Exempt				
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

Robert Mariani

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		318	000	Notes payable to banks – secured			
U.S. Government securities				Notes payable to banks – unsecured		38	200
Listed securities				Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		1	000
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – personal residence		700	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property				- Auto lease		16	000
Cash value-life insurance							
Other assets itemize:							
- Certificates of Deposit		429	000				
- Pennsylvania School District Municipal Bonds		50	000				
				Total liabilities		55	200
				Net Worth	1	441	800
Total Assets	1	497	000	Total liabilities and net worth	1	497	000
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

STATEMENT OF HON. CATHY BISSOON, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Judge BISSOON. Thank you, Senator Blumenthal. Thank you for presiding today.

I have a slightly longer introduction because I have a much bigger group here today.

Senator BLUMENTHAL. Take your time.

Judge BISSOON. First of all, I would like to thank the President for his nomination. I would like to thank Senator Casey for his kind words today, as well as his recommendation, and Senator Toomey for his generous introduction and his support in this process.

Thanks to the committee, including Chairman Leahy and Ranking Member Grassley, for convening this hearing today.

I have a number of family members here with me today. I'm joined by my husband, Greg Bradley, and I can assure you that I would not be sitting here but for him.

Our two biggest joys in our life, my kids, Maya and Aiden Bradley. My mother is here, Ann Bissoon; my sister, Cindy Wolff, and my brother, Ronald Bissoon. I also have a cousin here, Nicholas Ramcharitar; and, my mother-in-law, Mildred Bradley.

I'm joined by several friends here today, as well. Michael Braxton (ph), Michael Palace (ph), Svitlana Gordetsky (ph), Jim Genstein (ph). Several members of my staff, Jim Imhoff (ph), David Dumonte (ph), Richard Ting (ph), and a former law clerk, Shwayda Gupta (ph).

I also have a large contingent looking on on the Webcast. So I just want to acknowledge my court family, as well as my Girl Scouts in Girl Scout Troop 51023, who I know are watching, as well.

Thank you for the opportunity, and I welcome the committee's questions.

Senator BLUMENTHAL. Thank you, Judge.

Mr. Hornak.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Cathy Bissoon (formerly Cathy Castro)

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

   United States District Judge for the Western District of Pennsylvania

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   United States Courthouse & Post Office
   700 Grant Street, Suite 9210
   Pittsburgh, Pennsylvania 15219

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

   1968; Brooklyn, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   2004 & 2006, University of Pennsylvania Wharton School; Exec. Ed., no degree
   1990 – 1993, Harvard Law School, J.D., 1993
   1986 – 1990, Alfred University, B.A., *summa cum laude*, 1990

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   2008 – present
   United States District Court for the Western District of Pennsylvania
   700 Grant Street, Suite 9210
   Pittsburgh, Pennsylvania 15219
   United States Magistrate Judge

2007 – 2008
Cohen & Grigsby, P.C.
625 Liberty Avenue
Pittsburgh, Pennsylvania 15222
Director and Department Head, Labor Group

1991 – 2007
Reed Smith LLP
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, Pennsylvania 15222
Partner (2001 – 2007)
Associate (1993 – 1994 & 1995 – 2001)
Summer Associate (Summer 1991 and Summer 1992)

1994 – 1995
United States District Court for the Western District of Pennsylvania
700 Grant Street
Pittsburgh, Pennsylvania 15219
Law Clerk to the Honorable Gary L. Lancaster

Summer 1992
Morrison Cohen Singer & Weinstein (now Morrison Cohen LLP)
909 Third Avenue
New York, New York 10022
Summer Associate

Other Affiliations (uncompensated)

2009 – present
Mt. Lebanon Teen Center
P.O. Box 24577
Pittsburgh, Pennsylvania 15234
Member, Board of Directors

2005 – present
Pittsburgh Zoo and PPG Aquarium
One Wild Place
Pittsburgh, Pennsylvania 15206
Member, Board of Directors

2007 – 2009
Phipps Conservatory and Botanical Gardens
One Schenley Park
Pittsburgh, Pennsylvania 15213
Member, Board of Directors (2007 – 2009)
Secretary (2008 – 2009)
Assistant Secretary (2007 – 2008)

2006 – 2007
Association of Law Firm Diversity Professionals
No physical address
Member, Board of Directors

2004 – 2007
Girl Scouts of Western Pennsylvania (formerly Girl Scouts Trillium Council)
30 Isabella Street
Pittsburgh, Pennsylvania 15212
Member, Board of Directors

2003
Pittsburgh Youth Ballet
St. Petersburg Center
210 Valley Brook Road
McMurray, Pennsylvania 15317
Secretary & Member, Board of Directors

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military nor have I registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Professional
   Nominee for Athena Award for professional excellence, contributions to the community and mentorship of other women (2010)
   Women of Integrity Award from Pittsburgh Professional Women for leadership, ethics and community service (2010)
   Fellow of the Litigation Council of America (formerly the American Academy of Trial Counsel) (2007 – 2008)
   Chambers USA, one of the top employment lawyers in Pennsylvania (2004 – 2008)
   Best Lawyers in America (2004 – 2008)

Pennsylvania Super Lawyer (2005 – 2008)
Thurgood Marshall Multicultural Prism Award from Minorities in Business Magazine for individual contributions to diversity in the legal profession (2006)
Philadelphia Legal Intelligencer, "50 on the Fast Track" (one of the top 50 lawyers in Pennsylvania under the age of 40) (2002)
Philadelphia Legal Intelligencer, "Minority Rising Stars" (2002)
YMCA of Greater Pittsburgh, 18th Annual "A Tribute to Women" luncheon, recognized for pro bono contributions (2000)
"AV" Martindale-Hubble rating during time in private practice

Law School and College
National Hispanic Scholar, Harvard Law School (1991 – 1993)
National Hispanic Scholar, Alfred University (1987 – 1990)
Presidential Scholar, Alfred University
Phi Kappa Phi National Honor Society, Alfred University
Pi Gamma Mu International Honor Society of the Social Sciences, Alfred University
Valedictorian, College of Liberal Arts & Sciences, Alfred University

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Allegheny County Bar Association
- Asian Attorneys Committee
- Hispanic Attorneys Committee
- Law Firm/Law Department Diversity Task Force
- Nominating Committee for Board of Governors and Judiciary Committee

American Bar Association
Litigation Counsel of America, Fellow
Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness
- Chair, Employment and Appointments Committee (2005 – 2008)

U.S. Court of Appeals for the Third Circuit
- Lawyers Advisory Committee

U.S. District Court for the Western District of Pennsylvania
- Court Governance Committee
- Local Rules Advisory Committee
- Merit Selection Committee for Federal Public Defender

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Pennsylvania, 1994 (presently on judicial inactive status)

There has been no lapse in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Third Circuit, 1997
United States Court of Appeals for the Fourth Circuit, 1995
United States Court of Appeals for the Sixth Circuit, 2001
United States District Court for the Western District of Pennsylvania, 1993
Supreme Court of Pennsylvania, 1994

There has been no lapse in any membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Association of Law Firm Diversity Professionals
Board Member and Founding Member (2006 – 2007)
Girl Scouts of Western Pennsylvania
Troop Leader (2007 – present)
Board Member (2004 – 2007)
Local Elementary School
PTA Member (2004 – present)
Co-Chair, Spelling Bee Committee
Local Middle School
PTA Member (2009 – present)
Chair, PTA Career Day Committee (2009 – present)
Mt. Lebanon Teen Center
Board Member (2009 – present)
Phipps Conservatory and Botanical Gardens
Board Member (2007 – 2009)
Secretary (2008 – 2009)
Assistant Secretary (2007 – 2008)
Chair, Nominating Committee (2008 – 2009)
Executive Committee (2007 – 2009)
Pittsburgh Youth Ballet
Secretary & Board Member (2003)

Pittsburgh Zoo and PPG Aquarium (2005 – present)
Board Member (2005 – present)
Chair, Nominating Committee (2008 – present)
Executive Committee (2008 – present)
Nominating Committee (2005 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

The Girl Scouts of Western Pennsylvania is and has always been an organization for girls. The Girl Scouts does not discriminate, to my knowledge, when it comes to troop leadership, board membership or other volunteer assignments. To my knowledge, no other organization listed currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Elizabeth A. Malloy, Esq., *Litigating Your Harassment Case: Scope of Discovery*, in Handling the Sexual Harassment Case (2006). The chapter was originally authored by Ms. Malloy; I reviewed and updated it in 2006. Copy supplied.

Ten Employment Law Tips for the New and Not-So-New Business, The Practical Lawyer (2003). Copy supplied.

The Insurance Agent and the Missing Clause: A Modern Day Non-Compete Fable, Reed Smith Employment Law Review (Dec. 2002). Copy supplied.

Punished for the Sins of One's Father?, Reed Smith Employment Law Review (May 2002). Copy supplied.

Supreme Court Update: Toyota Motor Manufacturing v. Williams, Reed Smith Employment Law Review (Jan. 2002). Copy supplied.

Cathy Bissoon & Casey Ryan, *Discharge of Bilingual Employees for Their Refusal to Speak English at Work Does Not Violate New Jersey's Law Against Discrimination*, Reed Smith Employment Law Review (Sept. 2001). Copy supplied.

Prescription Contraceptives Must Be Covered in Health Plan, Reed Smith Employment Law Review (Feb. 2001). Copy supplied.

Cathy Bissoon, Lisa Schworm & Joshua Verdi, *United States Supreme Court Watch: Coverage of Americans with Disabilities Act*, Reed Smith Employment Law Review (Jan. 2000). Copy supplied.

The above-listed publications are those that I was able to locate through a search of my own files, an extensive Internet search, and an outreach to Reed Smith for a check of the firm's internal records. There may, however, be other publications that I was unable to remember or identify. In particular, I edited Reed Smith's *Employment Law Review* for several years and may have contributed to other firm publications or marketing materials that I do not specifically recall and for which neither I nor the firm have been able to find copies.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

As the Chair of the Employment and Appointments Committee of the Interbranch Commission for Gender, Racial and Ethnic Fairness, I contributed to a publication entitled "Creating a Diverse Workforce in the Pennsylvania Courts," and an accompanying manual entitled "Diversity Recruitment Resources." Copies of both are supplied.

The above-listed reports are those that I was able to locate through a search of my own records, an extensive Internet search, and by contacting Reed Smith for a check of the firm's internal records. There may, however, be others that I was unable to remember or identify.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None that I remember or have been able to identify.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have not maintained a record of all of my public speaking appearances. To respond to this question, I have reviewed my files, conducted an extensive Internet search, and contacted likely sponsoring organizations of my presentations to compile a list that is as complete as possible. Still, there may be other speeches or talks I have given that I have been unable to remember or identify. I typically speak without prepared text or outline and, on those few occasions when I have used PowerPoint slides as part of a presentation, I did not retain them.

The following are events at which I have spoken since my appointment to the bench in 2008:

February 18, 2010: Keynote Speaker, Academy of Trial Lawyers of Allegheny County 47th Annual Academy Mock Trial Competition Awards Dinner, sponsored by the Allegheny Bar Association. I have no notes, transcript or recording. The address of the Academy is P.O. Box 14744, Pittsburgh, Pennsylvania 15234.

December 11, 2009: Panel Speaker, Academy of Trial Lawyers of Allegheny County Annual Roundtable Discussion with the Federal Judges. I have no notes, transcript or recording. The address of the Academy is P.O. Box 14744, Pittsburgh, Pennsylvania 15234.

November 2009: Speaker, Mellon Middle School Career Day. I do not recall the date of this event. I have no notes, transcript or recording. The address of the school is 11 Castle Shannon Boulevard, Pittsburgh, Pennsylvania 15228.

September 22, 2009: Remarks on the Elevation of Chief Judge Gary Lancaster. U.S. Courthouse, Pittsburgh, Pennsylvania. I have no notes, transcript or recording.

May 6-9, 2009: Panel Speaker, National Consortium on Racial and Ethnic Fairness in the Courts, sponsored by the Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness and The Allegheny County Bar Association. The topic of the conference was "Building Bridges to Justice." I do not recall the date that I spoke. I have no notes, transcript or recording. The address of the Consortium is c/o National Center for State Courts, 707 Seventeenth Street, Suite 2900, Denver, Colorado 80202.

2009: Keynote Speaker, Annual Minority Law Student Reception, sponsored by Burns White, LLC, 4 Northshore Center, 106 Isabella Street, Pittsburgh, Pennsylvania 15212. I do not recall the date of this event. I have no notes, transcript or recording.

December 2008: Panel Speaker, Academy of Trial Lawyers of Allegheny County Annual Roundtable Discussion with the Federal Judges. I do not recall the exact date of this event. I have no notes, transcript or recording. The address of the Academy is P.O. Box 14744, Pittsburgh, Pennsylvania 15234.

November 18, 2008: Speaker, 2008 Employment Law Institute West, sponsored by the Pennsylvania Bar Institute, Pittsburgh, Pennsylvania. I spoke at a workshop entitled "Managing Client Expectations of Outcomes in Employment Claims." I have no notes, transcript or recording. The address of the Institute is 339 Sixth Avenue, Suite 760, Pittsburgh, Pennsylvania 15222.

November 12, 2008: Panelist, Diversity Collaborative Committee of the Allegheny County Bar Association program. I gave remarks at a program entitled, "Journey to the Bench: A Diverse Perspective." I have no notes, transcript or recording, but press coverage is supplied.

September 25, 2008: Remarks, Hispanic Heritage Celebration, Annual Event for the Hispanic Attorneys Committee of the Allegheny County Bar Association. I have no notes, transcript or recording, but press coverage is supplied. The address of the Association is 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219.

August 1, 2008: Remarks on my appointment to the federal bench, Pittsburgh Pennsylvania. Video supplied.

Prior to becoming a judge in 2008, I spoke frequently about substantive issues of employment/labor law, issues of civil procedure, diversity in the legal profession and workplace balance. In particular, while practicing labor law as an attorney at Cohen & Grigsby and, prior to that, at Reed Smith, I conducted formal harassment training and other employment law trainings for the two firms and for many of their clients. Other specific speeches and talks I have been able to identify are as follows:

November 14, 2007: Speaker, 2007 Employment Law Institute West, Pittsburgh, Pennsylvania, sponsored by the Pennsylvania Bar Institute. I spoke at a workshop entitled "Summary Judgment Land." I have no notes, transcript or recording. The address of the Institute is 339 Sixth Avenue, Suite 760, Pittsburgh, Pennsylvania 15222.

November 8, 2007: I participated in a program entitled, "'Separate and Unequal' Partnership Tier: Overcoming Barriers for Diverse Partners," Minority Corporate Counsel Association. I have no notes, transcript or recording. The address of the Association is 1111 Pennsylvania Avenue NW, Washington, DC 20004. I recall speaking at several other events of the Minority Corporate Counsel Association from 2002 to 2007, but I have been unable to identify specific dates and programs other than those listed here and the Association has been unable to provide me with any further information from its records.

June 2007: Presenter, Pennsylvania Association of Court Management Annual Meeting. I presented as a program to state court administrators about hiring minorities for the courts. I have no notes, transcript or recording. The address of the Association is P.O. Box 337, Bellefonte, Pennsylvania 16823.

April 24, 2007: Panelist, Allegheny County Bar Association Luncheon. I gave remarks on diversity in the legal profession. I have no notes, transcript or recording, but press coverage is supplied. The address of the Association is 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219.

January 30, 2007: CLE Presentation, "Proven Strategies for Successfully Managing the Demands of Law Practice and Personal Life," Pittsburgh, Pennsylvania, sponsored by the Pennsylvania Bar Institute. I have no notes, transcript or recording. The address of the Institute is 339 Sixth Avenue, Suite 760, Pittsburgh, Pennsylvania 15222.

November 29, 2006: Panelist, "Report of Law Firms and Corporate Counsel in Pennsylvania," Pennsylvania Bar Association Minority Bar Committee, 1st Annual Diversity Summit, Philadelphia, Pennsylvania. I have no notes, transcript or recording. The address of the Association is 100 South Street, Harrisburg, Pennsylvania 17101.

August 15, 2006: CLE Presentation, "Handling the Sexual Harassment Case: From Allegation to Investigation to Trial," sponsored by the Pennsylvania Bar Institute, Pittsburgh, Pennsylvania. I have no notes or transcript. I have been unable to obtain a recording but will supply one if I am able to do so. The address of the Institute is 339 Sixth Avenue, Suite 760, Pittsburgh, Pennsylvania 15222.

March 15-17, 2006: Faculty member, 5th Annual CLE Expo, Minority Corporate Counsel Association. I have no notes, transcript or recording. The address of the Association is 1111 Pennsylvania Avenue NW, Washington, DC 20004.

May 14, 2005: Speaker and panelist, Fifth Biennial Minority Lawyers' Conference, London, United Kingdom. I spoke at a workshop entitled, "Maximum Diversity – Maximum Business Benefit." I have no notes, transcript or recording.

November 3, 2004: Speaker, 5th Annual "Creating Pathways to Diversity" Conference, Minority Corporate Counsel Association. I have no notes, transcript or recording. The address of the Association is 1111 Pennsylvania Avenue NW, Washington, DC 20004.

April 1, 2004: Faculty member, 3rd Annual CLE Expo, Minority Corporate Counsel Association. I have no notes, transcript or recording. The address of the Association is 1111 Pennsylvania Avenue NW, Washington, DC 20004.

November 18, 2003: Speaker, Pennsylvania Bar Institute program entitled, "Preparing and Deposing the Human Resources Manager." I have no notes, transcript or recording. The address of the Institute is 339 Sixth Avenue, Suite 760, Pittsburgh, Pennsylvania 15222.

June 13, 2003: Presenter, Information Technology Association of America webcast program entitled, "The Do's and Don'ts of Workplace Email and Web Monitoring." I have no notes, transcript or recording. The address of the Institute, now part of TechAmerica, is 601 Pennsylvania Avenue, NW, North Building, Suite 600, Washington, DC 20004.

April 30 – May 2, 2003: Faculty member, 2nd Annual CLE Expo, Minority Corporate Counsel Association. I have no notes, transcript or recording. The address of the Association is 1111 Pennsylvania Avenue NW, Washington, DC 20004.

January 21-22, 2003: "Eliminating Bias in the 21st Century Legal Workplace." I do not recall the sponsor or location of this event. I have no notes, transcript, or recording.

January 16, 2003: Speaker, National Institute for Women in Law Firms forum, presentation entitled "Diversity in the Workplace: Maximizing Opportunities in Today's Legal Environment," Washington, DC. I have no notes, transcript or recording.

In addition to the presentations listed above, I gave two guest lectures at Pittsburgh Law School, speaking on issues of employment law and federal civil procedure. I do not recall the dates of those lectures. I have no notes, transcripts or recordings.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have not maintained a record of all interviews I have given, but I have searched my files and Internet databases in an effort to produce as complete a list of interviews as I could, but it is still possible there are some I was not able to locate.

Paula Reed Ward, *Obama Nominates Cathy Bissoon for Vacancy on U.S. District Court*, Pittsburgh Post-Gazette, Nov. 19, 2010. Copy supplied.

Michael Hasch, *Magistrate Judge Gets Nomination to Federal Bench in Western Pa.*, Pittsburgh Tribune-Review, Nov. 18, 2010. Copy supplied.

Staff, *Cathy Bissoon Installed as Federal Magistrate Judge August 1, 2008*, Diverse Pittsburgh, Dec. 2008. Copy supplied.

Daniel Casciato, *Calling Them As She Sees Them*, Pittsburgh Professional Magazine, Nov. 2008, at 23. Copy supplied.

Tracy Carbasho, *Bissoon Sworn in as Magistrate Judge*, The Lawyers Journal, Sept. 9, 2008. Copy supplied.

Gina Passarella, *Bissoon Named to U.S. Magistrate Judge Spot*, Legal Intelligencer, July 8, 2008 [re-published in Pennsylvania Law Weekly on July 14, 2008]. Copy supplied.

Jason Cato, *Private-Practice Attorney Named Magistrate Judge*, Pittsburgh Tribune-Review, July 8, 2008. Copy supplied.

Melanie Lasoff Levs, *Reintroducing Women's Equality: What Impact Will an ERA Have on the Workplace Today?*, Diversity & The Bar, July/Aug. 2007. Copy supplied.

Tracy Carbasho, *Changing Client Needs Leads to Firm Mergers and Expansions*, Today's Attorney, June 2007, at 18. Copy supplied.

Tracy Carbasho, *Membership Lunch to Focus on Diversity*, The Lawyer's Journal, Apr. 18, 2007. Copy supplied.

Francisco Ramos, Jr., Esq., *Superstar in the Making? 10 Qualities of a True Superstar and 10 Ways to Pick One*, Diversity & The Bar, Mar./Apr. 2007. Copy supplied.

Tracy Carbasho, *Bissoon Honored at 11th Annual Multicultural Prism Awards*, The Lawyer's Journal, Feb. 2, 2007. Copy supplied.

Patty Tascarella, *Taking Diversity Initiatives Worldwide*, Pittsburgh Business Times, Jan. 1, 2007. Copy supplied.

Press Release, *Reed Smith Director of Diversity Named 2006 Multicultural Prism Award Winner*, Dec. 14, 2006. Copy supplied.

Press Release, *Reed Smith Awards Annual Diversity Fellowship – Towson Alum Tapped for 2006 Pitt Law Honor*, Reed Smith, Aug. 4, 2006. Copy supplied.

Marie-Anne Hogarth, *GCs Turn Up Heat on Diversity*, The Recorder, July 14, 2006. Copy supplied.

2005 Sager Award Winner Western Region: Reed Smith LLP, Diversity & The Bar, Nov./Dec. 2005. Copy supplied.

Staff, *Reed Smith Fellowship Awarded to Alexandria Samuel*, Pitt Law Notes, Fall 2005, at 7. Copy supplied.

Press Release, *Reed Smith Garners Sager Award for Diversity Efforts*, Reed Smith, Sept. 29, 2005. Copy supplied.

Press Release, *Reed Smith Awards Annual Diversity Fellowship, Alexandria Samuel Tapped for 2005 Pitt Law Honor*, Reed Smith, July 13, 2005. Copy supplied.

Jeff Blumenthal, *Phila. Firms Perform Weakly on Diversity Scorecard*, Legal Intelligencer, July 7, 2005, at 1. Copy supplied.

Michael Yeomans, *Pittsburgh Law Firms Not Diversifying, Advocates Say*, Pittsburgh-Tribune Review, May 6, 2005, at D1. Copy supplied.

Ron DaParma, *Newsmaker: Cathy Bissoon*, Pittsburgh Tribune-Review, Apr. 13, 2005. Copy supplied.

Virginia Peden, *Dream Playhouses Come True for These Mt. Lebanon Families*, The Almanac, Mar. 2005. Copy supplied.

John Rossheim, *The Diversity Dilemma: Who's in Charge?*, Workforce Insights, Feb. 28, 2005 [re-published on HR.com]. Copy supplied.

Press Release, *Reed Smith Named Law Firm of the Year by Hispanic National Bar Association*, Reed Smith, Oct. 12, 2004. Copy supplied.

Alex Dubilet, *Women Lawyers Drawn to Employment Law*, Aug. 23, 2004, at S2. Copy supplied.

Press Release, *Reed Smith Award Annual Fellowship for Pitt Law, Spelman Graduate Third Winner of Prestigious Honor*, Reed Smith, Aug. 17, 2004. Copy supplied.

Sonya Toler, *Firms Sign ACBA's Diversity Initiative*, New Pittsburgh Courier, July 4, 2004, at 1. Copy supplied.

Amy I. Stickel, *MCCA Speakers Offer Tips on Using Arbitration Wisely: Arbitration Must Be Fair to Both Employers and Employees*, Corporate Legal Times, June 1, 2004, at 63. Copy supplied.

Elisabeth Frater, Esq., *A Woman's Place is in the Courtroom*, Diversity & The Bar, Mar./Apr. 2004, at 34. Copy supplied.

Wendy Davis, *Cathy Bissoon: Making Diversity a Core Initiative at Reed Smith*, Law & Diversity, 2004. Copy supplied.

Elisabeth Frater, Esq., *Advice from Hiring Partners to Minority Law Students Landing a Law Firm Job*, Diversity & The Bar, Sept./Oct. 2003. Copy supplied.

Press Release, *Reed Smith Awards Annual Fellowship to U. Pitt Law Student, Recognizes Academics, Service and Perseverance*, Reed Smith, Aug. 5, 2003. Copy supplied.

Joyce Gannon, *Allegheny County Bar Association Taking Steps to Boost Region's Attractiveness to Minority Attorneys*, Pittsburgh Post-Gazette, July 18, 2003. Copy supplied.

Words of Wisdom, The Woman Advocate Newsletter, 7 Wom. Adv. 10 (Winter 2003). Copy supplied.

Press Release, *Reed Smith Establishes Law School Fellowship to Benefit Students Who Have Faced Adversity*, Reed Smith, Mar. 25, 2002. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Since August 1, 2008, I have served as a United States Magistrate Judge appointed by the United States District Court for the Western District of Pennsylvania. Our court is a federal trial court of general jurisdiction defined by 28 U.S.C. § 636.

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

I have presided over one civil bench trial and numerous petty offenses cases.

i. Of these, approximately what percent were:

jury trials:	
bench trials:	100%
civil proceedings:	1 %
criminal proceedings:	99 %

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

See attached list of opinions.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Henderson v. UPMC*, 2010 WL 235117 (W.D. Pa. Jan. 11, 2010)

This was a novel proposed class action under Employee Retirement Income Security Act ("ERISA") in which plaintiff alleged ERISA violations flowing from alleged violations of the Fair Labor Standards Act ("FLSA") in the context of a separate FLSA collective action, *Camesi v. UPMC*, Civil Action No. 09-85J (see below), in which plaintiff sought to intervene. Defendants' motion to dismiss was granted and the case has been appealed.

For Plaintiff: Gary F. Lynch, Carlson Lynch Ltd, P.O. Box 7635, New Castle, PA 16107, Tel: (724) 656-1555.

For Defendant: John J. Myers, Eckert, Seamans, Cherin & Mellott, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, Tel: (412) 566-5900.

2. *U.S. ex rel. Greenmoor, Inc. v. Travelers Casualty and Surety Co.*, 2009 WL 4730233 (W.D. Pa. Dec. 04, 2009)

This was a two-week bench trial on a Miller Act claim arising out of asbestos abatement work performed under a federal contract. Plaintiff, an asbestos abatement subcontractor, alleged that it was not paid in accordance with a subcontract for work on a federal building and was improperly terminated. Defendant, the contractor, maintained that plaintiff's work on the project was deficient and constituted a breach of the subcontract and filed a counterclaim. Both parties were successful on certain elements of their claims.

For Plaintiff: Thomas C. Gricks, III, Schnader Harrison Segal & Lewis, 120 Fifth Avenue, Suite 2700, Pittsburgh, PA 15222, Tel: (412) 577-5205.

For Defendants: D. Matthew Jameson, III, Babst, Calland, Clements & Zomnir, Two Gateway Center, 8th Floor, Pittsburgh, PA 15222, Tel: (412) 394-5491.

3. *Burt Hill, Inc. v. Hassan*, 2010 WL 55715 (W.D. Pa. Jan. 04, 2010); *Burt Hill, Inc. v. Hassan*, 2009 WL 4730231 (W.D. Pa. Dec. 04, 2009)

This was a hotly contested action involving an alleged theft of trade secrets and other proprietary information by former partners at an architectural firm. Defendants worked in plaintiff's Dubai office and several of them fled to Jordan, fearing criminal prosecution in Dubai for the alleged theft. A variety of constitutional and procedural issues were implicated, including the Fifth Amendment's self-incrimination provision, the court's sanctioning power and the rules governing the disclosure of privileged documents. The case settled.

For Plaintiff: James P. Thomas, Pepper Hamilton, 500 Grant Street, 50th Floor, One Mellon Bank Center, Pittsburgh, PA 15219, Tel: (412) 454-5000.

For Defendants: James R. Hankle, Sherrard, German and Kelly, 620 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 355-0200.

4. *Camesi v. UPMC*, 2009 WL 3719483 (W.D. Pa. Nov. 4, 2009); 2009 WL 4573287 (W.D. Pa. Dec. 1, 2009); 2010 WL 235123 (W.D. Pa. Jan. 11, 2010)

This is a large-scale and complex collective action in which plaintiffs, putative collective action members, allege violations of the FLSA, ERISA and the Racketeer Influenced and Corrupt Organizations Act ("RICO"). Defendants operate over 104 health-care facilities and centers, employing about 40,000 people. Defendants allegedly had a "meal-break deduction policy," whereby a computerized time-keeping system automatically deducted one half-hour for every shift worked from every employee's paycheck without confirming that the employee actually was relieved from duty for that half-hour. Plaintiffs allege that they often were not relieved for one half-hour and/or were expected to work during this one half-hour meal break, and were not compensated for this half-hour of work. Plaintiffs allege that defendants had other tangential policies requiring plaintiffs to perform work without appropriate pay. Plaintiffs' ERISA claims have been dismissed and the case is ongoing.

For Plaintiffs: J. Nelson Thomas, Thomas & Solomon LLP, 693 East Avenue, Rochester, NY 14607, Tel: (585) 272-0540.

For UPMC Defendants: John J. Myers, Eckert, Seamans, Cherin & Mellott, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, (412) 566-5900.

For Mercy Hospital Defendant: James F. Glunt, Ogletree Deakins Nash Smoak & Stewart, P.C., 444 Liberty Avenue, Suite 400, Pittsburgh, PA 15222, Tel: (412) 394-3339.

5. *Delta Frangible Ammunition LLC v. Sinterfire, Inc.*, 2009 WL 3183078 (W.D. Pa. Sept. 30, 2009)

In this case, the owner of a patent for bullet manufacturing technology sued a bullet manufacturer for patent infringement. Defendant countered that the patent was invalid based on anticipation, obviousness and derivation because of the existence of prior art. Defendant prevailed on summary judgment and the patent was invalidated. The case was appealed, but subsequently settled.

For Plaintiff: Kent E. Baldauf , Jr., The Webb Law Firm, 436 Seventh Avenue, 700 Koppers Building, Pittsburgh, PA 15219, Tel: (412) 471-8815.

For Defendant: Stephen L. Peterson, Finnegan, Henderson, Farabow, Garrett & Dunner, 901 New York Ave N.W., Washington, DC 20001, Tel: (202) 408 4003.

6. *Hussey Copper, Ltd. v. Royal Ins. Co* , 2009 WL 2913959 (W.D. Pa. Sept. 9, 2009), *aff'd* 2010 WL 3297246 (3d Cir. Aug. 23, 2010).

Plaintiff, the insured, demanded coverage under commercial general liability ("CGL") policies issued by insurer defendants. Specifically, plaintiff claimed that defendants owed a duty of defense in two Illinois state court proceedings alleging environmental damage. The policies at issue contained pollution exclusion language, which defendants contended barred plaintiff's claims for coverage under the relevant policies. Plaintiff countered that defendants were precluded from denying coverage under a theory of regulatory estoppel. Plaintiff's theory of regulatory estoppel was rejected and defendants' motion for summary judgment was granted. The case was appealed and the district court's ruling, adopting my report and recommendation, was affirmed.

For Plaintiff: David E. White, Babst, Calland, Clements & Zomnir, Two Gateway Center, 6th Floor, Pittsburgh, PA 15222, Tel: (412) 394-5680.

For Royal Insurance Defendant: Ralph J. Luongo, Christie, Pabarue, Mortensen & Young, 1880 JFK Boulevard, 10th Floor, Philadelphia, PA 19103, Tel: (215) 587-1615.

For Federal Insurance Company: William P. Shelley, Cozen & O'Connor, 1900 Market Street, The Atrium, 4th Floor, Philadelphia, PA 19103, Tel: (215) 665-2000.

7. *Barnett v. United States*, 2009 WL 2426246 (W.D. Pa. May. 27, 2009)

This was an estate tax case involving a series of transactions in which it was alleged that plaintiff was owed a refund. Plaintiff, as Power of Attorney, issued a series of checks, noting in the "Memo" section of each check that it was a gift. Additionally, plaintiff engaged in what was asserted to be a complicated loan transaction. Defendant, the IRS, disagreed with the manner in which plaintiff characterized these money transfers and, based on its adjustments, increased the Estate's tax liability. After paying the additional taxes due, plaintiff filed the instant action for a tax refund. Defendant's motion for summary judgment was granted in part and denied in part and the case has since settled.

For Plaintiff: Henry M. Ekker, Ekker, Kuster, McConnell & Epstein, One East State Street, P.O. Box 91, Suite 400, Sharon, PA 16146, Tel: (724) 981-2000.

For Defendant: Albert W. Schollaert, United States Attorney's Office, 700 Grant Street, Suite 400, Pittsburgh, PA 15219, Tel: (412) 644 3500.

8. *Menifee v. McVey*, 2009 WL 413773 (W.D. Pa. Feb. 17, 2009)

This was a preliminary injunction case involving a challenge by plaintiffs that defendant acted unconstitutionally by arresting and detaining plaintiffs without ensuring that they received prompt notice and a preliminary hearing incident to their arrest and detention for alleged probation violations. The case was voluntarily dismissed by plaintiffs after several court conferences in which we endeavored to develop practical solutions to address plaintiffs' concerns.

For Plaintiffs: Thomas B. Schmidt, Pepper Hamilton LLP, Suite 200, 100 Market Street, Harrisburg, PA 17108, Tel: (717) 255-1155. Kevin L. Quisenberry, Community Justice Project, 429 Forbes Avenue, 1705 Allegheny Building, Pittsburgh, PA 15219, Tel: (412) 434-6002. Michael Louik, Rosen, Louik & Perry, Suite 200, The Frick Building, 437 Grant Street, Pittsburgh, PA 15219, Tel: (412) 281-4200.

For Defendant: Kemal Alexander Mericli, Office of the Attorney General, 564 Forbes Avenue, 6th Floor, Manor Complex, Pittsburgh, PA 15219, Tel: (412) 565-7680. Mary Lynch Friedline, Office of the Attorney General Fifth Floor, Manor Complex, 564 Forbes Avenue, Pittsburgh, PA 15219, Tel: (412) 565-3520.

9. *Crystal Image Technology, Inc. v. Mitsubishi Elec. Corp.*, 2010 WL 1979298 (W.D. Pa. Apr. 9, 2010)

This was a patent lawsuit in which plaintiff alleged that defendant infringed the claims of its patent entitled, "[a]pparatus and method for displaying a high resolution image with relatively lower resolution display device." The patent

contemplated the division of a high resolution image into lower resolution frame images, which subsequently are "interleaved" through the use of correction optics, thereby recreating the high resolution image. The frame images are displayed on a device that is of a lower resolution than the original high resolution image. Following a *Markman* hearing, the case settled.

For Plaintiff: Arthur A. Gasey, Niro, Scavone, Haller & Niro, 181 West Madison Suite 4600, Chicago, IL 60602, Tel: (312) 377-3245.

For Defendant: John W. Kozak, Leydig, Voit & Mayer, Ltd., Two Prudential Plaza, 180 North Stetson Avenue, Suite 4900, Chicago, IL 60601, Tel: (312) 616-5600.

10. *ACS/Primax v. Polan*, 2008 WL 5213093 (W.D. Pa. Dec. 12, 2008)

This was an ERISA action brought by subrogation vendor for benefit plan against minor to recover medical expenses incurred in the treatment of permanent physical and neurological injuries. Defendants' son was born with extensive injuries apparently caused by a condition that his mother had developed while she was pregnant. According to the defendants, the treatment she received for that condition was negligently administered and caused her son's birth injuries. The son, covered under his father's employer's plan, incurred medical expenses. Two years after the son's birth, the son, by and through his parents, initiated a medical malpractice action against the doctors and hospitals, alleging that their negligent treatment of the mother's condition caused his injuries. Defendants, however, were barred by the applicable statute of limitations from pursuing a claim for the medical expenses they had incurred on their son's behalf. Ultimately, the medical malpractice claim was settled. Plaintiff brought this action seeking a declaration that, pursuant to the terms of the plan, it was entitled to recover from the medical malpractice settlement the amount of the medical expenses it paid to Defendants for their son's medical treatments. Defendants' motion for summary judgment was granted.

For Plaintiffs: Michael J. Laffey, Laffey & Associates, 210 Mary Street, Carnegie, PA 15106, Tel: (412) 429-7079.

For Defendants: Brendan G. Stuhan, Buchanan Ingersoll & Rooney, 301 Grant Street, One Oxford Centre, 20th Floor, Pittsburgh, PA 15219, Tel: (412) 562-8394.

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Henderson v. UPMC*, 2010 WL 235117 (W.D. Pa. Jan. 11, 2010)

For Plaintiff: Gary F. Lynch, Carlson Lynch Ltd, 36 N. Jefferson Street, P.O. Box 7635, New Castle, PA 16107, Tel: (724) 656-1555.

For Defendant: John J. Myers, Eckert, Seamans, Cherin & Mellott, 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, Tel: 566-5900.

2. *Burt Hill, Inc. v. Hassan*, 2010 WL 55715 (W.D. Pa. Jan. 04, 2010)

For Plaintiff: James P. Thomas, Pepper Hamilton, 500 Grant Street, 50th Floor, One Mellon Bank Center, Pittsburgh, PA 15219, Tel: (412) 454-5000.

For Defendants: James R. Hankle, Sherrard, German and Kelly, 620 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 355-0200.

3. *Burt Hill, Inc. v. Hassan*, 2009 WL 4730231 (W.D. Pa. Dec. 04, 2009)

For Plaintiff: James P. Thomas, Pepper Hamilton, 500 Grant Street, 50th Floor, One Mellon Bank Center, Pittsburgh, PA 15219, Tel: (412) 454-5000.

For Defendants: James R. Hankle, Sherrard, German and Kelly, 620 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 355-0200.

4. *U.S. ex rel. Greenmoor, Inc. v. Travelers Casualty and Surety Co.*, 2009 WL 4730233 (W.D. Pa. Dec. 04, 2009)

For Plaintiff: Thomas C. Gricks, III, Schnader Harrison Segal & Lewis, 120 Fifth Avenue, Suite 2700, Pittsburgh, PA 15222, Tel: (412) 577-5205.

For Defendants: D. Matthew Jameson, III, Babst, Calland, Clements & Zomnir Two Gateway Center, 8th Floor, Pittsburgh, PA 15222, Tel: (412) 394-5491.

5. *Camesi v. UPMC*, 2009 WL 3719483 (W.D. Pa. Nov. 4, 2009); 2009 WL 4573287 (W.D. Pa. Dec. 1, 2009); 2010 WL 235123 (W.D. Pa. Jan. 11, 2010)

For Plaintiffs: J. Nelson Thomas, Thomas & Solomon LLP, 693 East Avenue, Rochester, NY 14607, Tel: (585) 272-0540.

For UPMC Defendants: John J. Myers, Eckert, Seamans, Cherin & Mellott. 600 Grant Street, 44th Floor, Pittsburgh, PA 15219, Tel: 566-5900.

For Mercy Hospital Defendant: James F. Glunt, Ogletree Deakins Nash Smoak & Stewart, P.C., 444 Liberty Avenue, Suite 400, Pittsburgh, PA 15222, Tel: (412) 394-3339.

6. *Delta Frangible Ammunition LLC v. Sinterfire, Inc.*, 2009 WL 3183078 (W.D. Pa. Sept. 30, 2009)

For Plaintiff: Kent E. Baldauf, Jr., The Webb Law Firm, 436 Seventh Avenue, 700 Koppers Building, Pittsburgh, PA 15219, Tel: (412) 471-8815.

For Defendant: Stephen L. Peterson, Finnegan, Henderson, Farabow, Garrett & Dunner, 901 New York Ave N.W., Washington, DC 20001, Tel: (202) 408-4003.

7. *Hussey Copper, Ltd. v. Royal Ins. Co.*, 2009 WL 2913959 (W.D. Pa. Sept. 9, 2009)

For Plaintiff: David E. White, Babst, Calland, Clements & Zomnir, Two Gateway Center, 6th Floor, Pittsburgh, PA 15222, Tel: (412) 394-5680.

For Royal Insurance Defendant: Ralph J. Luongo, Christie, Pabarue, Mortensen & Young, 1880 JFK Boulevard, 10th Floor, Philadelphia, PA 19103, Tel: (215) 587-1615.

For Federal Insurance Company: William P. Shelley, Cozen & O'Connor, 1900 Market Street, The Atrium, 4th Floor, Philadelphia, PA 19103, Tel: (215) 665-2000.

8. *Barnett v. United States*, 2009 WL 2426246 (W.D. Pa. May. 27, 2009)

For Plaintiff: Henry M. Ekker, Ekker, Kuster, McConnell & Epstein, One East State Street, P.O. Box 91, Suite 400, Sharon, PA 16146, Tel: (724) 981-2000.

For Defendant: Albert W. Schollaert, United States Attorney's Office, 700 Grant Street, Suite 400, Pittsburgh, PA 15219, Tel: (412) 644 3500.

9. *Menifee v. McVey*, 2009 WL 413773 (W.D. Pa. Feb. 17, 2009)

For Plaintiffs: Thomas B. Schmidt, Pepper Hamilton LLP, Suite 200, 100 Market Street, Harrisburg, PA 17108, Tel: (717) 255-1155. Kevin L. Quisenberry, Community Justice Project, 429 Forbes Avenue, 1705 Allegheny Building, Pittsburgh, PA 15219, Tel: (412) 434-6002. Michael Louik, Rosen, Louik & Perry, Suite 200, The Frick Building, 437 Grant Street, Pittsburgh, PA 15219, Tel: (412) 281-4200.

For Defendant: Kemal Alexander Mericli, Office of the Attorney General, 564 Forbes Avenue, 6th Floor, Manor Complex, Pittsburgh, PA 15219, Tel: (412) 565-7680. Mary Lynch Friedline, Office of the Attorney General, Fifth Floor, Manor Complex, 564 Forbes Avenue, Pittsburgh, PA 15219, Tel: (412) 565-3520.

10. *ACS/Primax v. Polan*, 2008 WL 5213093 (W.D. Pa. Dec. 12, 2008)

For Plaintiffs: Michael J. Laffey, Laffey & Associates, 210 Mary Street, Carnegie, PA 15106, Tel: (412) 429-7079.

For Defendants: Brendan G Stuhan, Buchanan Ingersoll & Rooney, 301 Grant Street, One Oxford Centre, 20th Floor, Pittsburgh, PA 15219, Tel: (412) 562-8394.

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

None, to the best of my knowledge.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Fisher v. Rozum, Civil Action No. 06-220J (W.D. Pa. Feb. 4, 2010) (remanding case for further consideration of issues not explicitly enumerated in my decision applying the "actual innocence" standard in the context of a petition for a writ of habeas corpus). Copy supplied with supplemental order.

United States v. Robinson, Criminal Action 08-mj-500, (W.D. Pa. May 29, 2009) (reversing the imposition of a fine on defendant following his failure to appear at trial). Copy supplied.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a Magistrate Judge, I serve as both the presiding judge (in cases in which all the parties have consented to my jurisdiction) and as a referral judge. When cases are referred to the Magistrate Judges, the Magistrate Judge manages all pretrial proceedings and issues opinions and/or reports and recommendations on those matters. All of my opinions and reports and recommendations, whether they are in consent cases or referral cases, are filed electronically in our court's Electronic Case Filing system. I do not submit any of my opinions for publication. Westlaw and LEXIS independently publish various opinions. Additionally, counsel for the parties involved may also submit opinions for publication.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Burt Hill, Inc. v. Hassan, 2010 WL 55715 (W.D. Pa. Jan. 04, 2010)
Burt Hill, Inc. v. Hassan, 2009 WL 4730231 (W.D. Pa. Dec. 04, 2009)
Menifee v. McVey, 2009 WL 413773 (W.D. Pa. Feb. 17, 2009)

Additionally, I routinely issue opinions in prisoners' rights cases arising under 42 U.S.C. § 1983, in which constitutional issues are implicated.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal. (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I follow the federal recusal statutes and the Code of Conduct for United States Judges. Our court utilizes an "automatic" recusal system whereby judges list lawyers and other individuals or entities from whose cases trigger recusal due to existing or prior relationships and/or the appearance of impropriety. As such, I may be recused in a case without my knowledge or intervention. There have, however, been a small number of cases in which: (1) the case has been assigned to me and counsel on my automatic recusal list later enters an appearance; or (2) the individual or entity involved has not previously been identified in my automatic recusal list.

Browne-Barbour v. Duquesne Univ. Sch. of Law, Civil Action No. 10-873 (W.D. Pa.) (*sua sponte* recusal where plaintiff in the action is a former colleague with whom I maintain a friendship).

Thompkins v. PNC Bank, Civil Action No. 10-163 (W.D. Pa.) (*sua sponte* recusal where, while in private practice, I represented a different defendant in a similar, prior action brought by same plaintiff; my familiarity with the plaintiff and his prior lawsuit provided appropriate recusal grounds).

Ameriserv Fin. Bank v. CommerceBank, Civil Action No. 07-1159 (W.D. Pa.); *Claassen v. Allegheny Energy Solutions*, Civil Action No. 08-913 (W.D. Pa.); *Anderson v. Equitable Res., Inc.*, Civil Action No. 08-952 (W.D. Pa.); *Am. Clean Energy Sys., Inc. v. Aces Maritime Servs., LP*, Civil Action No. 08-1000 (W.D. Pa.); *Ahmed v. Mohammad*, Civil Action No. 08-1395 (W.D. Pa.); *Mudgett v. UPMC*, Civil Action No. 09-254 (W.D. Pa.); *Int'l Union of Operating Eng's Local 95 v. Robert Wholey & Co.*, Civil Action No. 09-967 (W.D. Pa.); *Daw v. Commercial Traffic Co.*, Civil Action No. 09-1574 (W.D. Pa.) (*sua sponte* recusals where counsel, a lawyer at my former law firm, appeared on my automatic recusal list, but entered his or her appearance after the case was assigned to me).

Finally, in *Jones v. Folino*, Civil Action No. 08-824 (W.D. Pa) and *McKeithan v. Beard*, Civil Action No. 06-965 (W.D. Pa.), pro se prisoners requested that I recuse myself because they disagreed with a prior ruling. There was no suggestion of bias and no basis for recusal in either case and their motions were denied.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office other than judicial office. I have not had an unsuccessful candidacy for elective office or an unsuccessful nomination for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never worked on any campaign nor have I held any office in a political party or election committee.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I was law clerk to the Honorable Gary L. Lancaster of the United States District Court for the Western District of Pennsylvania from 1994 to 1995.

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

I have never practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1991 – 2007
Reed Smith LLP
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222
Partner (2001 – 2007)
Associate (1993 – 1994 & 1995 – 2001)

2007 – 2008
Cohen & Grigsby, P.C.
625 Liberty Avenue
Pittsburgh, PA 15222
Director & Department Head, Labor Group

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

While in private practice, I never served as a mediator or arbitrator.

b. Describe:

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

While in private practice, I defended corporations and institutions against discrimination, harassment and other employment-related claims in federal

court and before administrative agencies. A good portion of my practice also involved counseling those corporations and institutions on various federal, state and local employment laws, providing training to those entities and investigating claims of alleged harassment and/or discrimination.

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

Most of my clients were corporations of various sizes. Additionally, I represented management clients in traditional labor forums such as arbitrations and in collective bargaining. The nature of my practice did not change over my time in private practice.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While in private practice, approximately 95% of my practice was in litigation. I frequently appeared in federal court and argued numerous motions in courts around the country and argued cases at the appellate level. I first-chaired jury trials and had extensive pretrial experience in federal court.

i. Indicate the percentage of your practice in:
   1. federal courts: 98%
   2. state courts of record: 1 %
   3. other courts:
   4. administrative agencies: 1%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 100%
   2. criminal proceedings:

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have handled approximately 30 to 35 cases that were not resolved through settlement. Of these, I was chief/sole counsel on about half of them and associate/co-counsel on the remaining cases. The majority of these cases were resolved successfully for my client on either a motion for summary judgment or a motion to dismiss. Three of the cases went to trial. One of these cases, which I second-chaired as associate counsel, settled following jury selection. The other two cases, on which I served as lead counsel, were tried to successful verdict.

i. What percentage of these trials were:
   1. jury: 100%
   2. non-jury:

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Pryer v. C.O. 3 Balzer*, Civil Action No. 92-1461 (W.D. Pa.) (Lancaster, J.). I represented the plaintiff prisoner, Mr. Pryer, from 1999 to 2000, on a pro bono basis in connection with his claim that he was beaten in prison in violation of the Eighth Amendment. I was first-chair at trial and my co-counsel and I secured what we understood at the time to be one of the largest verdicts for a single prisoner in the history of this district. The case was appealed and was remanded due to a flawed jury instruction. The case settled prior to a new trial.

Co-counsel: Jere Krakoff, 716 Field Club Road, Pittsburgh, PA 15238, Tel.: (412) 967-9287.

Defendants' counsel: Charles B. Schweitzer, Office of the Attorney General, 564 Forbes Avenue, 6th Floor, Manor Complex, Pittsburgh, PA 15219, Tel: (412) 565-7680.

2. *Dlugos v. Eastman Kodak Co.*, Civil Action No. 95-1525 (W.D. Pa.) (Ambrose, J). I defended Kodak from 1995 to 1996 in an early case under the Americans with Disabilities Act in which plaintiff claimed that he was terminated because of his disability and that Kodak failed to provide reasonable accommodations to him in violation of the Act. I was the associate on the case

and engaged in discovery and prepared all briefing. Summary judgment was granted for Kodak.

Co-counsel: Robert F. Prorok, Cohen & Grigsby, P.C., 625 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 297-4697.

Plaintiff's counsel: Thomas H.M. Hough, 200 Fleet Street, 2nd Floor, Pittsburgh, PA 15220, Tel: (412) 444-0376.

3. *Solomon v. Soc'y of Auto. Eng's*, Civil Action No. 99-1395 (W.D. Pa.) (Ambrose. J.). I defended Society of Automotive Engineers (SAE) in this reverse gender discrimination and age discrimination case from 1999 to 2001. Plaintiff maintained that he was terminated due to his age and gender. I was the associate on the case and engaged in discovery and depositions. I also prepared all briefing. Summary judgment was granted for SAE.

Co-counsel: Robert F. Prorok, Cohen & Grigsby, P.C., 625 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 297-4697.

Plaintiff's counsel: Neal A. Sanders, Law Offices of Neal Sanders, 1924 North Main Street Ext., Butler, PA 16001, Tel: (724) 282-7771.

4. *Albert v. Kaiser Aluminum and Chem. Corp.*, Civil Action No. 99-47E (McLaughlin, J). I defended Kaiser in this 81-plaintiff Section 301/duty of fair representation case from 1999 to 2003. I prepared most of the briefing in the case on behalf of Kaiser. Summary judgment was granted to all defendants.

Co-counsel: William Bevan, III & Patrick W. Ritchey, Reed Smith, Reed Smith Centre, 225 Fifth Avenue, Suite 1200, Pittsburgh, PA 15222, Tel: (412) 288-3131.

Counsel for Defendant AKW LLP: David Joseph Rowland, Seyfarth, Shaw, Fairweather & Geraldson, 55 East Monroe Street, Suite 4200, Chicago, IL 60603, Tel: (312) 346-8000.

Counsel for Defendants United Automobile and Agricultural Implement Workers of America and Local Union No. 1186: Connye Y. Harper, Legal Department of UAW, 8000 E. Jefferson Avenue, Detroit, MI 48214, Tel: (313) 926-5216. Howard Grossinger, Grossinger, Gordon & Vatz, 1000 Law & Finance Building, Pittsburgh, PA 15219, Tel: (412) 391-3030.

Plaintiffs' Counsel: Charles E. Boyle, 1420 Grant Building, Pittsburgh, PA 15219, Tel: (412) 471-1100.

5. *Hargrove v. Mellon Bank*, Civil Action No. 99-1718 (W.D. Pa.) (Lancaster, J.). I defended Mellon Bank in this hard-fought action in which plaintiff alleged

retaliation and a novel hostile work environment theory in connection with his termination from employment. I represented Mellon from 1999 to 2001, during which time, I conducted and defended all but one deposition and prepared all briefing. Summary judgment was granted for Mellon.

Co-counsel: John C. Unkovic, Reed Smith, Reed Smith Centre, 225 Fifth Avenue, Pittsburgh, PA 15222, Tel: (412) 288-3131.

Plaintiff's counsel: Samuel J. Cordes, Stember Feinstein Doyle Payne & Cordes, 429 Forbes Avenue, Allegheny Building, 17th Floor, Pittsburgh, PA 15219, Tel: (412) 281-8400.

6. *Vogel v. AK Steel Corp.*, Civil Action No. 02-742 (W.D. Pa.) (Conti, J.). I defended AK Steel from 2002 to 2006 in this gender/age discrimination lawsuit involving an employee who was disqualified from her crane operator position. I was lead counsel on the case and conducted discovery and took/defended all depositions in the case. I prepared most of the briefing in the case and first-chaired the trial of the case. Plaintiff's age case was dismissed on summary judgment and the jury found in favor of AK Steel on plaintiff's gender claim.

Co-counsel at trial: Catherine S. Ryan, Reed Smith, Reed Smith Centre, 225 Fifth Avenue, Suite 1200, Pittsburgh, PA 15222, Tel: (412) 288-4226.

Plaintiff's counsel: Neal A. Sanders, Law Offices of Neal Sanders, 1924 North Main Street Ext., Butler, PA 16001, Tel: (724) 282-7771.

7. *Singleton v. Mellon Fin. Corp.*, Civil Action No. 02-1312 (W.D. Pa.) (McVerry, J.). I represented defendants from 2002 to 2006 in this high profile, race/disability discrimination case by a former upper level executive. I conducted and defended several depositions, including the deposition of Mellon's CEO, oversaw discovery and prepared the briefing in the case. Defendants' motion for summary judgment was granted.

Co-counsel: John C. Unkovic, Reed Smith, Reed Smith Centre, 225 Fifth Avenue, Pittsburgh, PA 15222, Tel: (412) 288-3131. Robert F. Prorok, Cohen & Grigsby, P.C., 625 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 297-4697.

Plaintiff's counsel: Courtney E. Morgan , Jr., Morgan & Meyers,3200 Greenfield Suite 260, Dearborn, MI 48120, Tel: (313) 961-0130.

8. *Lake v. AK Steel Corp.*; *EEOC v. AK Steel Corp.*, consolidated at Civil Action Nos. 03-517 (W.D. Pa.) (Cercone, J.). I represented AK Steel from 2003 to 2007 in this EEOC class action in which the plaintiffs, African-American employees of AK Steel, alleged they were subjected to racial harassment and race discrimination. I served as lead counsel, oversaw discovery in the case and

conducted or defended most, if not all, of the depositions in the case. The case settled on the eve of trial.

Associate/co-counsel for trial: Shweta Gupta, BNY Mellon, BNY Mellon Center Legal Department, 500 Grant Street, Room 151-1915, Pittsburgh, PA 15258, Tel: (412) 234-7492.

Counsel for EEOC: M. Jean Clickner, Equal Employment Opportunity Commission, 1000 Liberty Avenue, William S. Moorhead Federal Building, Suite 1112, Pittsburgh, PA 15222, Tel: (412) 395-5843.

Counsel for individual defendants: John W. Murtagh, Murtagh & Cahill, 110 Swinderman Road, Wexford, PA 15090, Tel: (724) 935-7555.

9. *Lloyd v. Washington & Jefferson Coll.*, Civil Action No. 05-802 (W.D. Pa.) (McVerry, J.). I defended W&J from 2005 to 2008 in this complex Americans with Disabilities Act/Family Medical Leave Act/breach of contract action by a former professor who claimed that he was discharged due to his alleged mental disability. I served as lead counsel and oversaw discovery and conducted or defended most of the depositions in the case. I also prepared several briefs in the case, including the summary judgment brief. Summary judgment was granted in favor of W&J and plaintiff appealed. I prepared all appellate briefs and the case was affirmed without argument.

Associate/co-counsel at District Court level: David J. Burton, PNC Financial Services Group, Two PNC Plaza, 620 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 768-2029.

Plaintiff's counsel: Gregory T. Kunkel, Kunkel & Fink, LLP, Brentwood Professional Bldg., 4411 Stilley Road, Suite 206, Pittsburgh, PA 15227, Tel: (412) 885-3880.

10. *Schwartzberg v. Mellon Bank, N.A.*, Civil Action No. 06-1006 (W.D. Pa.) (McVerry, J.). I defended Mellon from 2006 to 2008 in this religious discrimination lawsuit by a terminated employee. I was lead counsel in the case and oversaw discovery and conducted or defended all depositions. I oversaw the preparation of, or prepared, all briefs in the case. Summary judgment was granted in favor of Mellon and plaintiff appealed. I prepared all appellate briefs and the case was affirmed without argument.

Associate/co-counsel: Floyd A. Clutter, Cohen & Grigsby, 625 Liberty Avenue, Pittsburgh, PA 15222, Tel: (412) 297-4900.

Plaintiff's counsel: Charles H. Saul, Margolis Edelstein, 525 William Penn Place, Suite 3300, Pittsburgh, PA 15219, Tel: (412) 281-4256.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    While a partner at the law firm of Reed Smith, I served as the Firmwide Director of Diversity from 2001 to 2007. I also served as the Firmwide Practice Group Leader of the Employment Practice Group from 2003 to 2004.

    I have successfully assisted in the negotiation of collective bargaining agreements between various unions and the Western Pennsylvania School for Blind Children, which I represented for several years. I have not engaged in any lobbying activities.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    No.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       As a United States Magistrate Judge, I currently recuse myself from litigation involving Bayer Corporation and MEDRAD, Inc., due to my husband's employment with MEDRAD, which is owned by Bayer. Additionally, I recuse myself in cases involving close family friends who are attorneys, as well as cases involving my former law firm, Cohen & Grigsby, and the entities on whose boards I sit. If confirmed to be a District Judge, I would continue the same recusal practices.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       If confirmed, I will continue to follow the federal recusal statutes and the Code of Conduct for United States Judges, just as I do in my current position. I will continue to recuse myself from cases in which I perceive there is any appearance of impropriety.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    As a judge, I am not in a position to perform pro bono legal work. As a private lawyer, however, I handled a significant pro bono prisoner civil rights case, *Pryer v. C.O. 3 Balzer*, Civil Action No. 92-1461 (W.D. Pa.). From 1999 to 2000, I represented a prisoner in a prison beating case. My co-counsel and I secured what we understood at the time to be one of the largest verdicts for a single prisoner in the history of this district. Additionally, while employed at Reed Smith, I handled some adoptions and assisted some non-profits on a pro bono basis. Finally, I argued a disability case before the Court of Appeals for the Fourth Circuit, in which I represented the appellant on a pro bono basis. *Bussey v. West*, 86 F.3d 1149 (4th Cir. 1996).

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I applied to fill this vacancy when I became aware from our county bar association's newsletter that Senators Specter and Casey were soliciting applicants for the vacancy. On February 25, 2010, I submitted my application via email to both Senators as directed on their respective websites.

On March 12, 2010, I received an email from Thomas Kline, Esq., co-chair of the Federal Judicial Nominating Committee ("Committee") assembled by Senators Specter and Casey, requesting that I make myself available for an interview. On March 25, 2010, I interviewed with the Committee. While I was not informed, officially or otherwise, by the Committee that my name was sent to the Senators for consideration, I understand that it was.

On July 15, 2010, I received a call from James Brown, Senator Casey's Chief of Staff, who informed me that my name had been sent to the White House as the Senators' recommendation to fill the vacancy. On July 26, 2010, I met with Senator Casey and Mr. Brown at the Senator's office in Pittsburgh to discuss the next steps in the process.

Since August 16, 2010, I have been in contact with pre-nomination officials at the Department of Justice. On September 24, 2010, I interviewed in Washington, D.C., with representatives of the White House Counsel's Office and the Department of Justice. On November 17, 2010, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Bissoon, Cathy	2. Court or Organization US District Court for the Western District of Pa.	3. Date of Report 11/17/2010
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge	5a. Report Type (check appropriate type) ☑ Nomination. Date 11/17/2010 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 1/1/2009 to 10/31/2010
7. Chambers or Office Address US Courthouse & Post Office 700 Grant Street Pittsburgh, PA 15219	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Director	Pittsburgh Zoo & PPG Aquarium
2.	Director	Mt. Lebanon Teen Center
3.	Director (until December 2009)	Phipps Conservatory & Botanical Gardens
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 11/17/2010

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2008	Cohen & Grigsby, Wages and Bonus	$166,257.00
2.		
3.		
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2010	Medrad, Inc. -- Wages
2. 2009	Medrad, Inc. -- Wages
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt	Exempt			
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 11/17/2010

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt	Exempt	
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Bissoon, Cathy	11/17/2010

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. First Niagara (form. National City Bank) (Savings/CD)	D	Interest	L	T	Exempt				
2. Allegent Community Federal Credit Union (Savings/CD)	A	Interest	J	T					
3. Fidelity Bank (Savings/CD)	A	Interest	L	T					
4. IRA #1									
5. - Baron Growth Fund	D	Dividend	K	T					
6. - CitiBank NA Bank Deposit Program	A	Interest	J	T					
7. - American Century International Bond		None	J	T					
8. - Dreyfus Emerging Mkts Fund Class A	E	Dividend	L	T					
9. - Eaton Vance Large Cap Value Fund Class A	E	Dividend	L	T					
10. - Janus Forty Fund (form. Janus Adviser Forty Fund) Class S	D	Dividend	L	T					
11. - Pimco Total Return Fund Class D	D	Dividend	L	T					
12. - Royce Premier Fund	E	Dividend	J	T					
13. - Western Asset Gov't Money Market	B	Dividend	J	T					
14. - William Blair Int'l Growth Fund Class N	D	Dividend							
15. - Thornburg Int'l Value Fund Class A	B	Dividend	K	T					
16. Brokerage Account #1									
17. - Capital World Growth and Income Fund Class A	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Bissoon, Cathy	11/17/2010

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - Growth Fund America Class A	A	Dividend	K	T					
19. - New Perspective Fund Class A	A	Dividend	K	T					
20. - Washington Mutual Investors Fund Class A	A	Dividend	K	T					
21. - CitiBank NA Bank Deposit Program	A	Interest	J	T					
22. Ally Bank (Savings)	A	Interest	J	T					
23. The Walt Disney Company	A	Dividend	J	T					
24. Pet Ecology Brands (Common)		None	J	T					
25. HSBC (Savings)	A	Interest							
26. Biomass Secure Power (form. Virtual Media Holdings) (common)		None	J	T					
27. College Inv. Dir. Portfolio Coll. Sav. Plan Moderate	D	Int./Div.	L	T					
28. College Inv. Dir. Portfolio Coll. Sav. Plan Moderate	D	Int./Div.	L	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 11/17/2010

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

**In Section VII, when the abbreviation "form." is used, it is to mean "formerly known as" or "formerly."

**In Section VII, entry 13, "Western Asset Government Money Market" is formerly known as "Western Asset Government Money Market Exchange."

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 11/17/2010

IX. CERTIFICATION.

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

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

Signature Cathy Bissoon

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

Cathy Bissoon

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks	1	303	400	Notes payable to banks-secured			
U.S. Government securities–Series EE bonds		3	200	Notes payable to banks-unsecured			
Listed securities – see schedule			415	Notes payable to relatives			
Unlisted securities – see schedule			89	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule		192	648
Real estate owned – see schedule		600	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		34	975				
Cash value-life insurance		72	593				
Other assets itemize:							
				Total liabilities		192	648
				Net Worth	1	822	024
Total Assets	2	014	672	Total liabilities and net worth	2	014	672
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Walt Disney common stock	$ 415
Unlisted Securities	
PECD (Pet Ecology Brands, Inc.)	$ 14
BMSPF (Biomass Secure Power, Inc.)	75
Total Unlisted Securities	$ 89
Real Estate Owned	
Personal residence	$ 300,000
Second residence	300,000
Total Real Estate Owned	$ 600,000
Real Estate Mortgages Payable	
Personal residence	$ 66,050
Second residence	126,598
Total Real Estate Mortgages Payable	$ 192,648

AFFIDAVIT

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

11/15/10
(DATE)

Cathy Bissoon
(NAME)

Kent A. Thurston
US Magistrate Judge
(NOTARY)

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
U.S. POST OFFICE & COURTHOUSE
PITTSBURGH, PENNSYLVANIA 15219

CATHY BISSOON
UNITED STATES MAGISTRATE JUDGE

(412) 208-7460

January 5, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

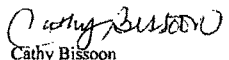
I have reviewed the Senate Questionnaire I previously submitted in connection with my nomination on November 17, 2010, to be a United States District Judge for the Western District of Pennsylvania. Incorporating the additional information listed below, I certify that the information contained in those documents is, to the best of my knowledge, true and accurate.

Q. 13b -- Citations

I have attached a list of opinions I have issued since my November, 2010 Senate Questionnaire.

I also am forwarding an updated Net Worth Statement and Financial Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,



Cathy Bissoon
U.S. Magistrate Judge

Cc:
The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Written Opinions Report

U.S. District Court -- Western District of Pennsylvania
Filed Report Period: 11/17/2010 - 1/3/2011

Date Filed:	Case Number & Name:	Doc. #	Description:	Notes:
11/18/2010	3:09-cv-00085-CB **CAMESI et al v. UNIVERSITY OF PITTSBURGH MEDICAL CENTER et al**	427	Order	*Office:* Johnstown *Case Flags:* MEDIATION *NOS:* Labor: Fair Standards *Cause:* 29:201 Fair Labor Standards Act *Judge:* Cathy Bissoon
11/23/2010	3:10-cv-00207-KRG-CB **DAVIS v. ROZUM et al**	28	Order on Motion for Miscellaneous Relief, Order on Motion for Order to Show Cause, Order on Motion to Appoint Counsel	*Office:* Johnstown *Case Flags:* DAD *NOS:* Prisoner Civil Rights (Prison Condition) *Cause:* 42:1983pr Prisoner Civil Rights *Judge:* Cathy Bissoon
11/24/2010	2:10-cv-00697-NBF -CB **BLOUNT et al v. FOLINO**	67	Order on Motion for Default Judgment, Order on Motion for Extension of Time to File Answer, Order on Motion for Leave to File, Order on Motion for Preliminary Injunction, Order on Motion to Appoint Counsel, Order on Motion to Stay	*Office:* Pittsburgh *Case Flags:* DAD *NOS:* Prisoner Civil Rights (Prison Condition) *Cause:* 42:1983pr Prisoner Civil Rights *Judge:* Cathy Bissoon
	2:10-cv-00722-DWA -CB **POOLE v. MARKS et al**	29	Order on Motion for More Definite Statement	*Office:* Pittsburgh *Case Flags:* MLW *NOS:* Civil Rights: Other *Cause:* 42:1983 Civil Rights Act *Judge:* Cathy Bissoon
12/03/2010	2:09-cv-00016-CB **KEEHN v. C/O**	44	Order on Motion for Partial Summary Judgment	*Office:* Pittsburgh *Case Flags:*

	LUCAS et al			CONMAG, MR *NOS:* Prisoner Civil Rights (Prison Condition) *Cause:* 42:1983 Civil Rights Act *Judge:* Cathy Bissoon
	2:09-cv-00426-GLL -CB **CROCK v. CITY/TOWN OR BORO OF MT. LEBANON, PENNA. et al**	50	Report and Recommendation	*Office:* Pittsburgh *NOS:* Civil Rights: Other *Cause:* 42:1983 Civil Rights Act *Judge:* Cathy Bissoon
	2:10-cv-00722-DWA -CB **POOLE v. MARKS et al**	36	Report and Recommendation	*Office:* Pittsburgh *Case Flags:* MLW *NOS:* Civil Rights: Other *Cause:* 42:1983 Civil Rights Act *Judge:* Cathy Bissoon
12/09/2010	2:10-cv-00697-NBF -CB **BLOUNT et al v. FOLINO**	73	Order on Motion for Miscellaneous Relief	*Office:* Pittsburgh *Case Flags:* DAD *NOS:* Prisoner Civil Rights (Prison Condition) *Cause:* 42:1983pr Prisoner Civil Rights *Judge:* Cathy Bissoon
	2:10-cv-00949-CB **ADAMCHIK v. COMPSERVICES, INC.**	16	Order on Motion to Dismiss	*Office:* Pittsburgh *NOS:* Civil Rights: Americans with Disabilities - Employment *Cause:* 42:12101 The Americans with Disabilities Act of 1990 *Judge:* Cathy Bissoon
12/10/2010	2:10-cv-00165-CB **POWE v. OFFICER**	19	Order	*Office:* Pittsburgh *Case Flags:* CLOSED, DAD

	SHOVLIN et al			*NOS:* Prisoner Civil Rights (Prison Condition) *Cause:* 42:1983pr Prisoner Civil Rights *Judge:* Cathy Bissoon
	2:10-cv-01080-CB **AFCO CARGO PIT LLC v. DHL EXPRESS (USA), INC.**	29	Order on Motion for Judgment on the Pleadings	*Office:* Pittsburgh *NOS:* Contract: Other *Cause:* 28:1332 Diversity-Other Contract *Judge:* Cathy Bissoon
12/13/2010	2:08-cv-00122-CB **CALDWELL v. FOLINO et al**	108	Order on Motion for Entry of Default, Order on Motion for Leave to File, Order on Motion for Reconsideration	*Office:* Pittsburgh *Case Flags:* CONMAG, MR *NOS:* Prisoner: Civil Rights *Cause:* 42:1983pr Prisoner Civil Rights *Judge:* Cathy Bissoon
12/17/2010	2:10-cv-00390-NBF-CB **UNITED STATES OF AMERICA v. VARIOUS MONEY ORDERS**	20	Order	*Office:* Pittsburgh *NOS:* Drug Related Seizure of Property *Cause:* 21:881 Forfeiture Property-Drugs *Judge:* Cathy Bissoon
12/23/2010	2:09-cv-00247-CB **ROBINSON v. SOBINA et al**	37	Order on Motion to Dismiss	*Office:* Pittsburgh *Case Flags:* DAD *NOS:* Prisoner Civil Rights (Prison Condition) *Cause:* 42:1983pr Prisoner Civil Rights *Judge:* Cathy Bissoon

Total number of opinions reported: 14

Selection Criteria for Report

Case Number	All
Judge	Bissoon, Cathy
Office	All
Case Type	All
Case Flags	All
Nature of Suit	All
Cause	All
Filed Date	11/17/2010 - 1/3/2011
Sort by	Date Filed

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Bissoon, Cathy	US District Court for the Western District of Pa.	1/5/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 01/05/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 1/1/2010 to 12/31/2010
7. Chambers or Office Address US Courthouse & Post Office 700 Grant Street Pittsburgh, PA 15219	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Director	Pittsburgh Zoo & PPG Aquarium
2.	Director	Mt. Lebanon Teen Center
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 1/5/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

	DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.			
2.			
3.			
4.			

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

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

	DATE	SOURCE AND TYPE
1.	2010	Medrad, Inc. -- Wages
2.		
3.		
4.		

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

☐ NONE *(No reportable reimbursements.)*

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	Exempt	Exempt			
2.					
3.					
4.					
5.					

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 1/5/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt	Exempt	
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Bissoon, Cathy	1/5/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. First Niagara (form. National City Bank) (Savings/CD)	D	Interest	L	T					
2. Allegent Community Federal Credit Union (Savings/CD)	A	Interest	J	T					
3. Fidelity Bank (Savings/CD)	A	Interest	L	T					
4. IRA #1									
5. - Baron Growth Fund	D	Dividend	K	T					
6. - CitiBank NA Bank Deposit Program	A	Interest	J	T					
7. - American Century International Bond		None	J	T					
8. - Dreyfus Emerging Mkts Fund Class A	E	Dividend	L	T					
9. - Eaton Vance Large Cap Value Fund Class A	E	Dividend	L	T					
10. - Janus Forty Fund (form. Janus Adviser Forty Fund) Class S	D	Dividend	L	T					
11. - Pimco Total Return Fund Class D	D	Dividend	L	T					
12. - Royce Premier Fund	E	Dividend	J	T					
13. - Western Asset Gov't Money Market	B	Dividend	J	T					
14. - Thornburg Int'l Value Fund Class A	B	Dividend	K	T					
15. Brokerage Account #1									
16. - Capital World Growth and Income Fund Class A	A	Dividend	J	T					
17. - Growth Fund America Class A	A	Dividend	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Bissoon, Cathy	1/5/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - New Perspective Fund Class A	A	Dividend	K	T					
19. - Washington Mutual Investors Fund Class A	A	Dividend	K	T					
20. - CitiBank NA Bank Deposit Program	A	Interest	J	T					
21. Ally Bank (Savings)	A	Interest	J	T					
22. The Walt Disney Company	A	Dividend	J	T					
23. Pet Ecology Brands (Common)		None	J	T					
24. HSBC (Savings)	A	Interest			Exempt				
25. Biomass Secure Power (form. Virtual Media Holdings) (common)		None	J	T					
26. College Inv. Dir. Portfolio Coll. Sav. Plan Moderate	D	Int./Div.	L	T					
27. College Inv. Dir. Portfolio Coll. Sav. Plan Moderate	D	Int./Div.	L	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 1/5/2011

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

**In Section VII, when the abbreviation "form." is used, it is to mean "formerly known as" or "formerly."

**In Section VII, entry 13, "Western Asset Government Money Market" is formerly known as "Western Asset Government Money Market Exchange."

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Bissoon, Cathy	Date of Report 01/5/2011

IX. CERTIFICATION.

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

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

Signature Cathy Bissoon

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

Cathy Bissoon

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		922	537	Notes payable to banks-secured			
U.S. Government securities–Series EE bonds		3	200	Notes payable to banks-unsecured			
Listed securities – see schedule		577	339	Notes payable to relatives			
Unlisted securities – see schedule			59	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		188	712
Real estate owned – see schedule		600	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		34	725				
Cash value-life insurance		72	965				
Other assets itemize:							
				Total liabilities		188	712
				Net Worth	2	022	113
Total Assets	2	210	825	Total liabilities and net worth	2	210	825
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Walt Disney common stock	$ 457
Baron Growth Fund	16,396
American Century Int'l Fund	6,872
Dreyfus Emerging Mkts Fund Class A	63,763
Eaton Vance Large Cap Value Fund Class A	70,136
Janus Forty Fund Class S	99,334
Pimco Total Return Fund Class D	57,028
Royce Premier Fund	8,185
Western Asset Govt' Money Market	5,930
Thornburg Int'l Value fund Class A	48,877
Capital World Growth and Income Fund Class A	6,790
Growth Fund America Class A	19,250
New Perspective Fund Class A	28,287
Washington Mutual Investor Fund Class A	22,351
College Inv. Dir. Portfolio College Saving Plan (Moderate Growth)	61,772
College Inv. Dir. Portfolio College Saving Plan (Moderate Growth)	61,911
Total Listed Securities	$ 577,339

Unlisted Securities	
PECD (Pet Ecology Brands, Inc.)	$14
BMSPF (Biomass Secure Power, Inc.)	45
Total Unlisted Securities	$59

Real Estate Owned	
Personal residence	$ 300,000
Second residence	300,000
Total Real Estate Owned	$ 600,000

Real Estate Mortgages Payable	
Personal residence	$ 64,225
Second residence	124,487
Total Real Estate Mortgages Payable	$ 188,712

STATEMENT OF MARK R. HORNAK, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Mr. HORNAK. Mr. Chairman, thank you very much. I'd like to begin by thanking this committee's Chairman and its Ranking Member for affording me the privilege of appearing today and responding to your questions.

I'd like to express my appreciation to you, Senator Blumenthal, for chairing today's hearing.

On behalf of myself and my entire family, I would like to say thank you to Senators Casey and Toomey for their generous introductions and taking time from their busy schedule to be here today to introduce all of us and for their support through this process.

I would also like to thank the President of the United States for his trust and confidence in submitting my nomination to the U.S. Senate.

If I may take a moment to introduce my family, Mr. Chairman. With us today are my wife of nearly 30 years, Beth, without whom nothing in our family would be possible. She is the soul and inspiration of our home.

Also with me are our five children. I'll start at the oldest. Our oldest son, Sam, who attended college here in the District, recently completed his law studies at the University of Pittsburgh and is studying for the bar; our oldest daughter, Rachel, who is a resident of the District, also attended school here and works in Washington; our daughter, Becca, who attends college in the Commonwealth of Virginia; our daughter, Mary, who is about to become a high school senior; and, last, but not least, our 9-year-old son, Matthew.

It is a special blessing that with us today is my mother, Marge Hornak, from Pittsburgh, Pennsylvania. And I'm also proud that my cousins, Diane Reed and John Somyak (ph), could join us.

Back in Pittsburgh are my wonderful mother-in-law, Betty Meyer, and my dear brother, Matthew and his family. And watching on the webcam is my assistant, Pat Smith.

Thank you, Senator.

Senator BLUMENTHAL. Thank you, Mr. Hornak.

Judge Scola.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Mark Raymond Hornak

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

   United States District Judge for the Western District of Pennsylvania

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Office: Buchanan Ingersoll & Rooney PC
   One Oxford Centre
   301 Grant Street, 20th Floor
   Pittsburgh, Pennsylvania 15219

   [redacted]

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

   1956; Homestead, Pennsylvania

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1978 – 1981, University of Pittsburgh School of Law; J.D. (*summa cum laude*), 1981
   1974 – 1978, University of Pittsburgh; B.A. (*cum laude*), 1978

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1982 – Present
Buchanan Ingersoll & Rooney PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, Pennsylvania 15219
Shareholder / Partner (1989 – present)
Associate (1982 – 1988)

1989 – 1993
University of Pittsburgh School of Law
3900 Forbes Avenue
Pittsburgh, Pennsylvania 15260
Adjunct Professor of Law

1981 – 1982
United States Court of Appeals for the Fourth Circuit
United States Courthouse
500 Quarrier Street
Charleston, West Virginia 25301
Judicial Law Clerk to the Honorable James M. Sprouse

Summer 1980
Buchanan Ingersoll PC (now known as Buchanan Ingersoll & Rooney PC)
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, Pennsylvania 15219
Summer Associate

Summers 1978 & 1979
United States Steel Corporation
Homestead District Works
Homestead, Pennsylvania 15120
Summer Management Trainee in Labor Relations (1979)
Summer Trainee, Employment Services, Labor Relations Division (1978)

Other Affiliations (uncompensated except as noted)

2009 – Present
The Pittsburgh Foundation
5 PPG Place
Pittsburgh, Pennsylvania 15222
Director

2009 – Present
Leadership Pittsburgh
425 Sixth Avenue, Suite 1120
Pittsburgh, Pennsylvania 15219
Director

2008 – Present
Pennsylvania Economy League of Southwestern Pennsylvania, LLC
Regional Enterprise Tower
425 Sixth Avenue, Suite 1100
Pittsburgh, Pennsylvania 15219
Director

2005 – Present
WQED Multimedia
4802 Fifth Avenue
Pittsburgh, Pennsylvania 15213
Director

1995 – Present
Academy of Trial Lawyers of Allegheny County
350 Jonquil Place
Pittsburgh, Pennsylvania 15228
Board of Governors (2002 – 2003, 2009 – 2010)

1994 – Present
Sports & Exhibition Authority of Pittsburgh and Allegheny County
Regional Enterprise Tower
425 Sixth Avenue, Suite 2750
Pittsburgh, Pennsylvania 15219
Assistant Secretary (position held in client of my firm, for which my firm is paid)

1999 – 2005
Girl Scouts of America, Western Pennsylvania Council
30 Isabella Street
Pittsburgh, Pennsylvania 15212
Director

1993 – 1999
Make-A-Wish Foundation of Western Pennsylvania
707 Grant Street
Pittsburgh, Pennsylvania 15219
Director (1993 – 1999)
Vice Chairman (1997 – 1999)

1983 – 1993
Steel Valley School District
220 East Oliver Road
Munhall, Pennsylvania 15120
Director (1983 – 1993)
President (1987 – 1988)
Vice President (1985 – 1986)

1974 – 1993
Munhall Volunteer Fire Department
3401 Main Street
Munhall, Pennsylvania 15120
Battalion Chief (1983)
Captain (1980)
Lieutenant (1977 – 1978)
Assistant Engineer (1976)
Second Vice President (1975)

1987 – 1990
Allegheny Intermediate Unit
475 East Waterfront Drive
Homestead, Pennsylvania 15120
Member, Board of School Directors

1989
Carnegie Library of Homestead
510 East 10th Avenue
Munhall, Pennsylvania 15120
Chairman, Citizen's Transition Committee

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the U.S. Military. I registered for Selective Service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   "Best Lawyers in America" (2006 – 2010)
   "Pennsylvania Super Lawyer" (2004 – 2010)
   "Top 50 Lawyers in Pittsburgh" (2004 – 2010)
   "America's Leading Lawyers for Business," *Chambers International* (2003 – 2010)
   Martindale-Hubbell, "AV" rating

"Client Service All-Star," BTI Consulting Group, Inc. (2006)
Distinguished Alumnus and "Friend of Steel Valley School District," Steel Valley High School (2004)
Life Fellow, American Bar Foundation (since 1998)
Fellow, Allegheny County Bar Foundation (since 2002)
Fellow, Academy of Trial Lawyers of Allegheny County (since 1995)
Distinguished Service to Public Education Commendation, Pennsylvania House and Senate (1993)

Law School
Order of the Coif
University Scholar
University of Pittsburgh Law Review (Volume 42 Editor-in-Chief)
Allegheny County Bar Association Prize

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Academy of Trial Lawyers of Allegheny County
- Board of Governors (2002 – 2003, 2009 – 2010)
- Chairman, Program Committee (2010)
- Chairman, Retreat Committee (2007)
- Chairman, Federal Practice Committee (2001)

Allegheny County Bar Association
Allegheny County Bar Foundation
American Bar Association
- Forum on Communications Law
- Forum on Construction Law
- Labor and Employment Law Section
- Litigation Section

American Bar Foundation
American Inns of Court, University of Pittsburgh Chapter (1999 – 2001)
American Law Institute
- Consultative Committee on The Restatement (Third) of Employment Law. (I am listed as a member of the Consultative Committee on the Model Penal Code, but have not participated in its work.)

Media Law Resource Center
- ALI Task Force
- Co-Chair, Jury Verdict Study Committee (2004 – 2006)
- Defense Counsel Section
- Ethics Committee

U.S. District Court for the Western District of Pennsylvania
- Advisory Committee on Practice and Procedure (2001 – Present)

West Virginia Bar

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Pennsylvania, 1981
West Virginia, 1983

There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1996
United States Court of Appeals for the Third Circuit, 1981
United States Court of Appeals for the Fourth Circuit, 1982
United States Court of Appeals for the Seventh Circuit, 1996
United States District Court for the Western District of Pennsylvania, 1981
United States District Court for the Southern District of West Virginia, 1983
United States District Court for the Northern District of West Virginia, 1991

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Allegheny Intermediate Unit (1987 – 1990)
Board of School Directors (1987 – 1990)
Carnegie Institute and Museums (Pittsburgh, PA) family membership (approx. 1992 – Present)
Carnegie Library of Homestead Citizen's Transition Committee (1989)
Chairman (1989)
Girl Scouts of America, Western Pennsylvania Council (1999 – 2005)
Director (1999 – 2005)
The Law Club of Pittsburgh (2009 – Present)
Leadership Pittsburgh (2009 – Present)
Director (2009 – Present)

Make-A-Wish Foundation of Western Pennsylvania (1993 – 1999)
- Director (1993 – 1999)
- Vice Chairman (1997 – 1999)

Mon Valley Commission (1986)

Munhall Volunteer Fire Department (1974 – 1993)
- Battalion Chief (1983)
- Captain (1980)
- Lieutenant (1977 – 1978)
- Assistant Engineer (1976)
- Second Vice President (1975)

National Geographic Society (via magazine subscription) (approx. 1965 – Present)

Pennsylvania Economy League of Southwestern Pennsylvania (2008 – Present)
- Director (2008 – Present)

Pennsylvania School Boards Association (1983 – 1993)

Pittsburgh Cultural Trust (2010 – Present)

The Pittsburgh Foundation (2009 – Present)
- Director (2009 – Present)

Pittsburgh (PA) Zoo, family membership (approx. 1992 – Present)

The Rivers Club (approx. 1991 – Present)

Southpointe Golf Club (2001 – 2004)

Steel Valley School District (1983 – 1993)

Transition Advisory Committee on Judicial Issues, Pennsylvania Governor-elect Edward G. Rendell (2002 – 2003)

United Way of Allegheny County
- Leadership Giving Committee (2003 – 2004)
- Toqueville Society (approx. 2001 – Present)

University of Pittsburgh Athletic Department "Panther Club" (approx. 2006 – Present)

University of Pittsburgh School of Law "Law Fellows" and "Chancellor's Circle" (approx. 2001 – present)

Upper St. Clair Township (PA) Municipal Recreation Center, family membership (2009 – Present)

Woodland Hills (Upper St. Clair, PA) Swim Club, family membership (approx. 1999 – Present)

The World Affairs Council of Pittsburgh (approx. 2001 – Present)

WQED-TV, family membership (approx. 1992 – Present)

WQED Multimedia (2005 – Present)
- Director (2005 – Present)

Over the years, I have made charitable contributions to organizations which have considered me a member solely by virtue of those contributions, such as the United Way's Tocqueville Society and the University of Pittsburgh "Panther Club," "Law Fellows" and "Chancellor's Circle." There may be other such organizations that consider me a member without my knowledge.

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies. The Girl Scouts of America have no membership restrictions on adult members, over age 18. Scouting membership is limited to girls and young women, kindergarten to twelfth grade. The Munhall Volunteer Fire Department had restrictive membership practices in the past. I participated in the development of the Department's non-discrimination policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

This list represents the published material I have identified through searches of my files and Internet databases. I have tried my best to list all of them here, although there may be some that I have not been able to identify or locate.

Mark Hornak & Emilie R. Hammerstein, *Annual Survey of Pennsylvania Employment Privacy Law*, *in* MLRC 50-STATE SURVEY: EMPLOYMENT LIBEL AND PRIVACY LAW, 2010. I published substantially similar articles from 2005 to 2009 with other co-authors. Copies supplied.

Mark Hornak, Mathew J. Feeley & Kathleen Jones Goldman, *Touching A Hot Stove, Twice*, MEDIALAWLETTER (Media Law Resource Center, N.Y.), December 2009. Copy supplied.

Mark Hornak & Kathleen Jones Goldman, *Hello Iqbal, Goodbye Lawsuit – West Virginia Federal Court Dismisses Defamation Action Against Author and Publisher Filed by a Convicted Felon*, MEDIALAWLETTER (Media Law Resource Center, N.Y.), August 2009. Copy supplied.

Reviving the GOP (Letter to the Editor), TIME, November 5, 2007. Copy of both submitted and edited letter supplied.

Lost Opportunity (Letter to the Editor), PITTSBURGH POST-GAZETTE, March 12, 2004. Copy supplied.

To Cyril A. Fox, jr. – Counselor and Friend, 65 U. PITT. L. REV. 697 (2004). Copy supplied.

Clarifying the Fair Labor Standards Act, TEQ, August 2003. Copy supplied.

Avoiding Defamation in the Workplace, Giving References and Disciplining Employees While Avoiding Liability, Buchanan Ingersoll Professional Corporation client "White Paper Series," 1999. Copy supplied.

Mark Hornak & Gregory A. Miller, *Third Circuit Affirms Summary Judgment in Civil Rights Action Brought Against Joseph Wambaugh*, LIBELLETTER (Libel Defense Resource Center, N.Y.), October 1999. Copy supplied.

New Law Expands Paperwork Burden and Liability Threat for Employers, LEGAL BACKGROUNDER, February 6, 1998. Copy supplied.

Mark Hornak, Judi Lewis & P. Jerome Richey, *3rd Circuit Designs Blueprint for Changing Employee Benefits*, PENNSYLVANIA LAW WEEKLY, June 16, 1997. Copy supplied.

Mark Hornak, Judi Lewis & P. Jerome Richey, *Modifying Employee Benefits; Third Circuit Places Employers on a Slippery Slope in Disclosing Amendments to Benefits Plans*, NATIONAL LAW JOURNAL, February 24, 1997. Copy supplied.

The Employment Paper Trail: Using Documentation and Performance Appraisals to Avoid the Potholes, Buchanan Ingersoll Professional Corporation client "White Paper Series," 1996. Copy supplied.

Minimizing Risks in References and Employee Discipline, Buchanan Ingersoll Professional Corporation client "White Paper Series," 1996. Copy supplied.

Go Back to School, Governor, PITTSBURGH POST-GAZETTE, March 21, 1992. Copy supplied.

How Do You Set Up a Substance Abuse Program for Your Company? . . . Very Carefully!, DYNAMIC BUSINESS, April 1990. Copy supplied.

Re-Employment Rights Activated With the Reserves, DYNAMIC BUSINESS, 1990. Copy supplied.

Editor's Desk, 42 U. PITT. L. REV., reverse of masthead page (1980). Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In October 2002, I submitted comments regarding the ALI International Jurisdiction and Judgments Project/Council Draft No. 2 of the American Law Institute in conjunction with Thomas Leatherbury of Vinson & Elkins LLP. Supplied are a copy of my Memorandum and a short article prepared by Mr. Leatherbury which includes the text of his submission, which I joined.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

February 6, 2008 – Mary Conturo, Executive Director of the Sports & Exhibition Authority, was invited to testify before the Committee on Public Safety of the Allegheny County Council regarding a floor collapse that had occurred at the David L. Lawrence Convention Center. As Solicitor of the Sports & Exhibition Authority, I attended the Committee meeting as well. During the meeting, I was recognized by the Committee and answered questions asked of me. Minutes supplied.

October 20, 2003 – Letter to U.S. Senate Committee on the Judiciary in support of D. Michael Fisher's nomination as Circuit Judge for the Third Circuit. Copy supplied.

I served on Governor Edward G. Rendell's Transition Committee on Judicial Issues, which delivered reports to Governor Rendell entitled "Report on Process for Filling Interim Judicial Vacancies," dated January 24, 2003, and "Final Report of Transition Committee on Judicial Issues," dated February 20, 2003. Reports supplied.

February 25, 2002 – Letter to U.S. Senate Committee on the Judiciary in support of D. Brooks Smith's nomination as Circuit Judge for the Third Circuit. Copy supplied.

From approximately 1973 to 1983 and from approximately 2003 to 2007, I occasionally attended public meetings of the local municipal council or the local school board. During several of those meetings, I provided unsolicited citizen comments during the portion of the meeting designated for such comments. I have been able to locate meeting minutes for two public meetings of the Upper St. Clair School Board, dated June 29, 2006 and February 20, 2006. On June 29,

2006, I commented on a bill for legal fees submitted by a law firm that was representing the school district. On February 20, 2006, I commented on the IB program. At other public meetings for which I am unsure of the date, I recall commenting on the need for a new Steel Valley High School, the importance of an advanced life support emergency medical system in the Borough of Munhall, the importance of a quality public school curriculum, and my personal appreciation for the work of teachers and administrators and for the local school board's recognition of student involvement at such public meetings. Copies of the referenced meeting minutes are supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

This list represents the speeches and talks I have identified through searches of my files and Internet databases. I have tried my best to list all such events, although there may be some that I have not been able to identify or locate.

July 6, 2010: Pittsburgh Technology Council/Carnegie Mellon University (Pittsburgh, PA). I gave brief remarks introducing the speakers, and moderated a brief question and answer session, at a program entitled "Technological Advancements in Mine Safety." I have no notes, transcripts or recordings. The address of the Council is 2000 Technology Drive, Pittsburgh, PA 15219. The address of the University is 5000 Forbes Avenue, Pittsburgh, PA 15213.

June 15, 2010: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I gave brief remarks introducing Mr. Kim Eisler, the speaker at a program related to his book, "Masters of the Game—Inside the World's Most Powerful Law Firm." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

March 18, 2010: American Inns of Court (Pittsburgh, PA). I participated in a panel presentation on the use of "early neutral evaluation" as an ADR tool. Group presentation outline supplied.

December 11, 2009: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I gave a presentation on the new Local Civil Rules of the United States District Court for the Western District of Pennsylvania. Presentation slides supplied.

November 17, 2009: Pennsylvania Bar Institute Employment Law "West" Program (Pittsburgh, PA). Gregory Miller and I gave a presentation entitled "Non-Compete Agreements: The 'Top Ten' List of Hot Issues." Presentation slides supplied.

October 7, 2009: University of Pittsburgh School of Law (Pittsburgh, PA). I gave a presentation to a Media Law Class entitled "Newsgathering and the Law." Presentation slides supplied.

September 29, 2009: Allegheny County Bar Association (Pittsburgh, PA). I participated in a panel discussion entitled "Valuing Employment Cases." Program materials supplied.

June 16, 2009: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I gave brief remarks introducing David B. Fawcett III and Bruce Stanley, speakers at a program entitled "The Harman Case – Due Process Clause and the Right to an Impartial Tribunal." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

May 13, 2009: National Employment Lawyers Association – Pittsburgh Chapter (Pittsburgh, PA). I gave a presentation on the mediation process. Presentation outline supplied.

May 6, 2009: Buchanan Ingersoll & Rooney PC (Warrendale, PA). Jaime Tuite and I gave a presentation to some of our firm's clients entitled "The Lily Ledbetter Fair Pay Act of 2009: Is Your Company At-Risk?" Presentation slides supplied.

February 19, 2009: Allegheny County Bar Association, Association of Municipal and School Solicitors (Pittsburgh, PA). I gave a presentation on the construction of major public venues in Pittsburgh. Presentation slides supplied.

May 26, 2008: Steel Valley Memorial Day Committee (Homestead Cemetery, Munhall, PA). Memorial Day remarks. Notes supplied.

May 22, 2008: Pennsylvania Bar Institute (Philadelphia, PA). I taught CLE segments on Punitive Damages in Defamation and Privacy Actions, Defamation and Privacy Law in the Pennsylvania Workplace, and Defamation, Jurisdiction and the Internet, at a seminar entitled "Defamation, Libel and Slander." Materials and presentation slides supplied. I gave the same presentation at the same seminar in Pittsburgh on May 16, 2008, using the same materials and presentation slides.

May 8, 2008: Buchanan Ingersoll & Rooney PC (Warrendale, PA). I participated in a panel discussion entitled "Employment Law Update – Recent Developments

and Hot Topics" during a program for some of my firm's clients. Materials and presentation slides supplied.

October 6, 2007: Academy of Trial Lawyers of Allegheny County (Farmington, PA). I gave remarks honoring Judge John J. McLean, Jr. Notes supplied.

September 21, 2007: Annual Retreat of United States District and Magistrate Judges, Western District of Pennsylvania (Bedford, PA). I gave a presentation to the Board of Judges entitled "Report on the Work of the Advisory Committee on the Rules of Practice." Presentation slides supplied.

April 12, 2007: American Bar Association Forum on the Construction Industry (San Juan, PR). Stephen Leeper and I gave a presentation entitled "Lessons Learned – A Report Card for Major Public Venues in Pittsburgh and Cincinnati." Materials and presentation slides supplied.

November 16, 2006: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of former judges entitled "A Candid Look Backwards: What Former Judges Can Teach Us About Trying Employment Cases." I have no notes, transcripts or recordings. The address of the Institute is 5080 Ritter Road, Mechanicsburg, PA 17055.

October 10, 2006: National Union/AIG Insurance (Pittsburgh, PA). I participated in a panel discussion on the topic of preventing sexual harassment in the workplace, and investigating and documenting claims. Group presentation materials supplied.

May 23, 2006: Pennsylvania Bar Institute (Philadelphia, PA). I taught CLE segments on Punitive Damages in Defamation and Privacy Actions, Defamation and Privacy Law in the Pennsylvania Workplace, and Defamation, Jurisdiction and the Internet, at a seminar entitled "Defamation, Libel and Slander." Materials supplied. I gave the same presentation at the same seminar in Pittsburgh on May 4, 2006, using the same materials and presentation slides.

November 17, 2005: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of federal judges entitled, "Litigating and Resolving Employment Cases – Views From The Bench." Topical outline supplied.

November 18, 2004: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of federal judges entitled, "Your Day in Court – Effective Trial and Motions Practice in Federal Employment Litigation." Topical outline supplied.

June 9, 2004: Steel Valley Senior High School (Munhall, PA). Commencement address. Notes supplied.

December 11, 2003: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I participated in a panel discussion entitled "New Local Rule 16 and New Local Rule 56." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

December 3, 2003: Carnegie-Mellon University's H. John Heinz III College (Pittsburgh, PA). I gave an informal presentation on current Media Law/FCC issues to a Media & Politics class. I have no notes, transcripts or recordings. . The address of the University is 5000 Forbes Avenue, Pittsburgh, PA 15213.

November 19, 2003: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of federal judges and lawyers entitled "Summary Judgment in Employment Cases." Topical outline supplied.

November 25, 2002: Carnegie-Mellon University's H. John Heinz III College (Pittsburgh, PA). I gave an informal presentation on current Media Law/FCC issues, Media & Politics class. One-page handout supplied.

October 4, 2002: American Bar Association, Tort and Insurance Practice Section, Self-Insurers and Risk Managers Committee (San Francisco, CA). Colleagues gave a presentation entitled "Construction Litigation Trends & Strategies, Project Labor Agreements – An Update." I did not attend the conference, but I contributed a portion of the program paper. Materials supplied.

November 8, 2001: Industrial Relations Research Association of Southwestern Pennsylvania (Pittsburgh, PA). I participated in a presentation with Arthur J. Rooney II on the construction of Heinz Field. I have no notes, transcripts or recordings. The Association is now known as the Labor and Employment Relations Association, and its address is One Oxford Centre, 301 Grant Street, Suite 2570, Pittsburgh, PA 15219.

November 1, 2001: Buchanan Ingersoll PC (Pittsburgh, PA). I participated in a series of presentations, along with several colleagues, to some of our firm's clients entitled "Employment Law: An Update on Significant Developments," "Performance Appraisals and Workplace Policies to Minimize Risk," "How to Downsize and Stay Out of Trouble," "Workplace Crises," and "Human Resources Management." Materials and presentation slides supplied.

July 2001: Pennsylvania Newspaper Association (Hershey, PA). Shana Anderson and I gave a presentation to the 9th Annual Media Lawyers Conference on "Defamation & Invasion of Privacy Update." Materials supplied.

April 26, 2001: American Bar Association Forum on the Construction Industry (New Orleans, LA). Stephen G. Leeper and I gave a presentation entitled, "Big Building Boom in the 'Burgh: Pirates, Steelers, Conventions and More." Materials and presentation slides supplied.

March 20, 2001: Lorman Education Services (Pittsburgh, PA). I participated in a seminar presented by this organization entitled "Government Contracts in Pennsylvania" and, along with then-colleague James F. Glunt, spoke regarding "Bid Protest and Litigation" and "MBE/WBE/DBE Provisions in Public Contracts." Materials supplied.

December 14, 2000: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I co-moderated a panel discussion of federal judges entitled "Magistrates Roundtable" at the Academy's Annual Federal Practice Program. Topical outline supplied.

December 14, 2000: American Inns of Court, University of Pittsburgh Chapter (Pittsburgh, PA). I participated with others in a program entitled "An Introduction to Bankruptcy Court." I have no notes, transcripts or recordings. The address of this organization is University of Pittsburgh School of Law, 3900 Forbes Avenue, Pittsburgh PA 15260.

December 5, 2000: Pennsylvania Bar Institute (Pittsburgh, PA). I presented a segment in a "Employment Law Institute-West" program entitled, "Defamation in the Workplace: Drawing the Boundary Lines." Materials and presentation slides supplied.

September 28, 2000: Buchanan Ingersoll PC (Pittsburgh, PA). I gave a presentation to some of my firm's clients entitled "The Paper Trail – What Information Can Be Discovered in Employment Litigation." Presentation slides supplied.

April 13, 2000: American Inns of Court, University of Pittsburgh Chapter (Pittsburgh, PA). I participated with others in a program entitled "Deposition Dilemmas." I have no notes, transcripts or recordings. The address of this organization is University of Pittsburgh School of Law, 3900 Forbes Avenue, Pittsburgh PA 15260.

December 16, 1999: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I moderated a panel discussion of federal judges entitled "How to Make the Most of Your Court Conferences and Motions Practice." Topical outline supplied.

May 18, 1999: Buchanan Ingersoll PC (Pittsburgh, PA). I gave a presentation to some of my firm's clients on the topic of "Employee Privacy/Electronic Surveillance." I have no notes, transcripts or recordings. The address of the firm is One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, PA 15219.

October 22, 1998: University of Pittsburgh School of Law (Pittsburgh, PA). I gave an informal presentation to law students regarding judicial clerkships. Invitation memorandum and discussion questions supplied.

July 12, 1998: International Society of Weekly Newspaper Editors (Edinboro, PA). I gave a presentation on current issues in media law. Discussion hypotheticals supplied.

May 19, 1998: Buchanan Ingersoll PC (Hershey, PA). I gave a presentation to some of my firm's clients entitled "Knowing When to Put Up and When to Fold: Thinking Through Settlement." Outline supplied.

April 28, 1998: Catholic Diocese of Pittsburgh (St. Ferdinand Parish, Cranberry, PA). I gave a presentation on performance appraisals to the Parish Business Managers. Materials supplied.

February 24, 1998: Mt. Lebanon Democratic Civic Association (Mt. Lebanon, PA). I participated in a panel discussion on legal issues involved in the impeachment of the President. I have no notes, transcripts or recordings. I am unable to locate an address or other contact information for this organization.

December 3, 1996: Pennsylvania Bar Institute (Pittsburgh, PA). I gave a presentation entitled "Handling the Media Effectively and Ethically," a segment in a program entitled "Ethics Potpourri." I have no notes, transcripts or recordings. The address of the Institute is 5080 Ritter Road, Mechanicsburg, PA 17055.

October 24, 1996: South Hills Area School Districts Association (Perryopolis, PA). I gave a presentation on Effective School Board/Administrator Relationships. I have no notes, transcripts or recordings. The address of the Association is 4900 Curry Road, Pittsburgh, PA 15236.

April 24, 1996: Western Area Superintendents Meeting (Coraopolis, PA). I gave a presentation on Effective School Board/Administrator Relationships. I have no notes, transcripts or recordings. I believe that this was an informal ad hoc meeting and not organized by a single association or organization.

March 29, 1996: Buchanan Ingersoll PC (Hershey, PA). I gave presentations to some of my firm's clients entitled "Gone But Not Forgotten: References and Related Legal Traps," and "Making Sense Out of Performance Appraisals and Other Employment Documentation." I have no notes, transcripts or recordings. The address of the firm is One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, PA 15219.

February 23, 1996: Quaker Valley (PA) School District (Sewickley, PA). I gave a presentation on Effective School Board Operations. Overhead projector transparencies supplied.

October 7, 1994: Academy of Trial Lawyers of Allegheny County (Farmington, PA). I participated in a panel discussion entitled "Masterson v. LaBrum & Doak." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

June 1992: Steel Valley School District (Munhall, PA). I gave brief remarks introducing Hon. Thomas J. Ridge, United States Representative, as the high school commencement speaker. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

June 1988: Steel Valley School District (Munhall, PA). I gave brief congratulatory remarks as School Board President at the high school commencement. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

June 1987: Steel Valley School District (Munhall, PA). I gave brief remarks introducing William V. Campbell, Jr., Senior Vice President of Apple Computer, Inc., as the high school commencement speaker. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

September 1986 (approx.): Pennsylvania School Boards Association (King of Prussia, PA). I was a panelist for a presentation on public-private educational partnerships. I have no notes, transcripts or recordings. The address of the Association is 400 Bent Creek Boulevard, Mechanicsburg, PA 17050.

April 1986 (approx.): National School Boards Association (New Orleans, LA). I was a panelist for a presentation on public-private educational partnerships. I have no notes, transcripts or recordings. The address of the Association is 1680 Duke Street, Alexandria, VA 22314.

March 1986: American Bar Association, Committee on Individual Rights and Responsibilities in the Workplace (Palm Desert, CA). I was a panelist on a program regarding the release of employment claims. I have no notes, transcripts or recordings. The address of the Association is 541 N. Fairbanks Court, Chicago, Illinois 60611.

September 1985 (approx.): West Virginia Bar (Morgantown, WV). I made a presentation on Current Issues in Employment Litigation. I have no notes,

transcripts or recordings. The address of the West Virginia State Bar is 2006 Kanawha Boulevard, East, Charleston, WV 25311.

In approximately the mid-1980's, I gave informal classroom presentations on then-current issues in employment law to graduate business classes at Carlow College (now University) and the Katz School of Business of the University of Pittsburgh. I have no notes, transcripts or recordings. The address of Carlow University is 3333 5th Avenue, Pittsburgh, PA 15213. The address of the School of Business is University of Pittsburgh, Mervis Hall, Pittsburgh, PA 15260.

June 1974: Steel Valley School District (Munhall, PA). I gave brief welcoming remarks as Senior Class President at my high school commencement. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

In conjunction with my services as a lawyer and my prior service as a school director, I have from time to time been asked *ad hoc* questions by reporters and have had short quotes in response to them included in news articles. Such news articles that I could locate from public sources are listed below and are supplied.

Gina Passarella, *Steel Resolve: Pittsburgh Emerges from 2009 Eager to Grow*, LEGAL INTELLIGENCER, Mar. 2, 2010, at 1.

Mark Belko, *Settlement Reached in Collapse at Convention Site: Contractors Admit No Liability in Case*, PITTSBURGH POST-GAZETTE, Dec. 18, 2009.

Dan Monk & Lucy May, *Viewing Cincinnati Attorney's Billings in Context of Big Picture*, CINCINNATI BUSINESS COURIER, July 3, 2009.

Press Release, *Mark Hornak Elected to Buchanan's Executive Committee*, Buchanan Ingersoll & Rooney PC, Dec. 4, 2008.

Mark Belko, *Design, Construction Flaws Led to Floor Collapse*, PITTSBURGH POST-GAZETTE, Feb. 5, 2008, at B1.

Ron DaParma & Karen Roebuck, *Penguins Agree to Stay Until 2040*, PITTSBURGH TRIBUNE-REVIEW, Sept. 21, 2007.

Lynn Shea, *Mento Defends the Job He's Done*, PITTSBURGH POST-GAZETTE, June 23, 2004, at W1.

Brian C. Rittmeyer, *Suspended Schools Chief Claims Retaliation*, PITTSBURGH TRIBUNE-REVIEW, June 16, 2004.

Staff, *School News, Montour*, PITTSBURGH POST-GAZETTE, Apr. 21, 2004, at W2.

Corilyn Shropshire, *It's Cars Over Jets for Some Execs*, PITTSBURGH POST-GAZETTE, February 7, 2004, at A1 (re-published in THE AUGUSTA CHRONICLE, Feb. 27, 2004).

Dan Fitzpatrick, *Lawrenceville, PA, Contractor Sues Owners of Pittsburgh Convention Center*, PITTSBURGH POST-GAZETTE, Sept. 30, 2003.

Dan Fitzpatrick, *Convention Center Sued by Steelmaker Over Payments*, PITTSBURGH POST-GAZETTE, Sept. 19, 2003, at B11.

Tom Barnes, *Construction Firm Sues Pittsburgh's Convention Center Agency for Payment*, PITTSBURGH POST-GAZETTE, Aug. 5, 2003.

Staff, *Contractor Sues Sports Authority Over Demolition Work*, ASSOCIATED PRESS, Aug. 5, 2003.

Kevin Murphy, *Audit: University Misclassified Staff; Workers Wrongly Exempted from Overtime*, KANSAS CITY STAR, May 4, 2003, at B1.

Lynn Glover, *Labor Office Prepares Overtime Overhaul*, PITTSBURGH BUSINESS TIMES, Apr. 11, 2003.

Brian Rittmeyer, *Board, Suspended Official Settle*, PITTSBURGH TRIBUNE-REVIEW, Nov. 22, 2002.

Tom Barnes, *Unhappy Steelers Ticket Holders Punt to Commonwealth Court*, PITTSBURGH POST-GAZETTE, May 9, 2002, at B4.

Tom Barnes, *Fallen Truss Headed Back to Canada*, PITTSBURGH POST-GAZETTE, Mar. 1, 2002, at C2.

Tom Barnes, *Questions Surround Iron Worker's Death*, PITTSBURGH POST-GAZETTE, Feb.14, 2002, at A1.

David M. Brown, *Private Lawyers Get Public Millions*, PITTSBURGH TRIBUNE-REVIEW, Nov. 18, 2001.

Karen Kovatch, *Local Firm Gives Bosses Prying Eyes*, PITTSBURGH BUSINESS TIMES, July 28, 1997.

Julian Neiser, *Klett Lieber in Union with Philadelphia Labor Lawyers,* PITTSBURGH BUSINESS TIMES, Apr. 14, 1997, at 9.

Ralph Vigoda, *Supreme Court Won't Dismiss Suit by Ex-Inmate Against Author Wambaugh,* PHILADELPHIA INQUIRER, Dec. 16, 1996.

Tom Barnes, *Democrats Make First Payment for Rally,* PITTSBURGH POST-GAZETTE, Nov. 17, 1995, at B7.

Tom Barnes, *Democrats Get 10 Days to Pay Debt for '94 Rally,* PITTSBURGH POST-GAZETTE, Oct. 13, 1995, at B2.

Tom Barnes, *Party Rally Still Unpaid For,* PITTSBURGH POST-GAZETTE, Sept. 22, 1995, at B1.

John M.R. Bull, *Firing Suit Draws County's Rebuttal,* PITTSBURGH POST-GAZETTE, Feb. 23, 1995, at C1.

Brian R. Harris & Michael A. Riccardi, *High Court Orders Courtroom Open,* PENNSYLVANIA LAW WEEKLY, Jan. 30, 1995, at 3.

Ken Fisher, *Hearing Set on Petition for Election by District,* PITTSBURGH POST-GAZETTE, Jan. 12, 1995, at W2.

Ken Fisher, *Representation Overhaul Pressed,* PITTSBURGH POST-GAZETTE, Dec. 15, 1994, at W2.

Associated Press, *Murder Ruling Overturned, Smith Presses Libel Case,* THE ALLENTOWN MORNING CALL, June 24, 1994, at B05.

Julia Cass, *Jay Smith Is Pushing To 'Clean Up' His Name,* THE PHILADELPHIA INQUIRER, May 18, 1994, at B01 (republished in THE BUFFALO NEWS, May 22, 1994).

Julia Cass, *Jay Smith Wants Suit Reinstated,* THE PHILADELPHIA INQUIRER, Apr. 20, 1994, at B04.

Suzanne Elliot, *Law School Grads Face Lean Market, Smaller Paycheck,* PITTSBURGH BUSINESS TIMES, Oct. 12, 1992, at 16.

Staff, *Steel Union's Bloody Stand,* PITTSBURGH POST-GAZETTE, June 29, 1992, at A1.

Maureen Morrissey, *Retired IU Administrator Appointed to Fill In for Longo,* PITTSBURGH POST-GAZETTE, Dec. 5, 1991, at S12.

Maureen Morrissey, *Schools' Growth Defies Job Loss*, PITTSBURGH POST-GAZETTE, Nov. 21, 1991, at S1.

Maureen Morrissey, *Longo's Steel Valley Departure Date at Issue*, PITTSBURGH POST-GAZETTE, Nov. 14, 1991, at S2.

Scott Robertson, *Drug Testing Gets Boost From Ruling*, PITTSBURGH BUSINESS TIMES, Apr. 17, 1989, at 1S.

Mary Kane & Ellen M. Perlmutter, *Charles Wins Mon Valley with 'Getting to Know You,'* THE PITTSBURGH PRESS, Mar. 5, 1988, at A1.

Lawrence Walsh, *Symphony, Union Reach Agreement Limiting Picketers*, THE PITTSBURGH PRESS, Dec. 7, 1985.

Dana Scarton, *Plan to Cut 9 Steel Valley Courses Prompts First Timers' Election Bids*, THE PITTSBURGH PRESS, May 9, 1985.

Colleen Johnson, *Court Postponement Angers Bethel Teachers, Parents*, THE PITTSBURGH PRESS, Aug. 9, 1984, at S6.

Phillip Davis, *Worker Group Sues ConAgra Over Food Ads*, PITTSBURGH POST-GAZETTE, June 8, 1984.

Marcia Bennett, *Munhall No. 4—75 Years of Firefighting*, PITTSBURGH POST-GAZETTE, June 25, 1981.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

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

i. Of these, approximately what percent were:

jury trials: ___%
bench trials: ___%

civil proceedings: ___%
criminal proceedings: ___%

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In May 1975, I unsuccessfully sought the nomination in the primary for election to the Board of School Directors in the Steel Valley School District.

On December 21, 1983, I was appointed by the Board of School Directors of the Steel Valley School District as a member to fill a vacancy. In 1985 and 1989, I was elected to the same body after nomination on the Democratic and Republican ballots. In May 1993, I was again nominated by both parties, but relinquished the nominations when our family moved away from the District.

Effective July 1, 1987, I was elected to the Board of School Directors of the Allegheny Intermediate Unit for a three-year term that concluded on June 30, 1990. I did not seek re-election.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

In 1987 and 1991, I played an informal volunteer role assisting colleagues in their efforts to seek re-election or election to the Board of School Directors of the Steel Valley School District.

In 1989, I ran successfully for nomination and election as a School Director in the Steel Valley School District, along with two colleagues. We campaigned, raised, and expended funds for our election with one another through an election committee.

In 1988, I unsuccessfully sought election as a Delegate to the 1988 Democratic National Convention.

From approximately 1990 to 1999, I chaired Buchanan Ingersoll & Rooney's state and federal political action committees.

In 2007, I lent my name to the support of the candidacy of five candidates for election to the Board of School Directors of the Upper St. Clair School District.

In 2008, I served as an Election Day legal volunteer for the "Pennsylvania Campaign For Change."

In 2008, and then again in 2010, I was listed as a member of the host committee for a campaign picnic in support of the election of Matt Smith, a member of the Pennsylvania House of Representatives.

In 2009, I served as a volunteer member of the "Lawyers Committee" and "Finance Committee" in support of the election of Philip A. Ignelzi to the Court of Common Pleas of Allegheny County.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1981 to 1982, I served as law clerk to the Honorable James Marshall Sprouse, United States Court of Appeals for the Fourth Circuit.

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

I have never practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1982 – Present
Buchanan Ingersoll & Rooney PC
One Oxford Centre
301 Grant Street, 20th Floor
Pittsburgh, Pennsylvania 15219
Associate (1982 – 1988)
Shareholder/Partner (1989 – Present)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

In the Western District of Pennsylvania, most civil cases are subject to mandatory ADR. The parties attempt to agree on a neutral, and if they are unable to agree, the court appoints a neutral. I am a member of the panel of approved ADR neutrals for the court, and have served frequently over the years. I have also served as a neutral in state court when selected by the parties. All told, I estimate that I have served as a neutral approximately 130 times, and in most cases I served as a mediator.

1. White v. United Steelworkers, Civil Action No. 02-0183; U.S. District Court for the Western District of Pennsylvania (Hon. Arthur J. Schwab)

I served as Special Master in this complex state/federal age discrimination collective and class action involving the shutdown of the J&L Steel Co. Pittsburgh Works, the negotiation of the Master Labor Agreement between the United Steelworkers and the national steel industry, and the resolution of legal claims as to which there was little settled law. I was responsible for pretrial proceedings and mediating the ultimate settlement of the matter, which was approved by the Court.

2. In re St. Francis Hosp., No. 5695 of 2002; Orphans Court Division, Court of Common Pleas of Allegheny County (Hon. Frank A. Lucchino)

I was appointed Special Master by the Administrative Judge of the Orphans Court Division of the Allegheny Court of Common Pleas, which had jurisdiction over the receivership and dissolution of the St. Francis Hospital. My responsibilities were to serve as a Special Master to conduct hearings as necessary on 36 underlying claims asserted against the hospital ranging from general business disputes to medical malpractice cases, and as part of that process to mediate and resolve by settlement those claims which could be settled. Thirty-five of the 36 claims were resolved by settlement.

3. Wissler v. Cerberus Capital Mgmt., Civil Action No. 06-cv-01042; U.S. District Court for the Western District of Pennsylvania (Hon. David S. Cercone)

This was an action brought under the Worker Adjustment and Retraining Notification (WARN) Act regarding the plant closing of a glass manufacturing facility in Western Pennsylvania. I served as the mediator over three mediation sessions which resulted in the resolution of the case. The matter involved questions of first impression at the intersection of the

WARN Act and the doctrine of "joint employer," where the defendant was not the "actual" employer of the plaintiffs.

4. Coolspring Stone Supply Inc. v. Stone & Co., Civil Action 2:07-cv-0372; U.S. District Court for the Western District of Pennsylvania (Hon. Nora Barry Fischer)

This was a business dispute involving claims under various contracts related to the business operations of both the plaintiff and defendant. I served as mediator in the resolution of the case.

5. Caiarelli v. Sears Roebuck & Co., G.D. 03-1735 and G.D. 07-19720; Court of Common Pleas of Allegheny County (Hon. Robert Horgos)

I was appointed a mediator by the Allegheny County Court of Common Pleas. This case was a collective action filed under federal and state wage and hour laws. The case presented issues of first impression regarding compensation for certain preparatory time under the wage and hour laws.

6. Clarit Realty Ltd., assignee, v. RIDC, Civil Action 2:08-cv-01540; U.S. District Court for the Western District of Pennsylvania (Hon. David S. Cercone)

I was appointed to serve as a mediator in this commercial dispute regarding leasehold and development rights of an assignee under a lease for industrial property at a former industrial site in Western Pennsylvania which had been redeveloped by the RIDC, a regional industrial development corporation. The case settled after multiple in-person mediation sessions and involved questions of interpretation of commercial leases and development and redevelopment agreements.

7. Ardent Res. Inc. v. EXCO, Civil Action 2:09-cv-00585; U.S. District Court for the Western District of Pennsylvania (Hon. David S. Cercone)

I was appointed to serve as the mediator of this civil action which involved gas drilling rights, pricing for extracted gas, and maintenance/repair obligations for natural gas drilling and transmission facilities located widely throughout Western Pennsylvania. This case settled after two extended mediation sessions.

8. Career Educ., Corp. v. Perilman Enters., No. G.D. 04-015110; Court of Common Pleas of Pennsylvania (Hon. R. Stanton Wettick)

I was selected by the parties to mediate this commercial dispute regarding "follow along" obligations of the parties subsequent to a sales and lease

transaction involving a proprietary technical and business school and related real property.

9. EEOC v. Redstone Highland Pers. Care Ctr., Civil Action No. 2:06-cv-1057; U.S. District Court for the Western District of Pennsylvania (Hon. Terrence F. McVerry)

I was appointed to serve as the mediator of a case in which the plaintiff was the United States Equal Employment Opportunity Commission. The matter involved claims of unlawful employment discrimination. The matter settled after an extended mediation session and follow-up consultation with the parties.

10. Curiale v. Hershey Entm't & Resorts Co., Civil Action 1:07-cv-00651; U.S. District Court for the Middle District of Pennsylvania (Hon. Yvette Kane)

I was appointed to serve as the mediator of this class action brought on behalf of putative plaintiffs who claimed to have been harmed by the failure of the defendant to redact certain identifying information from credit and debit card receipts. The case settled after an extended mediation proceeding.

b. Describe:

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

The majority of my practice consists of representation of employers, public agencies and officials, authors and media organizations in litigation matters, the negotiation of collective bargaining and commercial agreements, representation before federal and state courts of record and before administrative agencies, and legal counseling. From 1982 through approximately 1987, my practice focused on general civil and employment litigation; beginning in 1988, it expanded to include collective bargaining for, and representation of, broadcasters and publishers; beginning in approximately 1992, it expanded to also include representation of governmental bodies and officials, and construction litigation.

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

During the various periods as set forth in (i) above, my typical client has been an employer, media organization/author/publisher or government official or agency. I have represented these clients in various administrative, counseling, and litigation situations. My areas of specialty are labor and employment law, media defense, construction law, and governmental/municipal/school law.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Over 29 years of practice, civil litigation has at any one time ranged from 40% to 70% of my practice, with more frequent court appearances when it has been at the higher levels. I have been lead counsel in approximately 120 actions filed in state and federal courts of record.

i. Indicate the percentage of your practice in:
   1. federal courts: 70%
   2. state courts of record: 20%
   3. other courts:
   4. administrative agencies: 10%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 99%
   2. criminal proceedings: 1%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Not counting cases in which judgment was rendered on the pleadings or by summary judgment, and not including matters involving only temporary restraining orders and/or preliminary injunctions, I have tried approximately six cases to verdict, 4 as lead counsel and 2 as co-counsel.

i. What percentage of these trials were:
   1. jury: 50%
   2. non-jury: 50%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

In Wambaugh v. Smith, No. 96-642, I served as counsel of record in a petition for certiorari to the Supreme Court on behalf of our client, Joseph Wambaugh. The petition was not granted.

In Caperton v. A. T. Massey Coal Co., 122 S. Ct. 2252 (2009), I was a member of the legal team at Buchanan Ingersoll & Rooney PC representing the petitioner, Harman Development Company. I assisted in the preparation of the successful petition for certiorari and the merits briefs, and I assisted in the preparation of lead counsel Theodore Olson for his oral argument.

Copies of the relevant petitions and briefs in these two matters are supplied.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

    a. the date of representation;

    b. the name of the court and the name of the judge or judges before whom the case was litigated; and

    c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

    1. Sanders v. HUD, Civ. No. 88-1261; U.S. District Court for the Western District of Pennsylvania (Hon. Gustave Diamond); reported at Sanders v. HUD, 872 F. Supp. 216 (W.D. Pa. 1994).

    In 1993, I was retained as lead trial counsel by the County of Allegheny six weeks prior to trial of a federal civil action challenging public housing practices against the County, its Housing Authority, and the United States, and seeking mandatory injunctive relief and substantial monetary damages relating to 40 years of public housing operations. I successfully negotiated a settlement agreement involving the United States Department of Justice at the Assistant Attorney General level that expanded community development funding for seven impacted communities, and at the same time insulated the County from mandatory injunctive remedies and the payment of any funds from the County's general treasury. From 2004 to 2005, I was lead negotiator for all defendants for termination of the consent decree.

    Co-counsel: Ira Weiss (former County Solicitor), Law Offices of Ira Weiss, 503 Fort Pitt Commons, 445 Fort Pitt Boulevard, Pittsburgh, Pennsylvania 15219, Telephone: (412) 391-9890; Michael Wojcik, Solicitor, Allegheny County Law Department, 300 Fort Pitt Commons, 445 Fort Pitt Boulevard, Pittsburgh, Pennsylvania 15219,

Telephone: (412) 350-1128; John Hansberry, Pepper Hamilton, LLP, One Mellon Center, 500 Grant Street, 50th Floor, Pittsburgh, Pennsylvania 15219, Telephone: (412) 454-5000; Clare Harrigan, U.S. Dept. of Housing and Urban Development, 451 7th Street, S.W., Room 10258, Washington, D.C. 20410, Telephone: (202) 708-0614 Ext. 5102.

Opposing counsel: Donald Driscoll, Community Justice Project, 1705 Allegheny Building, 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219, Telephone: (412) 434-6002.

2. Medure v. New York Times Co., Civ. No. 99-0953; U.S. District Court for the Western District of Pennsylvania (Hon. Maurice Cohill); reported at Medure v. New York Times Co., 60 F. Supp. 2d 477 (W.D. Pa. 1999).

I was lead trial counsel for the New York Times Company and its newspaper, The Santa Rosa Press-Democrat, in this libel/privacy litigation instituted by the putative developer of an Indian Reservation gaming facility in Santa Rosa, California. The plaintiff sought $54 million in damages relating to the failure of the project to come to fruition. I successfully obtained summary judgment for The New York Times Company.

Co-counsel: George Freeman, Assistant General Counsel, The New York Times Company, 229 West 43rd Street, New York, New York 10036, Telephone: (212) 556-1558; David J. Porter, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 562-1318.

Opposing counsel: Richard DiSalle & Susan Malone, Rose, Schmidt, Hasley & DiSalle, PC, 535 Oliver Building, Pittsburgh, Pennsylvania 15222, Telephone: (412) 434-8600.

3. Smith v. Wambaugh, Civ. No. 95-8043; U.S. District Court for the Middle District of Pennsylvania (Hon. James McClure); reported at Smith v. Wambaugh, 29 F. Supp. 2d 222 (M.D. Pa. 1998), aff'd, 189 F. 3d 464 (3d Cir. 1999).

From 1994 to 1999, I was lead trial counsel for best-selling author Joseph Wambaugh in the defense of libel, privacy, copyright and civil rights litigation. The plaintiff had been convicted of the triple murder that was the subject of the book and movie "Echoes in the Darkness." The plaintiff was later released from death row as a result of evidence that allegedly had been suppressed by prosecutors and, as the plaintiff asserted, with the assistance of Mr. Wambaugh. I defended him in the United States District Court for the Middle District of Pennsylvania, the United States Court of Appeals for the Third Circuit (twice) and the Supreme Court of the United States. I also defended Mr. Wambaugh in related proceedings in the Court of Common Pleas of Huntington County, Pennsylvania, No. 88-1399, and then on appeal to the

Pennsylvania Superior Court (twice), and the Pennsylvania Supreme Court. All claims against Mr. Wambaugh were ultimately dismissed.

Co-counsel: Gregory Neuhauser, Senior Deputy Attorney General, Office of the Attorney General, Litigation Section, 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120, Telephone: (717) 783-1471; Gregory A. Miller, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 562-3960; John Havas, 6121 Stephen's Crossing, Mechanicsburg, Pennsylvania 17055, Telephone: (717) 697-2294.

Opposing counsel: Gerald J. Williams, Williams Cuker Berezofsky, 1515 Market Street, Suite 1300, Philadelphia, Pennsylvania 19102, Telephone: (215) 557-0099; Stephen E. Skovron, Bochetto & Lentz, 1524 Locust Street, Philadelphia, Pennsylvania 19102, Telephone: (215) 735-3900.

4. Sports & Exhibition Auth. of Pittsburgh and Allegheny Cnty. v. ADF Int'l Inc., Civil Action G.D. 09-013342; Pennsylvania Court of Common Pleas, Allegheny County (no judge assigned).

I served as lead counsel on behalf of the plaintiff, the Sports & Exhibition Authority of Pittsburgh and Allegheny County (SEA) against nine defendants, who were the design and engineering professionals and construction companies involved in the design and erection of the David L. Lawrence Convention Center located in Pittsburgh, Pennsylvania, which was completed in 2004. In February 2007, a portion of the loading dock area of the Convention Center collapsed, causing significant harm to the building. As a consequence, the Convention Center was required to undergo multiple engineering reevaluations and this litigation was filed to recover damages incurred by the SEA as a result of the design and construction flaws identified in the building and which resulted in the partial loading dock collapse. The parties agreed to enter into non-binding mediation and, after three extensive mediation proceedings conducted both in Pittsburgh and Philadelphia, the parties achieved a global settlement which resulted in the SEA recovering through the mediation and the successful prosecution of its insurance claims in excess of 90% of its remediation costs.

Mediator: John S. Freud, Mediation Solutions, Inc., Museum Tower, 150 West Flager Street, #2700, Miami, Florida 33130, Telephone: (305) 371-9120.

Co-counsel: Brian Simmons, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 51219, Telephone: (412) 392-2048; James F. Glunt (formerly of Buchanan Ingersoll & Rooney PC), Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 444 Liberty Avenue, Suite 400, Pittsburgh, Pennsylvania 15222, Telephone: (412) 394-3339.

Counsel for Travelers Indemnity Company (co-plaintiff/subrogation claimant/SEA property insurer): Patrick J. Moran, Francis R. Gartner & Associates, 10 Sentry Parkway, Suite 301, Blue Bell, Pennsylvania 19422, Telephone: (215) 274-1701.

Counsel for Rafael Vinoly Architects, P.C. (Defendant): Mark Seiden, Milber Makris, 3 Barker Avenue - Sixth Floor, White Plains, New York 10601, Telephone: (914) 681-8700.

Counsel for Dewhurst MacFarlane and Partners (Defendant): Carol J. Patterson, Zetlin & DeChiara, LLP, 801 2nd Avenue, New York, New York 10017, Telephone: (212) 682-6800.

Counsel for Turner Construction Company, P.J. Dick Inc. and ATS, Inc., a joint venture (Defendant): John K. Gisleson and Michael G. Bock, Schnader Harrison Segal & Lewis, Fifth Avenue Place, 120 Fifth Avenue, Suite 700, Pittsburgh, Pennsylvania 15222, Telephone: (412) 577-5200.

Counsel for ADF International, Inc. (Defendant): Joseph H. Bucci, Houston Harbaugh, Three Gateway Center, 401 Liberty Avenue, 22nd Floor, Pittsburgh, Pennsylvania 15222, Telephone: (412) 281-5060; Jeffrey M. Olszewski, Cipriani & Werner, Suite 700, 605 Washington Road, Pittsburgh, Pennsylvania 15228, Telephone: (412) 563-2500; Stuart H. Sobel, Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A., Suntrust Plaza, 201 Alhambra Circle, Suite 1102, Coral Gables, Florida 33134, Telephone: (305) 442-3334.

Counsel for Dick Corporation (Defendant): Michael T. Ambroso, P.O. Box 10896, Pittsburgh, Pennsylvania 15236, Telephone: (412) 384-1287; Kevin P. Lucas, Esquire, Manion, McDonough & Lucas, P.C., US Steel Tower, 600 Grant Street, Suite 1414, Pittsburgh, Pennsylvania 15219, Telephone: (412) 232-0200.

Counsel for SMI-Owen Steel Company, Inc. (Defendant): Dennis A. Watson, Grogan Graffam, Four Gateway Center, 444 Liberty Avenue, 12th Floor, Pittsburgh, Pennsylvania, Telephone: (412) 553-6339.

5. Ivanac v. Langeloth Metallurgical Co., Docket No. 99-971; U.S. District Court for the Western District of Pennsylvania (Hon. Robert Cindrich, Hon. David Cercone & Hon. Kenneth Benson).

From 2000 to 2005, I was lead trial counsel for Langeloth Metallurgical Company, a metals refining and processing company, in a class action alleging employment discrimination. The case is significant because it involved complicated issues regarding class identification and class certification, the resolution of unsettled principles of federal employment discrimination law, challenges to the scope and admissibility of statistical expert testimony, and protracted mediation. The matter was ultimately resolved through a court-annexed mediation process.

Co-counsel: Paul Amato, previously of Buchanan Ingersoll PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219.

Opposing counsel: Gregory Kunkel, Kunkel & Fink, LLP, 1208 Allegheny Building 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219, Telephone: (412) 391-7299.

Court-Annexed Mediator: Louis B. Kushner, Rothman Gordon, PC, 300 Grant Building, Pittsburgh Pennsylvania 15219, Telephone: (412) 338-1103.

6. Boysza v. Thompson, Civ. No. 2:03-cv-01526; U.S. District Court for the Western District of Pennsylvania (Hon. Terrence McVerry); reported at 2005 WL 2467617 (W.D. Pa. 2005).

In 2005, I was retained by the City of Pittsburgh School District and its former Superintendent in the defense of a civil rights action brought by a teacher who had been disciplined and suspended amid allegations of improprieties regarding her administration of standardized tests. Prior to our retention, partial summary judgment on liability had been entered in favor of the plaintiff by Magistrate Judge Robert Mitchell. I was responsible for the preparation and presentation of all motions before the court. At the conclusion of the presentation of the evidence, I prepared and argued the motion for judgment as a matter of law in favor of all defendants. The court initially entered an order vacating its prior grant of summary judgment on liability in favor of the plaintiff and subsequently, prior to sending the case to the jury, granted the motion for judgment as a matter of law, dismissing all claims and entering judgment in favor of all defendants.

Co-counsel: Gregory A. Miller (lead counsel) & Lisa Passarello, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephones: 412-562-3960 (Miller), (412) 562-1828 (Passarello).

Opposing counsel: Adrian N. Roe, Adrian N. Roe PC, Gulf Tower, Suite 1331, 707 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 434-5544.

7. Tripp v. PPG Indus., Inc., Civ. No. 2:93-cv-01382-RJC; U.S. District Court for the Western District of Pennsylvania (Hon. Robert Cindrich).

I was retained as lead trial counsel by the defendant PPG Industries in 1993 to defend a civil action alleging dismissal from employment in violation of federal statutory prohibitions of discrimination based on race and age. After a six-day jury trial in 1997, the jury entered a verdict on all counts in favor of my client, PPG Industries.

Co-counsel: Lisa G. Silverman, previously of Buchanan Ingersoll PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219.

Opposing counsel: Colleen Ramage Johnston, Rothman Gordon, PC, Grant Building, Third Floor, 310 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 338-1131.

8. Carver v. Foerster, Civ. No. 2:93-cv-00912-DWA; U.S. District Court for the Western District of Pennsylvania (Hon. Donetta Ambrose); affirmed on appeal at 102 F.3d 96 (3rd Cir. 1996).

From 1994 to 1997, I served as lead counsel for both Tom Foerster, Chairman of the Allegheny County Board of Commissioners, and the County of Allegheny, in the defense of a civil action alleging that Foerster deprived the plaintiff of his civil rights by dismissing him for engaging in political activities. The case involved the assertion of governmental and legislative immunity. The District Court rejected those arguments, as did the Court of Appeals. The case was ultimately resolved through court-ordered mediation in March 1997.

Co-Counsel: Gregory A. Miller, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 562-3960.

Opposing Counsel: Paul D. Boas, Law & Finance Building, Fifth Floor, 429 Fourth Avenue, Pittsburgh, Pennsylvania 15219, Telephone: (412) 391-7707.

9. Bargar v. PPG Indus., Inc., Docket No. GD92-03203; Pennsylvania Court of Common Pleas, Allegheny County (Hon. Joseph James).

I was retained as lead trial counsel for PPG Industries in this wrongful discharge action filed in the Court of Common Pleas of Allegheny County, Pennsylvania. The plaintiff claimed he was dismissed from employment because he was a whistleblower for opposing alleged financial improprieties in the preparation of certain accounting and financial statements by PPG Industries. At the conclusion of the plaintiff's evidence during a jury trial in September 1993, I successfully argued for an involuntary nonsuit, resulting in the dismissal of the plaintiff's claims and entry of judgment in favor of my client. All of the plaintiff's motions for post-trial relief were denied.

Co-Counsel: Mark J. Neuberger (formerly of Buchanan Ingersoll & Rooney PC), Foley & Lardner LLP, Two South Biscayne Boulevard, Suite 1900, Miami, Florida 33131, Telephone: (305) 482-8408.

Opposing counsel: James H. Logan, Logan & Logan, Grant Building, Suite 3201, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 765-0983.

10. Clarke v. Bethel Park Sch. Dist., Docket No. GD84-12866; Pennsylvania Court of Common Pleas, Allegheny County (Hon. Emil Narick (deceased)).

In 1984, I was lead trial counsel for the Bethel Park School District in a case seeking the removal of nine elected School Directors. The citizen petitioners alleged that the Directors had acted contrary to law in making revisions to the curriculum of the Bethel Park School District and consequently should be removed from office pursuant to the provisions of the Public School Code of 1949, as amended. The case came to a six-day bench trial, at the conclusion of which the trial judge denied all relief and refused to remove the School Directors from office.

Co-counsel: A. Bruce Bowden, Duane Morris LLP, US Steel Tower, Suite 5010, 600 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 497-1050.

Opposing counsel: F. Peter Dixon (deceased), Laughlin, Dixon & Schlass, 40 Ft. Pitt Commons Building, Pittsburgh, Pennsylvania 15219.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Principal Lawyer, Regional Destination Financing Plan

Since 1995, I have served as Solicitor for the Sports & Exhibition Authority of Pittsburgh and Allegheny County ("SEA"). In that role, I have acted as the principal attorney representing the Western Pennsylvania public entities (the SEA, City of Pittsburgh, County of Allegheny) in the financing and construction of approximately $1.8 billion in public infrastructure, including PNC Park, home of the Pittsburgh Pirates; Heinz Field, home of the Pittsburgh Steelers and the University of Pittsburgh Panthers; the David L. Lawrence Convention Center, the largest LEED "Gold" certified "green" convention facility in the world and venue of the 2009 G-20 Summit; Consol Energy Center, Pittsburgh's new LEED "Gold" certified multi-purpose arena; and the North Shore Riverfront Park.

My engagement with the SEA has included development of a comprehensive risk and cost management program that shielded the public from unanticipated financial risk, the negotiation of leases and development agreements with the NFL/NHL/MLB major league franchises, acting as trial and/or supervising counsel on construction and related litigation claims, and serving as principal legal counsel of the joint city/county public body responsible for the projects. I served as counsel, with other lawyers at our law firm, for the City and County in conjunction with the 1999 bankruptcy of the Pittsburgh Penguin National Hockey League franchise, including the negotiation of revised lease and

development agreements, and litigation in the federal bankruptcy court in which a court, for the first time, specifically enforced a non-relocation covenant of a major league sports franchise.

In February 2007, a portion of the David L. Lawrence Convention Center collapsed. As lead attorney for the Authority, I was responsible for advising it on matters related to the investigation of the collapse, the ensuing structural survey of the entire building, prosecution of insurance claims, and development of the overall strategy that enabled the Authority to recover, through mediation involving multiple parties, in excess of 90% of its building recovery and restoration costs.

National Labor and Employment Counsel, Hearst-Argyle Television, Inc.

Beginning in 1987 and through 2008, I represented Hearst-Argyle Television, Inc., an owner and operator of television stations across the nation. My representation involved formulation of labor/employment strategy, the negotiation and administration of approximately forty collective bargaining agreements with various labor unions, and litigation and counseling regarding employment matters.

Service as a Judicial/ADR Neutral

I have served as a special master, mediator, evaluator, arbitrator or hearing officer in approximately 130 matters, including employment and general civil litigation, class action/collective action litigation, and business, civil rights, employment and other civil proceedings. I am a member of the panel of approved ADR neutrals for the United States District Court for the Western District of Pennsylvania.

Law Firm Leadership

Since my election as a Shareholder in 1989, I have also devoted significant time and energy to various firm leadership roles within my law firm. This includes serving as a member of its Executive Committee and Board of Directors, as chair of its Conflicts Resolution and Recruiting Committees and its Labor and Employment Practice Group, and as co-chair of its Compensation and Promotions Committee.

Lobbying

I have not engaged in lobbying activity.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

From 1989 through 1993, I taught a course at the University of Pittsburgh School of Law entitled "Employment Discrimination Litigation." In 1989 and 1990, I co-taught the course with a colleague, P. Jerome Richey, and thereafter I taught the course alone.

Syllabi supplied for 1989, 1990 and 1993. I have been unable to find a copy of the syllabi from 1991 or 1992, but I believe that they were substantially the same as those that are provided.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I have capital and capital unit accounts with my law firm, Buchanan Ingersoll and Rooney PC, which would be returned to me should my employment with the Firm terminate by appointment or otherwise, and I am eligible for an additional compensation payment (as are other shareholders) resulting from a previously received fee upon the firm's achieving certain budgetary goals. Otherwise, I have no arrangements to be compensated in the future for any financial business interest.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no such plans, commitments, or agreements.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I initially would be conflicted from any case in which my present firm appears. While I would carefully review each case for conflict or appearance of conflict, I do not anticipate any other conflicts upon becoming a judge.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I would carefully follow the federal recusal statutes and Canon 3 of the Code of Conduct for United States Judges. I would also engage in a prompt and immediate review of the parties, their affiliates, and the issues in any litigated matter to come before me so that I may make a prompt, informed decision regarding the propriety of my participation in the matter.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During the course of my legal career, I have undertaken pro bono legal representation in a number of ways. By way of example, I have represented the mother/plaintiff in two pro bono paternity actions in the Court of Common Pleas of Allegheny County. I have also provided pro bono legal advice or services, both formally and informally, to a number of local non-profit, civic or community organizations, including the Pittsburgh Chapter of the American Red Cross, the Allegheny County League of Women Voters, the Allegheny County Parks Foundation, the Make-A-Wish Foundation of Western Pennsylvania, The Pittsburgh Children's Museum, the Fort Pitt Museum Society, Miryam's Shelter, the Carnegie Library of Homestead, the Munhall Volunteer Fire Department, the Upper St. Clair PTA/PTSO, USC-WAVES, and the Borough of Munhall in the organization of its emergency medical services (Munhall Area Pre-Hospital Services). I also represented several students on a pro bono basis in expulsion or student disciplinary hearings before the Pittsburgh Board of Public Education.

From 1983 to 1993, I was a member, Vice President and President of the Board of School Directors of the Steel Valley School District, a school district comprised of the communities of Munhall, Homestead, and West Homestead, Pennsylvania, then with an approximate population of 27,000 people. I served without compensation. During the time of my service, the Homestead Works of the United States Steel Corporation closed, displacing approximately 13,000 workers, many of whom lived in these three communities, reducing the tax base of those communities by approximately one-third and creating high local unemployment.

During that time period, the School District entered into important public-private partnerships to provide additional educational opportunities for its young people. Among the accomplishments of the School District were "win/win" collective bargaining agreements with its teachers and other labor unions (against a backdrop which had

included the longest teacher strike in Pennsylvania history), a nationally-recognized partnership with Apple Computer, and an increase of the rate at which young people entered post-high school education from approximately 35% to approximately 90%. During my tenure as President, the District received the "Governor's Award for Labor-Management Cooperation," and was recognized by the Pennsylvania Auditor General for excellence in financial management. That service averaged approximately 10-15 hours a week for nine and one-half years.

In the mid-1980s, I was appointed by the Board of Commissioners of Allegheny County to its "Mon-Valley Commission," an ad hoc volunteer advisory body whose members were asked to advise them on a coordinated response to the social and economic impact of the closure of the Homestead and Duquesne Works of U.S. Steel, the Mesta Machine Co., and related supporting industries.

I served as the Chairman of the transition committee charged with moving control and operation of the Carnegie Library of Homestead from U.S. Steel-appointed trustees to community-selected trustees.

In more recent years, I have served as an officer or director of several non-profit civic, community and charitable organizations. My service in those organizations averages 4-8 hours a week. I believe that, in particular, my service as a school director was direct service to the community in which I then lived. My more recent service in civic and community organizations has focused on organizations which provide services to young people or which are aimed at improving the economic, social, and educational position of the communities in Western Pennsylvania.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I submitted an application to the Judicial Selection Commission appointed by Senators Specter and Casey, and was interviewed by that Commission, in March 2010. In July 2010, I was advised by a member of Senator Casey's staff that I had been recommended to the White House for nomination as a United States District Judge.

Since August 2010, I have been in contact with pre-nomination officials at the Department of Justice regarding my candidacy. On September 22, 2010, I met

with representatives of the Office of Legal Policy and the White House Counsel's Office in Washington, DC. On December 1, 2010, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Hornak, Mark R.	United States District Court W D PA	12/01/2010
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
District Judge	☑ Nomination, Date 12/01/2010 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2009 to 11/30/2010
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Buchanan Ingersoll & Rooney PC 20th Floor 301 Grant Street Pittsburgh PA 15219	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Executive Shareholder and Vice President	Buchanan Ingersoll & Rooney PC
2.	General Partner	Buchanan Ingersoll & Rooney LLP
3.	Director	The Pittsburgh Foundation
4.	Director	WQED Multimedia
5.	Director	The Pennsylvania Economy League, Southwest PA Division
6.	Director	Leadership Pittsburgh
7.	Executor	Estate #1
8.	Governor	Academy of Trial Lawyers of Allegheny County, PA
9.	Assistant Secretary	Sports & Exhibition Authority of Pittsburgh and Allegheny County, PA

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Hornak, Mark R.	Date of Report 12/01/2010

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2010	Buchanan Ingersoll & Rooney PC--salary	$447,597.68
2. 2010	Buchanan Ingersoll & Rooney LLP--distribution	$6,048.68
3. 2009	Buchanan Ingersoll & Rooney PC--salary	$589,333.00
4. 2009	Buchanan Ingersoll & Rooney LLP--distribution	$8,504.00
5. 2008	Buchanan Ingersoll & Rooney PC--salary	$468,504.00
6. 2008	Buchanan Ingersoll & Rooney LLP--distribution	$7,729.00

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Horosk, Mark R.	Date of Report 12/01/2010

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	EXEMPT		
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	PNC Bank	Business Loan #1	K
2.	PNC Bank	Business Loan #2	K
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Hornak, Mark R.	12/01/2010

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. PNC Bank Checking Acct #1	A	Interest	J	T	Exempt				
2. PNC Bank Checking Acct #2		None	J	T					
3. PNC Bank Checking Acct #3	A	Interest	J	T					
4. PNC Bank Checking Acct #4	A	Interest	J	T					
5. PNC Bank Checking Acct #5	A	Interest	J	T					
6. PNC Bank Checking Acct #6	A	Interest	J	T					
7. PNC Bank Statement Savings Acct #1	A	Interest	J	T					
8. American Century Select Investors Fund	A	Int./Div.	J	T					
9. Pittsburgh Firefighters Federal Credit Union Cash Account	A	Interest	J	T					
10. Columbia Strategic Investors Fund Class Z	A	Dividend	J	T					
11. H J Heinz Common Stock	A	Dividend	J	T					
12. General Electric Common Stock	A	Dividend	J	T					
13. US Series EE Savings Bonds	C	Interest	K	T					
14. US Series I Savings Bonds	E	Interest	M	T					
15. Buchanan Ingersoll & Rooney PC Capital Stock		None	K	U					
16. Buchanan Ingersoll & Rooney PC Capital Units	B	Dividend	K	U					
17. Buchanan Ingersoll & Rooney LLP Capital Units	D	Dividend	M	U					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Hornak, Mark R.	12/01/2010

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Buchanan Ingersoll & Rooney PC Pension Plan		None	O	U					
19. Buchanan Ingersoll & Rooney PC Profit Sharing Plan		None	N	U					
20. Buchanan Ingersoll & Rooney PC Cash Balance Pension Plan	B	Interest	M	U					
21. Estate #1		None							
22. American Century Prime Money Market Fund	A	Interest	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Hornak, Mark R.	Date of Report 12/01/2010

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

Part VI, Lines 1 and 2--these business loans were formerly held by National City Bank prior to its acquisition by PNC Bank.
Part VII, Line 21--Estate #1--Estate #1 has zero assets, other than its status as the plaintiff in a civil action related to the decedent's death
Part VII, Lines 18 through 20--I retain no control over the investments held by any of the Buchanan Ingersoll & Rooney Pension or Profit Sharing Plans

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Hornak, Mark R.	Date of Report 12/01/2010

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

Mark Hornak

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		18	740	Notes payable to banks-secured		59	500
U.S. Government securities – see schedule		151	930	Notes payable to banks-unsecured			
Listed securities – see schedule		11	892	Notes payable to relatives			
Unlisted securities – see schedule		186	571	Notes payable to others		3	050
Accounts and notes receivable:				Accounts and bills due (auto loan and credit cards)		35	300
Due from relatives and friends				Unpaid income tax			
Due from others		266	355	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		195	445
Real estate owned – personal residence		315	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		142	160	- Home Equity Line of Credit		42	400
Cash value-life insurance							
Other assets itemize:							
- Retirement Acct. Holdings – see schedule	1	109	028				
				Total liabilities		335	695
				Net Worth	1	865	982
Total Assets	2	201	676	Total liabilities and net worth	2	201	676
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts		22	090	Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

U.S. Government Securities	
Series EE Bonds	$ 48,200
Series I Bonds	103,730
Total U.S. Government Securities	$ 151,930
Listed Securities	
Heinz Common Stock	$ 771
GE Common Stock	1,625
American Century Prime Money Market Fund	1,148
American Century Select Investors Fund	4,886
Columbia Strategic Investors Fund Z	3,462
Total Listed Securities	$ 11,892
Unlisted Securities	
Buchanan Ingersoll & Rooney PC Stock	$ 46,571
Buchanan Ingersoll & Rooney PC Capital Units	28,000
Buchanan Ingersoll & Rooney LLP Capital Units	112,000
Total Unlisted Securities	$ 186,571
Retirement Account Holdings	
Buchanan Ingersoll & Rooney PC Pension Plan	$ 561,968
Buchanan Ingersoll & Rooney PC Profit Sharing Plan	438,706
Buchanan Ingersoll & Rooney PC Cash Balance Pension Plan	108, 352
Total Retirement Account Holdings	$ 1,109,028

AFFIDAVIT

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

November 30, 2010
(DATE)

(NAME)

Dorothy A. Mitsdarfer
(NOTARY)

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Dorothy A. Mitsdarfer, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Jan. 17, 2014
Member, Pennsylvania Association of Notaries

MARK R. HORNAK

[redacted]

January 5, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on December 1, 2010 to be a United States District Judge for the Western District of Pennsylvania. With the following exception, I certify that the information contained in those documents is, to the best of my knowledge, true and correct.

Under the listing, Other Affiliations (uncompensated except as noted), on page 3, I have learned that the address of an organization with which I am affiliated has changed. The offices of the Pennsylvania Economy League of Southwestern Pennsylvania, LLC have now moved, and the new address is: 11 Stanwix Street, 17th Floor, Pittsburgh, PA 15222.

I have also enclosed an updated Net Worth Statement and Financial Disclosure Form.

I thank the Committee for its consideration of my nomination.

Respectfully,

Mark R. Hornak

cc: The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Hornak, Mark R.	United States District Court W D PA	01/05/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 01/05/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 12/15/2010
7. Chambers or Office Address Buchanan Ingersoll & Rooney PC 20th Floor 301 Grant Street Pittsburgh PA 15219	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Executive Shareholder and Vice President	Buchanan Ingersoll & Rooney PC
2.	General Partner	Buchanan Ingersoll & Rooney LLP
3.	Director	The Pittsburgh Foundation
4.	Director	WQED Multimedia
5.	Director	The Pennsylvania Economy League, Southwest PA Division
6.	Director	Leadership Pittsburgh
7.	Executor	Estate #1
8.	Governor	Academy of Trial Lawyers of Allegheny County, PA
9.	Assistant Secretary	Sports & Exhibition Authority of Pittsburgh and Allegheny County, PA

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Hornsk, Mark R.	Date of Report 01/05/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2010	Buchanan Ingersoll & Rooney PC--salary	$447,597.68
2. 2010	Buchanan Ingersoll & Rooney LLP--distribution	$6,048.68
3. 2009	Buchanan Ingersoll & Rooney PC--salary	$589,333.00
4. 2009	Buchanan Ingersoll & Rooney LLP--distribution	$8,504.00

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Hornak, Mark R.	Date of Report 01/05/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	EXEMPT		
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	PNC Bank	Business Loan #1	K
2.	PNC Bank	Business Loan #2	K
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Hornak, Mark R.	01/05/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. PNC Bank Checking Acct #1	A	Interest	J	T	Exempt				
2. PNC Bank Checking Acct #2		None	J	T					
3. PNC Bank Checking Acct #3	A	Interest	J	T					
4. PNC Bank Checking Acct #4	A	Interest	J	T					
5. PNC Bank Checking Acct #5	A	Interest	J	T					
6. PNC Bank Checking Acct #6	A	Interest	J	T					
7. PNC Bank Statement Savings Acct #1	A	Interest	J	T					
8. American Century Select Investors Fund	A	Int./Div.	J	T					
9. Pittsburgh Firefighters Federal Credit Union Cash Account	A	Interest	J	T					
10. Columbia Strategic Investors Fund Class Z	A	Dividend	J	T					
11. H J Heinz Common Stock	A	Dividend	J	T					
12. General Electric Common Stock	A	Dividend	J	T					
13. US Series EE Savings Bonds	C	Interest	K	T					
14. US Series I Savings Bonds	B	Interest	L	T					
15. Buchanan Ingersoll & Rooney PC Capital Stock		None	K	U					
16. Buchanan Ingersoll & Rooney PC Capital Units	B	Dividend	K	U					
17. Buchanan Ingersoll & Rooney LLP Capital Units	D	Dividend	M	U					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Hornak, Mark R.	01/05/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Buchanan Ingersoll & Rooney PC Pension Plan		None	O	U					
19. Buchanan Ingersoll & Rooney PC Profit Sharing Plan		None	N	U					
20. Buchanan Ingersoll & Rooney PC Cash Balance Pension Plan	B	Interest	M	U					
21. Estate #1		None							
22. American Century Prime Money Market Fund	A	Interest	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Hornak, Mark R.	Date of Report 01/05/2011

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

Part VI, Lines 1 and 2--these business loans were formerly held by National City Bank prior to its acquisition by PNC Bank.
Part VII, Line 21--Estate #1--Estate #1 has zero assets, other than its status as the plaintiff/claimant in civil action/claims proceedings related to the decedent's death
Part VII, Lines 18 through 20--I retain no control over the investments held by any of the Buchanan Ingersoll & Rooney Pension or Profit Sharing Plans

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Hornak, Mark R.	Date of Report 01/05/2011

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

Mark Hornak

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		41	710	Notes payable to banks-secured		42	500
U.S. Government securities – see schedule		166	658	Notes payable to banks-unsecured			
Listed securities – see schedule		11	347	Notes payable to relatives			
Unlisted securities – see schedule		184	365	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due (auto loans)		39	400
Due from relatives and friends				Unpaid income tax			
Due from others		45	000	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		194	267
Real estate owned – personal residence		315	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		174	160				
Cash value-life insurance							
Other assets itemize:							
- Retirement Acct. Holdings – see schedule	1	128	927				
				Total liabilities		276	167
				Net Worth	1	791	000
Total Assets	2	067	167	Total liabilities and net worth	2	067	167
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts		17	990	Are any assets pledged? (Add schedule)	NO		
Legal Claims				Are you defendant in any suits or legal actions?	NO		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	NO		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

U.S. Government Securities	
Series EE Bonds	$ 37,909
Ser ies I Bonds	128,730
Total U.S. Government Securities	$166,639

Listed Securities	
Heinz Common Stock	$ 771
GE Common Stock	1,625
American Century Prime Money Market Fund	1,148
American Century Select Investors Fund	5,018
Columbia Strategic Investors Fund Z	2,785
Total Listed Securities	$11,347

Unlisted Securities	
Buchanan Ingersoll & Rooney PC Stock	$ 49,365
Buchanan Ingersoll & Rooney PC Capital Units	28,000
Buchanan Ingersoll & Rooney LLP Capital Units	107,000
Total Unlisted Securities	$184,365

Retirement Account Holdings	
Buchanan Ingersoll & Rooney PC Pension Plan	$ 571,587
Buchanan Ingersoll & Rooney PC Profit Sharing Plan	448,988
Buchanan Ingersoll & Rooney PC Cash Balance Pension Plan	108,352
Total Retirement Account Holdings	$1,128,927

STATEMENT OF HON. ROBERT N. SCOLA, JR., NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA

Judge SCOLA. Thank you. I want to start by thanking Senator Blumenthal for chairing this Committee and Ranking Member Grassley for participating and considering my nomination.

I want to thank President Obama for the confidence he placed in me with this nomination, and Senators Nelson and Rubio for honoring me with their presence today and for their support throughout this process.

I also want to thank Senator Rubio's predecessor, former Senator George LeMieux, for his support while he was in office during this process.

And I'm very pleased today to have with me my wife of 25 years and the love of my life, Jackie Scola, who is a judge in Miami, as well. Our two sons are here, Bobby, who just graduated from Tufts University, and Billy, who will be a senior in high school.

Stephanie White, who is Bobby's girlfriend, is here, and Evan Helguero-Kelley, a friend of Billy's and a close friend of our family's; my sister, Nunziata Reynolds, who is an attorney in Massachusetts; my step-mom, Marilyn Scola, who was a great second mom to me growing up; and, also, a close family friend, Cheryl Goldstein, is here.

Unfortunately, my mom and dad are no longer with us, having passed away. And they had a tremendous influence on my life, particularly my dad, who inspired me to be a judge. And I know that they're looking down with pride upon these proceedings.

I also have a number of close friends and family watching on the Web. My wife's parents, Dr. William Hogan, and his wife, Mary Hogan, as well as my wife's mom, Barbara Hogan, are watching, and my eight other brothers and sisters and step-brothers and sisters, Gay, Tony, Jimmy, Nicky, Cathy, John, Paul and Sarah are watching from California to Switzerland and places in between. And Armano Garlifick (ph) and his family are watching from Puerto Rico.

And I'd be happy to answer any questions that you have.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Robert Nichols Scola, Jr.; Robert N. Scola, Jr.; Bob Scola; Bobby Scola

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

   United States District Judge for the Southern District of Florida

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Lawton E. Thomas Courthouse
   175 NW First Avenue, Room 2826
   Miami, Florida 33128

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

   1955; Worcester, Massachusetts

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1977 – 1980, Boston College Law School; J.D. (*cum laude*), 1980
   1973 – 1977, Brown University; B.A., 1977

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   1995 – present
   State of Florida, 11th Judicial Circuit in and for Miami-Dade County
   Lawton E. Thomas Courthouse
   175 NW First Avenue, Room 2826
   Miami, Florida 33128
   Circuit Court Judge

2007 – present
Florida International University College of Law
Judicial Externship Program
University Park Campus, Rafael Diaz-Balart Hall
Miami, Florida 33199
Adjunct Professor

1994 – present
University of Miami School of Law
Litigation Skills Program
1311 Miller Drive
Coral Gables, Florida 33146
Adjunct Professor

1993 – 1995
Robert N. Scola, Jr., P.A.
2400 South Dixie Highway
Miami, Florida 33131
Attorney/President

1992 – 1993
Quinon, Strafer and Scola, P.A.
2400 South Dixie Highway
Miami, Florida 33131
Attorney/Law Partner

1986 – 1992
Robert N. Scola, Jr., P.A.
2400 South Dixie Highway
Miami, Florida 33131
Attorney

1980 – 1986
Dade County State Attorney's Office
1351 Northwest Twelfth Street
Miami, Florida 33125
Assistant State Attorney/Deputy Chief Assistant

1979 – 1980
Boston College
131 Kostka Hall
Chestnut Hill, Massachusetts 02167
Area Coordinator of Undergraduate Dorms

Summer 1979
Mirick O'Connell Law Firm
100 Front Street
Worcester, Massachusetts 01608
Summer Law Clerk

Other Affiliations (uncompensated):

1990 – 1995
Florida Association of Criminal Defense Lawyers – Miami Chapter
150 West Flagler Street, Suite 1700
Miami, Florida 33130
Board of Directors (1990 – 1995)
President (1994 – 1995)

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have never served in the military. I registered for the selective service on January 2, 1974.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Jurist of the Year Award, American Academy of Matrimonial Lawyers, Florida Chapter, 2011
   Hon. William Hoeveler Professionalism Award, Florida Bar Committee on Professionalism, 2007
   Judge Steven Levine Award, Miami-Dade County Justice Association, 2006
   Justice Award, Miami-Dade County League of Prosecutors, 2005
   Judge of the Year Award, Florida Bar Law Related Education Program, 2004
   Jurist of the Year Award, First American Family Law Inn of Court, 2002
   Hon. Gerald Kogan Judicial Distinction Award, Florida Association of Criminal Defense Lawyers, Miami Chapter, 2001

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   Cuban American Bar Association (1988 – present)
   Eleventh Circuit Court Conflict Screening Committee (1992 – 1995)
   Eleventh Judicial Circuit Rotation of Judges Committee (2002 – 2002)
   First American Family Law Inn of Court (2001 – 2005 and 2009 – present)
   Florida Association of Criminal Defense Lawyers – Statewide (1987 – 1995)

Florida Association for Women Lawyers (1987 – present)
The Florida Bar (1980 – present)
Grievance Committee (1992 – 1995)
Chairperson (1993 – 1995)
Criminal Procedure Rules Committee (1999 – 2002)
Family Rules Committee (2002 – 2004)
Capital Cases Committee (1986 – 1988)
Florida College of Advanced Judicial Studies (1997 – present)
Department Head (1999)
Florida Conference of Circuit Court Judges Education Committee (1997 – 2007)
Vice-Chairman (2006 – 2007)
Florida Association of Criminal Defense Lawyers – Miami Chapter (1987 – 1995)
Board of Directors (1989 – 1995)
President (1994 – 1995)
Secretary (1993 – 1994)
National Association of Criminal Defense Lawyers (1987 – 1995)
U.S. Attorney/Defense Attorney Liaison Committee (1994 – 1995)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Florida, 1980
Massachusetts, 1981

In Florida, I was suspended in 1981 for failure to timely pay bar dues. Upon learning I was delinquent, I immediately paid what was owed and was reinstated. In Massachusetts, I elected to take inactive status in 1996 after I began working as a circuit court judge.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Second Circuit, 1990
United States Court of Appeals for the Eleventh Circuit, 1987
United States District Court for the Southern District of Florida, 1982
United States District Court for the Middle District of Florida, 1987
United States District Court for the Northern District of Florida, 1991
United States District Court for the Eastern District of Michigan, 1989

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Florida International University
Community Advisory Board (2000 – 2005)
Community Service Advisory Board (2006 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, the organization listed in 11a does not currently discriminate and did not formerly discriminate on the basis of race, sex, religion or national origin.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Robert N. Scola, Jr. and Victoria Platzer, *Using Mini Trials for Maxi Results*, Florida Bar Family Law Section Commentator, Summer 2003. Copy supplied.

Robert N. Scola, Jr. and H. Scott Fingerhut, *Tough Times in the Sunshine State - Florida Gets Tough On Crime With – "10/20/Life" and "Three Strikes You're Out" but Defendants Aren't the Only Ones in Trouble*, Florida Bar Journal, November 1, 1999. Copy supplied.

Robert N. Scola, Jr. and H. Scott Fingerhut, *To Seal or not to Seal: when a Statute and Court Rule Conflict, which Prevails?*, Florida Bar Journal, April 1995. Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In 2008, while a candidate in a judicial retention election, I signed the Judicial Elections Campaign Pledge to Conduct a Fair Judicial Campaign. Copy supplied.

As a member of the Florida Bar Rules of Criminal Procedure Committee in 2000, I proposed a change to Rule 3.250 of the Florida Rules of Criminal Procedure which addresses whether the State or defendant has the right to present the rebuttal closing argument in criminal cases. My proposal was rejected by the Committee at the time but I prepared a Minority Report setting forth the reasons for the proposed change. This Rule was later adopted in 2006. A copy of my report is supplied.

In 2000 and 2001 I participated on the Eleventh Judicial Circuit Rotation of Judges Committee whose task was to determine if a formal plan of rotation of judges among different divisions of the Circuit and County Courts should be implemented in our Circuit. A copy of a Report of a Subcommittee that I co-authored is supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

On November 30, 2010, I gave remarks before the Florida Federal Judicial Nominating Commission. My notes are supplied.

On July 14, 2009, I gave remarks before the Florida Federal Judicial Nominating Commission. My notes are supplied.

On September 17, 1992, as chair of the State Court Committee of the Florida Association of Criminal Defense Lawyers, I wrote a letter to Chief Just Leonard Rivkind urging him to assign newly elected Judge Leslie Rothenberg to the civil division rather than criminal. I have been unable to obtain a copy of the letter but press coverage is supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom

the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have been extensively involved in teaching judicial and legal education courses. This list represents the speeches and talks I have been able to identify through searches of my files, computer and Internet databases. I have tried my best to list all such events, although there may be some that I have not been able to identify or locate.

March 14, 2011: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. Presentation slides supplied.

January 3, 2011: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. Presentation slides supplied.

January 3, 2011 through January 6, 2011: Florida New Judges' College. I was part of a panel that led a Trial Skills Workshop for Florida's newly elected or appointed judges. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

February 2, 2011: University of Miami Pre-Law Society. I gave a presentation on How to Become a Judge in Florida. Presentation slides supplied.

December 3, 2010: 11th Judicial Circuit. I gave a presentation to our circuit's newly elected judges entitled Welcome to the Bench. Presentation slides supplied.

November 19, 2010. "Put Something Back Program." I gave a presentation on Contempt to attorneys. The presentation slides used were the same as those supplied for the March 14, 2011 event.

August 19, 2010: Florida Bar. I participated in a panel discussion on Ethics and Professionalism for New Attorneys for the Florida Bar, Bridge the Gap. I have no notes, transcript or recording. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

May 21, 2010: "Put Something Back Program." I gave a presentation on Contempt to attorneys for the Miami-Dade County "Put Something Back" Program. The presentation slides used were the same as those supplied for the March 14, 2011 event.

May 13, 2010: Florida Association of Criminal Defense Lawyers, Miami Chapter. I participated in a panel discussion on Professionalism. I have no notes, transcript or recording. The Chapter has no physical address, but the contact person is Sabrina D. Puglisi, (305) 530-7000.

April 30, 2010: American Academy of Matrimonial Lawyers, Florida Chapter Annual Meeting. I participated in a panel during a Parenting Issues Workshop. I have no notes, transcript or recording. The address of the Academy is 3046 Hawks Glen, Tallahassee, Florida 32312.

March 22, 2010: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

February 10, 2010: Florida Court's Legal Staff and Counsel. I gave a presentation on "Contempt: If You Must, Do It Right." The presentation slides used were the same as those supplied for the March 14, 2011 event.

January 6, 2010: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

June 2, 2009: Florida College of Advanced Judicial Studies. I gave a presentation on Juror Misconduct. Presentation slides supplied.

May 29, 2009: "Put Something Back Program." I gave a presentation on Contempt to the Miami-Dade County "Put Something Back" Program. The presentation slides used were the same as those supplied for the March 14, 2011 event. Supplemental written materials supplied.

March 16, 2009: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

January 29, 2009: Florida Defense Lawyers Association and Dade County Defense Bar Association. I participated in a panel discussion entitled, "View from the Bench – The Professionalism Judges Expect." I have no notes, transcript or recording. The address of the FDLA is 6105 M Memorial Highway, Tampa, Florida 33615.

January 7, 2009: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

January 5, 2009 through January 8, 2009: Florida New Judges' College. I was part of a panel that led a Trial Skills Workshop for Florida's newly elected or appointed judges. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

December 9, 2008: Florida Conference of Circuit Court Judges. I gave a presentation on Contempt to Florida Circuit Court Judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

December 5, 2008: 11th Judicial Circuit. I gave a presentation to our circuit's newly elected judges entitled Welcome to the Bench and Ethics for Judges and Their Families. The Welcome to the Bench presentation slides were the same used for the December 3, 2010 event. The Ethics for Judges presentation slides are supplied.

September 25, 2008: International Association of Defense Counsel. I gave a presentation on the "Do's and Don'ts" of Legal Advocacy to a group of civil defense lawyers. Presentation slides supplied.

June 18, 2008: Dade County Civil Defense Lawyers. I gave a presentation on Cross-Examination of the Plaintiff to a group of civil defense lawyers. Presentation slides supplied.

March 12, 2008: Dade County Bar Association, Young Lawyers Section "Lunch with the Judge." I participated in informal discussions with the attorneys that attended the event. I have no notes, transcript or recording. The address of the Bar is 123 NW First Avenue, Suite 214, Miami, Florida 33128.

March 3, 2008: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

February 21, 2008: Florida Association for Women Lawyers. I gave a presentation as part of a panel discussion on The "CSI Effect" in the Courtroom to a group of lawyers. I have no notes, transcript or recording. The address of FAWL is P.O. Box 38339, Tallahassee, Florida 32315.

January 7, 2008: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

January 7, 2008 through January 9, 2008: Florida New Judges' College. I was part of a panel that led a Trial Skills Workshop for Florida's newly elected or appointed judges. I have no notes, transcript or recording. The address of the

Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

June 13, 2007: Florida Conference of Circuit Court Judges. I gave a presentation on Ethics for Judges and Their Families to judges. The presentation slides used were the same as for the December 5, 2008 event.

March 12, 2007: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

January 8, 2007: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

January 8, 2007 through January 10, 2007: Florida New Judges' College. I was part of a panel that led a Trial Skills Workshop for Florida's newly elected or appointed judges. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

December 15, 2006: 11th Judicial Circuit. I gave a presentation to our circuit's newly elected judges entitled Welcome to the Bench and Ethics for Judges and Their Families. The Welcome to the Bench presentation slides were the same used for the December 3, 2010 event. The Ethics for Judges presentation slides used were the same as for the December 5, 2008 event.

December 6, 2006: Florida Conference of Circuit Court Judges. I gave a presentation on Professionalism for Judges and Attorneys to Florida circuit court judges. Presentation slides supplied.

September 26, 2006: Florida Association of Criminal Defense Lawyers, Miami Chapter. I participated in a panel discussion on Professionalism and Ethics for Attorneys. I have no notes, transcript or recording. The Chapter has no physical address, but the contact person is Sabrina D. Puglisi, (305) 530-7000.

May 23, 2006: Florida College of Advanced Judicial Studies. I gave a presentation entitled, "Fundamentals of Family Law: Attorney's Fees." Presentation slides supplied.

May 2006: Florida College of Advanced Judicial Studies. I gave a presentation on Parenting Tools in High Conflict Divorces to Florida judges. Presentation slides supplied.

March 21, 2006: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

March 22, 2006: Florida New Judges' College. I gave a presentation called a Family Law Primer to Florida's newly elected or appointed judges. Presentation slides supplied.

January 28, 2006: I received the Judge Steve Levine Award from the Dade County Trial Lawyers Association. I made very brief (less than one minute) remarks in accepting the award. I have no notes, transcript or recording. The Association is now known as the Miami-Dade Justice Association and has no physical address.

January 9, 2006: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

December 2005: Florida Conference of Circuit Court Judges. I gave a brief presentation on Judicial Independence to Florida circuit court judges and introduced the guest panelists (Professors Kmiec and Chemerinsky). The notes of my presentation are supplied.

June 2005: Florida Conference of Circuit Court Judges. I gave a presentation to Florida circuit court judges on Family Law Case Law and Legislative Update. Notes supplied.

May 2005: I gave a presentation on Contempt to the Florida College of Advanced Judicial Studies. The presentation slides used were the same as those supplied for the March 14, 2011 event.

April 30, 2005: I received the Justice Award from the League of Prosecutors. I made very brief remarks in accepting the award. I have no notes, transcript or recording. The address of the League is 7545 South West 54 Court, Miami, Florida 33143.

March 14, 2005: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

March 15, 2005: Florida New Judges' College. I gave a presentation called a Family Law Primer to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 22, 2006 event.

January 3, 2005: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

December 9, 2004: Florida Conference of Circuit Court Judges. I gave a presentation on Contempt to Florida Circuit Court Judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

November 19, 2004: Nuts and Bolts Seminar. I gave a presentation on Contempt to attorneys. The presentation slides used were the same as those supplied for the March 14, 2011 event.

November 9, 2004: First American Family Law Inn of Court. I gave a presentation to family law lawyers on Temporary Attorney's Fees: A Judge's Perspective. Presentation slides supplied.

October 7, 2004 and October 8, 2004: Florida Bar, Family Law Section. I gave a presentation to attorneys on Temporary Attorney's Fees: A Judge's Perspective. The presentation slides used were the same as those supplied for the November 9, 2004 event.

June 22, 2004: Florida Conference of Circuit Court Judges. I gave a presentation to Florida circuit court judges on Family Law Case Law and Legislative Update. I have no notes, transcript or recording. The Conference does not have a physical address.

April 13, 2004: I gave a presentation on Contempt to the First American Family Law Inn of Court. The presentation slides used were the same as those supplied for the March 14, 2011 event.

March 8, 2004: Florida New Judges' College. I gave a presentation on Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the March 14, 2011 event.

January 7, 2004: Florida New Judges' College. I gave a presentation on Alternatives to Contempt to Florida's newly elected or appointed judges. The presentation slides used were the same as those supplied for the January 3, 2011 event.

December 9, 2002: Conference of Circuit Court Judges. I co-taught a seminar with Victoria Platzer on the use of mini trials to resolve cases prior to trial. Notes of the presentation are supplied.

September 23, 2002: Florida College of Advanced Judicial Studies. I co-presented a course on Parenting Tools in High Conflict Cases. Presentation slides supplied.

June 25, 2002: Florida Conference of Circuit Court Judges. I gave a presentation on Adoptions. Materials supplied.

May 29, 2002: Dade County Defense Bar Association. I participated in an open discussion on the issue of whether judges should be required to rotate among the different divisions of the circuit court. Notes supplied.

2002: We the People High School Mock Trial Competition. I served as a judge for the competition. I have no notes, transcript or recording, but press coverage is supplied. The competition was sponsored by the Dade County Bar Association, which is located at 123 NW First Avenue, Suite 214, Miami, Florida 33128.

September 13, 2001: Florida College of Advanced Judicial Studies. I gave a presentation on First Appearance and Bond Hearings. Materials supplied.

June 2001: Florida Conference of Circuit Court Judges. I gave a presentation on Williams Rule Evidence. Materials supplied.

December 2000: Florida Conference of Circuit Court Judges. I gave a presentation on Juror Misconduct to Florida Circuit Court Judges. The slides used were the same as those supplied for the June 2, 2009 event.

September 2000: Miami-Dade County State Attorney's Office. I gave a presentation on Professionalism for Prosecutors for newly hired assistant state attorneys. The presentation slides used were the same as supplied for the December 6, 2006 event.

June 2000: Florida Association of Criminal Defense Lawyers. I gave a presentation entitled, "Real Evidence for Real Trial Lawyers," to criminal defense lawyers. Presentation slides and written materials supplied.

May 11, 2000: Florida College of Advanced Judicial Studies. I gave a presentation on Post-Conviction Relief to Florida judges. Presentation slides supplied.

May 10, 2000: Florida College of Advanced Judicial Studies. I gave a presentation on the Proper Exercise of Peremptory Challenges to Florida judges. I was a last-minute replacement for a presenter who became ill and did not prepare materials. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

May 8, 2000: Florida College of Advanced Judicial Studies. I gave a presentation on First Appearance and Bond Hearings to Florida judges. The materials used were the same as those supplied for the September 13, 2001 event.

May 8, 2000: Florida College of Advanced Judicial Studies. I gave a presentation on Sentencing to Florida judges. Presentation slides supplied.

February 2000: Miami-Dade County Bar Association, Criminal Courts Committee. I gave a presentation on Advanced Evidence for criminal defense lawyers. The slides used were the same as those supplied for the June 2000 event.

January 12, 2000: Florida Conference of Circuit Court Judges. I gave a presentation on Case Management of Criminal Trials to Florida Circuit Court Judges. I have no notes, transcript or recording. The Conference does not have a physical address.

January 11, 2000: Florida Conference of Circuit Court Judges. I gave a presentation on Sentencing to Florida Circuit Court Judges. The presentation slides were the same as those supplied for the May 2000 Sentencing event before the Florida College of Advanced Judicial Studies.

January 2000: Florida Conference of County Court Judges. I gave a presentation on Juror Misconduct to Florida County Court Judges. The slides used were the same as those supplied for the June 2, 2009 event.

January 2000: Florida Bar, Criminal Law Section. I gave a presentation to attorneys on Sentencing. The presentation slides were the same as those supplied for the May 2000 Sentencing event before the Florida College of Advanced Judicial Studies.

November 1999: Miami-Dade County State Attorney's Office. I gave a presentation on Advanced Evidence to assistant state attorneys. The presentation slides were the same as those supplied for the June 2000 event.

October 1999: Florida International University Criminal Justice Honors Society. I gave a presentation on Sentencing to college students. The presentation slides were the same as those supplied for the May 2000 Sentencing event before the Florida College of Advanced Judicial Studies

September 1999: Miami-Dade County State Attorney's Office. I gave a presentation on Post-Conviction Relief to assistant state attorneys. The presentation slides used were the same as those supplied for the May 2000 event for the Florida College of Advanced Judicial Studies.

September 1999: Florida Association of Criminal Defense Lawyers. I gave a presentation on Sentencing to criminal defense lawyers. The presentation slides

were the same as those supplied for the May 2000 Sentencing event before the Florida College of Advanced Judicial Studies.

June 1999: Florida Conference of Circuit Court Judges. I gave a presentation on Post-Conviction Relief to Florida circuit court judges. The presentation slides used were the same as those supplied for the May 2000 event for the Florida College of Advanced Judicial Studies.

May 1999: Florida College of Advanced Judicial Studies. I gave a presentation on Post-Conviction Relief to Florida judges. The presentation slides used were the same as those supplied for the May 2000 event for the Florida College of Advanced Judicial Studies.

May 1999: Florida College of Advanced Judicial Studies. I gave a presentation on Juror Misconduct to Florida judges. The slides used were the same as those supplied for the June 2, 2009 event.

May 1999: Florida College of Advanced Judicial Studies. I gave a presentation on First Appearance and Bond Hearings to Florida judges. The materials used were the same as those supplied for the September 13, 2001 event.

1999: University of Miami School of Law. I gave a presentation on the Pros and Cons of the Death Penalty. Notes supplied.

1998: Rotary Club of North Miami (it was a municipality in Northern Dade County but I am not sure if it was North Miami). I spoke on the State of the Justice System. Notes supplied.

May 20, 1998: Florida College of Advanced Judicial Studies. I gave a presentation to Florida judges on Advanced Evidence. The slides used were the same as those supplied for the June 2000 event.

May 19, 1998: Florida College of Advanced Judicial Studies. I gave a presentation on Post-Conviction Relief to Florida judges. The presentation slides used were the same as those supplied for the May 2000 event for the Florida College of Advanced Judicial Studies.

May 19, 1998: Florida College of Advanced Judicial Studies. I gave a presentation on Mistrials to Florida judges. Notes supplied.

April 1998: Appellate Court Law Clerks and Central Staff Attorneys. I gave a presentation on Post-Conviction Relief to court staff attorneys. The presentation slides used were the same as those supplied for the May 2000 event for the Florida College of Advanced Judicial Studies.

From 1995 to 2004, I served as a judge during the Chester Bedell Memorial Mock Trial Competition, which is sponsored by the Trial Lawyers Section of the Florida Bar. I have no notes, transcript or recording. The address of the Florida Bar is 651 East Jefferson Street, Tallahassee, Florida 32399.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Susannah Nesmith, *Seniority List Irks Miami-Dade Judges*, Miami Daily Business Review, Oct. 23, 2009. Copy supplied.

John Pacenti, *Three Finalists for Obama's First Judge Pick in S. Florida*, Miami Daily Business Review, July 17, 2009. Copy supplied.

Gary Blankenship, *Bill Would Give Prosecution the Last Say in Some Cases*, Florida Bar News, Apr. 30, 2005. Copy supplied.

Jan Pudlow, *Tomorrow's Trial Lawyers Get First-Rate Training Today*, Florida Bar News, Mar. 1, 2004. Copy supplied.

Manny Garcia, *Former Miami Zoning Inspector Pleads Guilty*, Miami Herald, Oct. 13, 1999. Copy supplied.

July 30, 1998: I hosted an episode of the WLRN show You Be the Judge. The topic was the pros and cons of plea bargaining. I have been unable to obtain a copy of the tape and/or transcript of the show.

Amy Driscoll, *Electronic Bracelet Program in Limbo*, Miami Herald, Dec. 14, 1996. Copy supplied.

Manny Garcia, *The Son 'All Rises' Also; Dade Bailiff Follows in Father's Footsteps*, Miami Herald, Nov. 25, 1995. Copy supplied.

David Lyons, *Costa Rica Seething Over U.S. Drug Case*, Miami Herald, Aug. 14, 1993. Copy supplied.

Bruce Vielmetti, *BCCI Figures Get Jail Terms Shortened*, St. Petersburg Times, Feb. 4, 1992. Copy supplied.

Joan Fleischman and Ronnie Ramos, *Police Charged with Drug Rip-Offs*, Miami Herald, Jan. 25, 1990. Copy supplied.

Joan Fleischman and Sydney P. Freedburg, *Cops Relieved of Duty Had Given Business a Try*, Miami Herald, June 4, 1989. Copy supplied.

Joan Fleischman, *1982 Probe of Two Cops is Reopened*, Miami Herald, May 27, 1989. Copy supplied.

Stephen J. Hedges, *Jury Still Out on Judge's Style*, Miami Herald, Feb. 15, 1987. Copy supplied.

Jonathon King, *Decade Later, His Name is Off Felon List*, South Florida Sun-Sentinel, Sept. 5, 1986. Copy supplied.

Al Messerschmidt, *State Drops Police Coke-Theft Case*, Miami Herald, Feb. 1, 1986. Copy supplied.

Craig Gemoules, *No Crime in Murder, State Says*, Miami Herald, Nov. 17, 1985. Copy supplied.

Fred Tasker, *I-95 Bandit Shows Signs of Prejudice*, Miami Herald, Aug. 14, 1985. Copy supplied.

Mary Voboril, *Teen's Latest Trouble: Deadly Arson*, Miami Herald, Apr. 14, 1985. Copy supplied.

Staff, *UM Players to Face Arson Charge May 13*, Miami Herald, Mar. 8, 1985. Copy supplied.

Al Messerschmidt, *Killer Sentenced to Die in Jail*, Miami Herald, Feb. 9, 1985. Copy supplied.

Joan Fleischman, *Man Who Shot and Wounded Metro Officer Gets 34-Year Sentence*, Miami Herald, June 13, 1984. Copy supplied.

Joan Fleischman, *Man Gets 271 Years for Shooting Cop*, Miami Herald, June 7, 1984. Copy supplied.

Joan Fleischman, *Man Gets 134 Years in Traffic Slaying*, Miami Herald, Apr. 20, 1984. Copy supplied.

Al Messerschmidt, *Woman Changes Mind about Prayer, Pleads Guilty*, Miami Herald, Oct. 5, 1983. Copy supplied.

Staff, *Man Hurt in Plane Crash*, Miami Herald, Aug. 31, 1983. Copy supplied.

Staff, *Rapist is Sentenced to 198 More Years*, Miami Herald, Mar. 5, 1983. Copy supplied.

Lisa G. Baird, *Youth Gets 15 Years for Shooting Officer*, Miami Herald, Nov. 21, 1982. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Circuit Court Judge of the 11th Judicial Circuit of Florida in and for Miami-Dade County from 1995 to the present. I was initially appointed by Governor Lawton Chiles in 1995 and have since been elected and re-elected without opposition in 1996, 2002 and 2008.

The Circuit Court is the highest trial level court in Florida and has jurisdiction over all juvenile, family and probate proceedings as well as felony criminal cases and civil cases involving disputes of over $15,000.00. The Circuit Court also has jurisdiction over the appeals from county court cases as well as certiorari review of local administrative decisions.

My first assignment was in the Criminal Division where I presided over a wide variety of felony cases, ranging from possession of cocaine to first degree murder, death penalty trials. From 2001 to 2005 and 2009 to present, I have been assigned to the Family Division of the Eleventh Judicial Circuit Court where I handle dissolution of marriage, paternity, adoption and domestic violence injunction cases. Between 2005 and 2009 I was assigned to the Civil Division of the Eleventh Judicial Circuit where I handled a wide range of civil cases including foreclosure, personal injury, medical malpractice and commercial disputes. Since 2001, as part of my duties as a Circuit Court judge, I also serve as an appellate judge for county court and administrative law cases. Consequently, approximately four times per year, I sit as a member of a panel of three judges hearing appeals of civil, criminal and administrative law cases.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? 600

   i. Of these, approximately what percent were:

jury trials:	33%
bench trials:	67%
civil proceedings:	75%
criminal proceedings:	25%

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

In March 2000, I was invited to sit by designation for one week as an associate judge for the Florida 4th District Court of Appeal. During my assignment there, I wrote the following opinions:

Kammer v. Hurley, 765 So. 2d 975 (Fla. 4th DCA 2000)

Butler v. State, 767 So. 2d 534 (Fla. 4th DCA 2000)

Continental Concrete, Inc. v. Lakes at La Paz III Ltd. Partnership, 758 So. 2d 1214 (Fla. 4th DCA 2000)

Wertkin v. Wertkin, 763 So. 2d 461 (Fla. 4th DCA 2000)

Willis v. State, 760 So. 2d 1018 (Fla. 4th DCA 2000)

As a member of a Circuit Court Appellate Panel handling appeals from County Court cases and administrative hearings, I have authored the following opinions:

United Services Auto v. Affiliated Health Care, Inc. a/a/o Sarah Shoemaker, Consolidated Case numbers 03-208 AP and 03-429 AP

United Auto v. Interscan, Inc. a/a/o Gonzalez, Case number 08-9867 AP

United Auto v. Professional Medical Group. a/a/o Rodriguez, Case number 08-323 AP

United Auto v. Restrepo, Case numbers 08-279 AP and 08-598 AP

Las Balmeras, Inc. v. Town of Golden Beach, Case number 08-149 AP

Allcare Health and Wellness Center, P.A. a/a/o Swartz, Case number 02-17872 AP

United Auto v. Andrade, Case number 06-062/06-294 AP

Carlson v. State, Case number 05-414 AP

Diaz v. State, Case number 07-017 AP

Dynamic Medical Services, a/a/o Rossitch, Case number 03-600 AP

Miami-Dade County v. Anderson, Case number 00-357 AP

Espinosa v. Alonso, Case number 07-065 AP

Executive Style Cleaners v. Todywala, Case number 00-13490 AP

Franco v. State, Case number 98-440 AP

Garrido a/a/o Bueno v. United Auto, Case number 09-008 AP

State v. Guerrero, Case number 03-144 AP

Khoury v. State, Case number 99-431 AP

Lautaro Development, LLC v. Miami-Dade Count, Case number 01-268 AP

Marroquin v. State, Case number 03-095 AP

Miller v. State, Case number 08-326 AP

Revoredo v. United Auto, Case number 04-421 AP

As a Circuit Court Judge of the 11th Judicial Circuit of Florida in and for Miami-Dade County, I have written the below-listed unpublished opinions which are filed in the court file by the Miami-Dade County Clerk of Courts. The final judgments of dissolution of marriage entered by me are not included:

Fisher Family Holdings v. Citicorp North America, Citicorp Investment Services, Citibank and Entenberg, Case No. 02-12094 CA 23

Countrywide Home Loans v. De Los Reyes, Case No. 05-8975 CA 11

Presidential Club v. Presidential Estates Homeowners Ass'n; Feld; Joseph; Miami-Dade County, Case No. 07-18588 CA 11

Rey v. Woodlawn Park Cemetery Co., Case No. 02-20278 CA 11

Robinson v. Ford Motor Co., Lehman-Reyf Assocs., LLC, Case No. 01-21364 CA 11

State Farm Mut. Auto. Ins. Co. v. Martinez, Martinez, Martinez and Castaneda, Case No. 05-10688 CA 11

Caravel Inv., Inc. v. Walgreen Co., Case No. 98-9990

Cartaya v. Perez, Ing, Awan, Miami Int'l Cardiology Consultants, Inc., and Tenet Hialeah Healthsystem, Inc., Case No. 04-18054 CA 11

Cordoves and OAC Inv. LLC v. Gorra and F & G Developers Corp., Case No. 04-26572 CA 11

Fountain Park Village Homes Condo Ass'n, Inc. v. Garcia v. Camps, Case No. 07-25312 CA 11

Greenwald v. Pujol, Case No. 05-11994 & Case No. 05-11997 CA 11

Heiberger v. Shahak, Case No. 02-26681 CA 11

Heydarian v. KMart Corp. and Hawkins Constr., Inc., Case No. 97-4087 CA 11

Merida Inv. Grp., Inc. v. Genie Pools Miami Florida, Inc., Case No. 04-16541 CA 11

Da Silva Nicolau and Rodrigues Conduto v. Coutts (USA) Int'l and Guerra, Case No. 03-6704 CA 11

Fountain Park Village Homes Condo. Ass'n Inc. v. Garcia and Camps, Case No. 07-25312 CA 11

Blue Dolphin Studios, Inc. v. Adler Group Constr., Inc., Case No. 03-5644 CA 23

Arroyo v. Ford Motor Co. and Courtesy Ford, Inc., Case No. 02-2866 CA 11

Gibraltar Bank v. Avior Techs., Inc. v. AIG Aviation, Inc., Nat'l Union Fire Ins. Co. of Pittsburgh, PA and Cessna Aircraft Co., Case No. 00-19074 CA 11

BAC Funding Corp. v. Falcon Constr. Corp., Masterpiece Constr. Corp., MCC Int'l, Inc., and Shapiro, Case No. 99-3926 CA 11

State v. Winningham, Case No. 95-5000

State v. Burroughs, Case No. F96-2754

State v. Joseph, Case No. 96-20056

State v. Toomer, Case No. 98-7378B &98-5977B

State v. Scarlett, Case No. F98-29427B

State v. Maturah, Case No. 99-26847

State v. Castillo, Case No. 94-35627

State v. Dailey, Case No. 99-6076

State v. Perez, Case No. 96-5331A

State v. White, Case No. 95-13115

Blain v. Blain, Case No. 10-615 FC 29

Carrillo v. Perez-Sanchez, Case No. 10-7401 FC 29

Planas Diez v. Banco Dominicano del Progreso. S.A., Case No. 09-11709 FC 04

Boessert v. Silva, Case No. 08-2486 FC 29

Taliaferro v. Taliaferro, Case No. 08-30973 FC 29

Gonzalez v. Gonzalez, Case No. 07-10156 FC 29

Horton v. Vazquez, Case No. 07-3162 FC 04

Loftus Quinones v. Quinones, Case No. 07-16348 FC 29

Amador v. Suarez Ressler, Case No. 06-11620 FC 29

McDade v. McDade, Case No. 06-9743 FC 29

Gomez v. Robledo, Case No. 04-14626 FC 29

Jimenez v. Jimenez, Case No. 04-30949 FC 29

Del Carmen Ballesteros v. Ballesteros, Case No. 03-31694 FC 29

Williams v. Williams, Case No. 89-36249 FC 29

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Imbesi v. The Bal Harbour Club and AVA Acquisitions*, Case No. 97-18345 (11), Miami-Dade Circuit Court, Civil Division

In January 2005, I inherited this case that had been pending since 1997 and I was the seventh judge assigned to the case. The case was an incredibly complex one involving multiple parties with multiple claims and cross-claims and, in spite of its age, most of the legal issues had yet to be resolved. The dispute centered around the sale of the Bal Harbour Club, one of the last beach front properties subject to high rise construction. The case was resolved amicably on the eve of the trial date. A copy of my Order on Motion for Partial Summary Judgment is supplied.

Attorneys with a significant role:

Michael A. Hanzman, Esq.
255 Alhambra Circle, Penthouse
Coral Gables, FL 33134
(305) 529-9100

David A. Rothstein, Esq.
2665 South Bayshore Drive, PH-2B
Miami, FL 33133
(305) 374-1920

Michael Olin, Esq.
169 East Flagler Street, Suite 1224
Miami, FL 33131
(305) 677-5088

Steven J. Brodie, Esq.
Carlton Fields
100 S.E. Second Street, Suite 4200
Miami, FL 33101
(305) 539-7302

2. *State v. Gonzalez and Franqui*, Case No. F92-2141B & D, 786 So. 2d 559 (Fla. 2001); 804 So. 2d 1185 (Fla. 2001). Miami-Dade Circuit Court, Criminal Division

Gonzalez and Franqui, in a premeditated fashion, shot and killed a uniformed police officer during a bank robbery. The week before the bank robbery, they had killed a victim during another robbery attempt. I presided over the separate sentencing phases for the Defendants after a reversal on appeal due to a failure by the predecessor trial court to sever the Defendants. Each jury recommended a sentence of death and I imposed a sentence of death. The sentences were affirmed on appeal. A copy of my Sentencing Order is supplied.

Attorneys with a significant role:

Abraham Laeser, Esq.
1525 Daytonia Road
Miami Beach, FL 33141
(305) 725-5505

Gail Levine, ASA
1350 NW Twelfth Avenue
Miami, FL 33136
(305) 547-0100

Bruce Fleisher, Esq.
1980 Coral Way
Miami, FL 33145
(305) 859-7999

Hon. Reemberto Diaz
Lawson E. Thomas Courthouse Center
175 N.W. First Avenue
Miami, FL 33128
(305) 349-5681

Eric M. Cohen, Esq.
2937 SW 27th Avenue, Suite 202
Miami, FL 33133
(305) 443-1600

3. *Robinson v. Ford Motor Co.*, Case No. 01-21364 CA 11, Miami-Dade Circuit Court, Civil Division

This case was a lawsuit against Ford Motor Company for an alleged defective design resulting in a rollover and the death of the Plaintiff. The jury returned a verdict in favor of the Defendant, Ford Motor Company.

Attorneys with a significant role:

Richard L. Denney, Esq.
870 Copperfield Drive
Norman, OK 73072
(405) 364-8600

Laurie Waldman Ross, Esq.
Ross & Girten
9130 South Dadeland Boulavard, Suite 1612
Miami, FL 33156
(305) 670-8010

John Seipp, Jr., Esq.
2 Alhambra Plaza, Suite 800
Coral Gables, FL 33134
(305) 995-5600

Vaughn Crawford, Esq.
One Arizona Center
400 East Van Buren Street
Suite 1900
Phoenix, AZ 85004
(602) 382-6000

4. *Szentpaly v. The McDonnough's Inv. Grp., Inc. d/b/a Chicken Kitchen; Chicken Kitchen USA, LLC; and Lacroix*, Case No. 04-10065-CA-11, Miami-Dade Circuit Court, Civil Division

The Plaintiff lost a leg after being hit by a delivery car driven by an employee of a Chicken Kitchen franchise. The trial centered on the issue of the liability of the franchisor, Chicken Kitchen USA, under an agency theory based upon the franchisor's control or ability to exercise control over the franchisee. The jury returned a significant verdict in favor of the Plaintiff.

Attorneys with a significant role:

Ervin Gonzalez, Esq.
Colson Hicks Eidson
255 Alhambra Circle, Penthouse
Coral Gables, FL 33134
(305) 476-7400

Alexander L. Martone, Esq.
30 S.E. Seventh Street
Boca Raton, FL 33432
(561) 362-5402

Frank Allocca, Esq.
28 West Flagler Street
Suite 1106
Miami, FL 33130
(305) 374-1994

Charles L. Balli, Esq.
Buckner, Shifrin, Rice & Etter, P.A.
46 SW First Street
Second Floor
Miami, FL 33130
(305) 679-9744

5. *Smith v. Smith, Palm Springs Gen. Hosp., Inc. and Brusa, Inc.*, Case No. 1996-28167, 795 So. 2d 71 (Fla. 3d DCA 2001) (App. Dism.), Miami-Dade Circuit Court, Family Division

This was the first significant and complex case I handled upon assignment to the Family Division. In addition to the dissolution of marriage issues, there were also issues relating to a trust and trust agreement. After a Final Judgment of Dissolution of Marriage was entered by the predecessor judge, I conducted a hearing on the former wife's request for attorneys' fees and damages owed to her by the former husband. A copy of my Final Order on Damages is supplied.

Attorneys with a significant role:

A.J. Barranco, Esq.
Barranco & Kircher, PA
150 West Flagler Street, Suite 1400
Miami, FL 33130
(305) 371-8575

Bruce Christensen, Esq.
Richman Greer, PA
201 South Biscayne Boulevard, 10th Floor
Miami, FL 33131
(305) 373-4000

6. *Bakerman v. The Bombay Co.*, Case No. 2001-9307 CA 23, 961 So. 2d 259 (Fla. 2007), Miami-Dade Circuit Court, Civil Division

This was a civil case in which the Plaintiff, a store employee, fell and was injured while using a ladder that was too short and wobbly. The main issue in the case was whether his lawsuit against his employer fell within the Florida exception to worker's compensation immunity. The court allowed the case to be submitted to the jury and a verdict was returned in favor of the Plaintiff. Although the verdict was overturned by the intermediate appellate court, the Florida Supreme Court ultimately affirmed the judgment for the Plaintiff.

Attorneys with a significant role:

Robert Pelier, Esq.
4649 Ponce De Leon Boulevard, Suite 305
Coral Gables, FL 33146
(305) 529-9199

John M. Mullen Esq.
110 S.E. Sixth Street, 15th Floor
Fort Lauderdale, FL 33301
(954) 525-7500

7. *Efron v. Efron*, Case No. 1999-12806-FC-28, Miami-Dade Circuit Court, Family Division

This was a complicated family law case which involved numerous legal and factual disputes as to children's issues, equitable distribution, alimony, jurisdiction and venue. Ultimately, the court entered an order granting the Husband's Motion for Change of Venue and the matter was transferred to Puerto Rico where each party had filed actions relating to the dissolution of marriage. A copy of the Order Granting the Transfer of Venue is supplied.

Attorneys with a significant role:

Mitchell Karpf, Esq.
2400 North Commerce Parkway, Suite 309
Weston, FL 33326
(954) 809-3300

Jacqueline Valdespino, Esq.
Valdespino & Associates, PA
2641 Abaco Avenue
Miami, FL 33133
(305) 442-1200

8. *Gonzalez v. Penalver*, Case No. 2004-22701 CA 11, Miami-Dade Circuit Court, Civil Division

This was a medical malpractice case against a doctor who performed a hernia operation on the Plaintiff. The jury returned a verdict in favor of the Defendant doctor.

Attorneys with a significant role:

Ilisa Hoffman, Esq.
4601 Ponce de Leon Boulevard, Suite 350
Coral Gables, FL 33146
(305) 667-1074

James Traitz, Esq.
9155 South Dadeland Boulevard, Suite 1014
Miami, Florida 33156
(305) 670-1405

9. *De Saad v. Banco Industrial de Venezuela, C.A. and BIV Inv. and Mgmt., Inc. and Joseph Beeler, P.A.*, Case No. 2001-13868 CA 11, Miami-Dade Circuit Court, Civil Division

This case was a nine-day, non-jury trial. The Plaintiff was a bank employee who was indicted in federal court for money laundering relating to transactions she performed as a bank employee. After her acquittal, she sought indemnification from her employer, the bank, claiming that since she had been acquitted of conduct relating to her employment, she was entitled to indemnification pursuant to Florida Statute. The court ruled in favor of the Plaintiff and entered a 73-page Order and Verdict Following Non-Jury Trial, a copy of which is supplied.

Attorneys with a significant role:

William Petros, Esq.
Petros & Elegant
4090 Laguna Street, 2nd Floor
Coral Gables, FL 33146
(305) 446-3699

William Richie, Esq.
2 South Biscayne Boulevard, 34th Floor
Miami, FL 33131
(305) 372-8808

Mark Cheskin, Esq.
Hogan & Lovells US LLP
1111 Brickell Avenue, Floor 19
Miami, Florida 33131
(305) 459-6625

10. *Dunn v. East Coast Electric, Inc.*, Case number 1999-23457-CA-11, Miami-Dade Circuit Court, Civil Division

The Plaintiff, an employee of Florida Power and Light, was severely injured on a high rise construction project when an electric busway exploded. The court handled several lengthy pre-trial hearings, including on whether an amendment to claim punitive damages should be allowed and whether the Defendant's pleadings should be stricken due to a discovery violation. A copy of the court's Order Granting in Part and Denying in Part Plaintiff's Motion to Strike East Coast Electric's Defenses, Enter a Default on Liability, and/or Other Sanctions for Willful Discovery Abuse is supplied.

Attorneys with a significant role:

Robert Dickman, Esq.
4500 South Le Jeune Road
Coral Gables, FL 33146
(305) 667-8488

Benjamin Esco, Esq.
9150 South Dadeland Boulevard, Suite 1400
Miami, FL 33156
(305) 350-5300

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Kammer v. Hurley*, 765 So. 2d 975 (Fla. 4th DCA 2000)

Attorneys with a significant role:

Daniel Pearson, Esq. (deceased)

Lenore C. Smith, Esq.
2400 East Commercial Boulevard, Suite 1100
Ft. Lauderdale, FL 33308
(954) 958-2500

Julie Littky-Rubin, Esq.
1919 North Flagler Drive
West Palm Beach, FL 33407
(561) 899-2109

2. *Butler v. State*, 767 So. 2d 534 (Fla. 4th DCA 2000)

Attorneys with a significant role:

Lue Anne Goodine Butler, Esq.
Child Welfare Legal Services
111 South Sapodilla Avenue, Suite 212
West Palm Beach, FL 33401
(561) 650-6901

James J. Carney, AAG
Office of the Attorney General
1515 North Flagler Drive, 9th Floor
West Palm Beach, FL 33401
(561) 837-5000

3. *Continental Concrete, Inc. v. Lakes at La Paz III Ltd. P'ship*, 758 So. 2d 1214 (Fla. 4th DCA 2000)

Attorney with a significant role:

Thomas D. Daiello, Esq.
350 Camino Gardens Boulevard, Suite 301
Boca Raton, FL 33432
(561) 395-1599

Larry R. Leiby, Esq.
Malka & Kravitz, P.A.
1300 Sawgrass Corporate Parkway, Suite 100
Fort Lauderdale, FL 33323
(954) 514-0984

4. *Wertkin v. Wertkin*, 763 So. 2d 461 (Fla. 4th DCA 2000)

Attorneys with a significant role:

Martin H. Colin, Esq.
501 North Country Club Drive
Atlantis, FL 334621005
(561) 330-1750

Barbara Compiani, Esq.
Kreusler-Walsh Compiani & Vargas, PA
501 South Flagler Drive, Suite 503
West Palm Beach, FL 33401
(561) 659-5455

5. *Willis v. State*, 760 So. 2d 1018 (Fla. 4th DCA 2000)

Attorneys with a significant role:

Craig A. Boudreau, Esq.
420 South State Road 7, Suite 108
Wellington, FL 33414
(561) 641-5722

Marrett W. Hanna, AAG
Hanna Hedrick Willis Shuler LLC
222 Palm Court
Delray Beach, FL 33444
(561) 891-9000

6. *Carlson v. State*, Case No. 05-414 AP (2005). Opinion supplied.

Attorneys with a significant role:

Barry Silver, Esq.
Barry M. Silver PA
1200 South Rogers Circle, Suite 8
Boca Raton, FL 33487
(561) 483-6900

Kenneth Chase, Esq.
Lathrop & Gage DC, PLLC
1300 Eye Street, NW, Suite 1050E
Washington, DC 20005
(202) 962-0309

7. *State v. Gonzalez*, Case No. F92-2141D (Sentencing Order) (1998). Opinion supplied in response to 13(c).

Attorneys with a significant role:

Abraham Laeser, Esq.
1525 Daytonia Road
Miami Beach, FL 33141
(305) 725-5505

Gail Levine, ASA
1350 NW Twelfth Avenue
Miami, FL 33136
(305) 547-0100

Bruce Fleisher, Esq.
1980 Coral Way
Miami, FL 33145
(305) 859-7999

Hon. Reemberto Diaz
Lawson E. Thomas Courthouse Center
175 N.W. First Avenue
Miami, FL 33128
(305) 349-5681

8. *Lautaro Dev., LLC v. Miami-Dade Count*, Case No. 01-268 AP (2005). Opinion supplied.

Attorneys with a significant role:

Stanley Price, Esq.
Bilzin Sumberg Baena Price & Axelrod, LLP
1450 Brickell Avenue, Suite 2300
Miami, FL 33131
(305) 350-2374

Elliot Scherker, Esq.
Greenberg Traurig
333 Avenue of the Americas, Suite 44
Miami, FL 33131
(305) 579-0579

Robert Krawcheck, Esq.
2655 South Le Jeune Road, Suite 500
Coral Gables, FL 33134
(786) 282-3945

9. *Miller v. State*, Case No. 08-326 AP. Opinion supplied.

Attorneys with a significant role:

Ignacio Vazquez, ASA
Miami-Dade County State Attorney's Office
1350 NW Twelfth Avenue
Miami, FL 33136
(305) 547-0690

Carlos Miller, *pro se*

10. *Augie Enters. v. August, Individually and as Trustee*, Case No. 05-7368 CA (2006). Opinion supplied.

Attorneys with a significant role:

Richard M. Goldstein, Esq.
Goldstein Tanen & Trench, PA
2 South Biscayne Boulevard, Suite 3700
Miami, FL 33131
(305) 374-3250

Gary Brooks, Esq.
Brooks & Alayon
4551 Ponce De Leon Boulevard
Coral Gables, FL 33146
(305) 221-2110

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

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Bieda v. Bieda, 42 So. 3d 859 (Fla. 3d DCA 2010). The former husband was delinquent in his alimony and child support payments by over $287,000. The former wife filed suit to collect the support arrearage upon learning that the former husband had a certificate of deposit for over $200,000. I issued a temporary injunction freezing the account and granted the former wife's motion for entry of a final judgment for the amount of the arrearage, reimbursement, and attorney's fees. The appellate court reversed the final judgment, holding that the trial court failed to provide the former husband with notice and a time for response. Opinion supplied.

Skylake Ins. Agency, Inc. v. NMB Plaza, LLC, 23 So. 3d 175 (Fla. 3d DCA 2009). I held that a long-term lease was unenforceable due to its failure to comply with the witness requirement under § 689.01, Fla. Stat. (2003). The appellate court reversed, holding that Defendant breached the implied covenant of good faith and fair dealing by failing to cure the defect.

Village of Doral Place Ass'n, Inc. v. RU4Real, Inc., 22 So. 3d 627 (Fla. 3d DCA 2009). I refused to set aside a tax deed sale for a common area of a condominium after the association had failed to pay taxes for that parcel of land. The Third DCA held that the tax deed sale was illegal because it violated *§ 718.107, Fla. Stat. (2003)*, which forbids the separate sale of the common elements of a condominium.

Open Permit Services of Florida, Inc. v. Curtiss, 15 So. 3d 822 (Fla. 3d DCA 2009). Plaintiff initiated an action for specific performance against defendant to enforce the parties' contract for the purchase and sale of a home. The appellate court affirmed my order denying specific performance, but reversed in part, holding that Defendant should not have been relieved of his obligation to cure all outstanding costs, taxes, and liens on the property.

First Home View Corp. v. Guggino, 10 So. 3d 164 (Fla. 3d DCA 2009). I set aside a default judgment of foreclosure. The appellate court reversed, holding that I erred in vacating the final judgment and foreclosure sale where the affidavit of diligent search was legally sufficient and the lender conducted an adequate search prior to constructive service.

Trumbull Ins. Co. v. Woltenarski, 2 So. 3d 1050 (Fla. 3d DCA 2009). I entered an order awarding attorney's fees for the entire prosecution of an automobile accident negligence and Personal Injury Protection ("PIP") case. The appellate court reversed, holding that the PIP claim did not relate back to the original negligence complaint. The case was remanded for a hearing on attorney's fees related solely to the PIP claim.

Antar v. Seamiles, LLC, 994 So. 2d 439 (Fla. 3d DCA 2008). My order in favor of Seamiles was reversed based upon improper consideration of a self-serving affidavit. Opinion supplied.

Cessna Aircraft Co. v. Avior Techs., Inc., 990 So. 2d 532 (Fla. 3d DCA 2008). This was a commercial dispute concerning damages caused by alleged improper repairs to a plane. Plaintiff brought claims under breach of contract and tort theories. The appellate court affirmed the verdict as to breach of contract but reversed as to tort.

AC Holdings 2006, Inc. v. McCarty, 985 So. 2d 1123 (Fla. 3d DCA 2008). The Plaintiffs filed a foreclosure action alleging that Defendant failed to comply with terms of the mortgage. Defendant's counsel failed to respond to the Plaintiff's summary judgment motion, which was granted. I rejected an affidavit filed by Defendant's new counsel in support of a motion for reconsideration. The appellate court reversed, holding that exigent circumstances required that the affidavit be accepted.

Mejia v. Ruiz, 985 So. 2d 1109 (Fla. 3d DCA 2008). The Plaintiff commenced proceedings supplementary to establish that the Defendant had committed a fraudulent transfer. I found that she failed to meet her burden of proof. On appeal, the court found that there was sufficient evidence of fraud to prove that fraudulent transfer.

Martin v. Adorno & Yoss, LLP, 983 So. 2d 744 (Fla. 3d DCA 2008). A law firm brought a claim against Martin, a former partner, for breach of fiduciary duty.

The firm moved for, and was granted, summary judgment. The appellate court reversed, holding that the record indicated that issues of material fact remained to be resolved, rendering summary judgment inappropriate. The case was remanded for further proceedings. Martin was later disbarred for the conduct relating to the court's granting of summary judgment.

Bravo v. Hoover Indus., Inc., 978 So. 2d 835 (Fla. 3d DCA 2008). The entry of summary judgment was found to be improper. The appellate court held that even though Plaintiff belatedly requested permission to amend her complaint in order to properly state a cause of action, the trial court should have allowed her to do so.

Ben-David v. Educ. Res., 974 So. 2d 1138 (Fla. 3d DCA 2008). The Defendant, a lawyer, was delinquent in two school loans. Although the two loans totaled over $15,000.00 (the circuit court's jurisdictional limit) each loan was less than $15,000.00 and the court did not have subject matter jurisdiction over the case.

Benites v. Almeida, 973 So. 2d 498 (Fla. 3d DCA 2007). The appellate court reversed a verdict in favor of Plaintiff and held that a set-off for PIP benefits should have been applied.

Mills v. Mills, 948 So. 2d 885 (Fla. 3d DCA 2007). On remand following reversal of the predecessor court's order, I revised the alimony award. The appellate court noted that its prior opinion was unclear as to the scope of the remand but reversed the judgment. Opinion supplied.

Ocean Club Cmty. Ass'n. Inc. v. Curtis (Ocean Club III), 994 So. 2d 1115 (Fla. 3d DCA 2007). In *Ocean Club II*, the appellate court agreed with my decision that Curtis was entitled to an award of attorney's fees pursuant to § 448.08 Fla. Stat. for prevailing on the conversion count, but found error in the amounts awarded and reversed and remanded for reconsideration. In *Ocean Club III*, I denied Ocean Club's motion for attorney's fees. On appeal, the court reversed. Opinion on attorney's fees supplied.

Robinson v. Scott, 974 So. 2d 1090 (Fla. 3d DCA 2007). I granted a motion to dismiss based upon Plaintiff's failure to comply with pre-suit discovery. On appeal, the court reversed, holding that a finding of prejudice was required to support the sanction of dismissal.

Williams v. Miami-Dade Cnty., 969 So.2d 389 (Fla. 3d DCA 2007). Petitioner, a county corrections officer, was fired for living with her boyfriend who was a convicted felon. The department standard operating procedures prohibit knowingly associating with persons engaged in unlawful activities. I affirmed the termination but the appellate court held that the employee was not adequately informed that she could not live with an ex-felon.

Castro v. Miami-Dade Cnty., 967 So. 2d 230 (Fla. 3d DCA 2007). An addition on the Defendant's home was built in violation of the setback provisions of the county zoning code. However, the county had approved plans for improving the addition. The appellate court held that the county was equitably stopped from enforcing the code violation.

Browne v. City of Miami, 948 So. 2d 792 (Fla. 3d DCA 2006). Plaintiff, a City of Miami employee, sued Defendant. The Defendant filed a motion for summary judgment claiming that Plaintiff failed to exhaust the required administrative remedies, and the motion was granted. The appellate court reversed, holding that Defendant was estopped from arguing that Plaintiff failed to exhaust his administrative remedies where the Civil Service Board told him that it had no jurisdiction.

The Church of Christ Written in Heaven, Inc. v. The Church of Christ Written in Heaven of Miami, Inc., 947 So. 2d 557 (Fla. 3d DCA 2006). A default final judgment was entered against the Defendant due to its failure to respond to a complaint filed by Plaintiff. The Defendant filed a motion to vacate the final default judgment and I determined that there had been a showing of excusable neglect and granted the motion. The appellate court reversed, holding that the motion to vacate was legally insufficient as it contained only a bare allegation of excusable neglect and meritorious defense.

DeMayo v. Chames, 934 So. 2d 548 (Fla. 3d DCA 2006). Former husband retained an attorney to represent him in post-dissolution proceedings to modify child support and alimony. The retainer agreement included an attorney's charging lien upon former husband's interests in any and all real and personal property, as well as a waiver of his homestead. I granted the attorney's request to enforce the homestead waiver. That ruling was originally affirmed by a three judge panel but was later reversed, *en banc*. Opinion supplied.

The RCA Records Label, Inc. v. Reyes, 922 So. 2d 367 (Fla. 3d DCA 2006). I entered an order requiring RCA Records Label to deposit royalties for Reyes into an escrow account, to be held in trust prior to the entry of judgment. On appeal, the court reversed and remanded to the trial court to lift its injunction, holding that the law does not authorize a court, in an action at law for money damages, to restrain a Defendant from using its unrestricted assets prior to the entry of judgment. Opinion supplied.

Jauregui v. Bobb's Piano Sales and Service, Inc., 922 So. 2d 303 (Fla. 3d DCA 2006). I took over a division for a judge who had left the bench following a non-jury trial but prior to entry of the final judgment. The predecessor court had announced certain findings on the record and I tried to incorporate those findings into a final judgment. The appellate court reversed.

Rios v. Moore, 902 So. 2d 181 (Fla. 3d DCA 2005). The Plaintiff in a personal injury case gave significant, inconsistent answers in her discovery responses concerning prior injuries. I granted Defendant's motion to dismiss for fraud on the court. The appellate court reversed, holding that the facts did not rise to a level of fraud or collusion justifying a dismissal of the claim. Opinion supplied.

Austin v. Austin, 898 So. 2d 118 (Fla. 3d DCA 2005). I denied former husband's petition for modification of alimony upon finding that the husband's net worth, which included his home and pension plan, had increased. The appellate court reversed, holding that the husband's significant decrease in income was a sufficient change in circumstance to warrant a temporary reduction in alimony payments. Opinion supplied.

Herrera v. Herrera, 895 So. 2d 1171 (Fla. 3d DCA 2005). The appellate court reversed my award of exclusive use and possession of the home to the wife while the children were minors, holding that the husband's pre-marital home was a non-marital asset not subject to equitable distribution. Opinion supplied.

Splash Entm't, Inc. v. Sons of Ireland, Inc., 867 So. 2d 423 (Fla. 3d DCA 2004). I granted a motion for summary judgment upon finding that a lien was unenforceable because it was not recorded within ninety days of creation of the security interest as required by statute. The appellate court reversed, holding that a lien is enforceable if it was received within the statutory ninety-day period.

Dienstag v. Dienstag, 864 So. 2d 9 (Fla. 3d DCA 2003). The parties entered into a prenuptial agreement containing a provision in which the parties agreed to waive all alimony. In the final judgment for dissolution of marriage, the wife was awarded bridge-the-gap alimony for twenty-four months. The alimony award was reversed, but the final judgment was affirmed in all other respects. Opinion supplied.

Jessee v. Jessee, 839 So. 2d 842 (Fla. 3d DCA 2003). The appellate court found that I improperly awarded marital home to the wife as lump sum alimony. Opinion supplied.

Prio v. Barough, 834 So. 2d 263 (Fla. 3d DCA 2002). The former wife waited 13 years before filing a motion to enforce the final judgment on dissolution of marriage seeking to recover arrearages in child support. I found that the enforcement of the support payments was barred by laches and res judicata. The appellate court reversed, holding that support obligations accruing under a court order become vested rights of the payee and vested obligations of the payor, which are not subject to retroactive modifications. Opinion supplied.

Perdomo v. State, 829 So. 2d 280 (Fla. 3d DCA 2002). Defendant was convicted of sexual battery based upon DNA evidence. The case was remanded for further

hearing for the State to qualify its expert as to his competence and to establish the methodology used to calculate the DNA statistics.

Rashotsky v. Rashotsky (Rashotsky II), 829 So. 2d 275 (Fla. 3d DCA 2002). Following a remand from the appeal of a predecessor court's order, I reviewed the trial transcript and re-calculated the husband's alimony obligation. On appeal, the court reversed, stating that I should have taken evidence to determine the husband's alimony obligation.

Walton v. State, 808 So. 2d 1292 (Fla. 3d DCA 2002). Defendant filed a post conviction motion seeking to have his sentence reduced. I granted the motion and reduced the sentence. The appellate court affirmed the order granting the motion, but reversed the sentence because Defendant was not present for the re-sentencing.

Martin v. State, 795 So. 2d 143 (Fla. 3d DCA 2001). A habitual offender sentence on one count was reversed. Sentences on four other counts were upheld and the total sentence was unaffected by the appellate ruling.

Labady v. State, 783 So. 2d 275 (Fla. 3d DCA 2001). During a plea colloquy, I asked Defendant if he was aware that his plea could have adverse consequences to his immigration status. The appellate court held that the Defendant should have been advised that he could be subject to deportation.

Rodriguez v. State, 777 So. 2d 1143 (Fla. 3d DCA 2001). The Defendant filed a Motion for Post Conviction Relief due to claims of ineffective assistance of counsel. I denied the motion. On appeal, the court found that the Record did not conclusively refute all of the Defendant's ineffective assistance claims and the case was remanded for an evidentiary hearing.

Scarlett v. State, 766 So. 2d 1110 (Fla. 3d DCA 2000). Relying on United States Supreme Court precedent, I admitted illegally seized cocaine during a probation violation hearing, finding that the exclusionary rule did not apply to probation violation hearings. On appeal, the court reversed, holding that in Florida evidence obtained through an unlawful search is inadmissible in a probation revocation hearing. Opinion supplied.

State v. S.C., 762 So. 2d 1008 (Fla. 3d DCA 2000). I sealed the record of a juvenile defendant. On appeal, the court vacated that order without prejudice due to the Defendant's failure to follow the procedure established in Fla. R. Crim. P. 3692 and Fla. Stat. ch. 943.0585 and 943.059 (1999).

Cheatham v. State, 751 So. 2d 751 (Fla. 3d DCA 2000). Cheatham appealed from an order of revocation of his probation. The appellate court reversed, holding that the record was unclear as to whether the trial court would have revoked

Cheatham's probation and given him the same sentence had he not committed violations that were not listed in the affidavit.

Mullis v. State, 749 So. 2d 1273 (Fla. 3d DCA 2000). I summarily denied Defendant's motion for post-conviction relief, and the appellate court held that the record did not conclusively show that the Defendant was not entitled to relief on the voluntary intoxication ground.

Nieves v. State, 779 So. 2d 294 (Fla. 3d DCA 1999). The Defendant was sentenced to prison with credit for time served. When the prison did not award him credit, he filed a motion with the court. Since the court had given him the credit already, the motion was denied. On appeal, the court reversed.

State v. Green, 747 So. 2d 1007 (Fla. 3d DCA 1999). Defendant, charged with unlawful driving as a habitual traffic offender, filed a Motion to Dismiss, claiming that his status as a habitual traffic offender expired years earlier. I granted the motion and reduced the charge to driving with a suspended license. The appellate court reversed, holding that his failure to seek reinstatement allowed the license to remain revoked even past the expiration of the revocation period.

Garcia v. State, 736 So. 2d 1224 (Fla. 3d DCA 1999). Garcia filed a 3.800(a) motion requesting credit for additional jail time served both before and after sentencing. I denied the motion. The order was affirmed in part and reversed in part.

Miller v. State, 734 So. 2d 1200 (Fla. 3d DCA 1999). The reason for a sentence which departed below guidelines was not supported by the record and was reversed for resentencing within guidelines.

Bennett v. State, 732 So. 2d 1130 (Fla. 3d DCA 1999). Defendant filed a post conviction relief motion which I denied. The appellate court reversed, holding that the record did not show conclusively that Defendant was not entitled to relief. The case was remanded for an evidentiary hearing.

Winningham v. State, 732 So. 2d 1223 (Fla. 3d DCA 1999). My denial of a post-conviction relief motion was reversed due to failure to attach record excerpts refuting Defendant's allegations.

Tejada v. State, 729 So. 2d 965 (Fla. 3d DCA 1999). Defendant admitted to lying under oath when he testified and I held him in direct criminal contempt. The appellate court reversed the contempt order, holding that because Defendant had lied three days earlier, the court could not conduct a summary contempt hearing.

State v. Harris, 718 So. 2d 933 (Fla. 3d DCA 1998). Harris received a twenty-five-year mandatory sentence for a first-degree felony as a violent career criminal. The appellate court held that a life sentence was mandated.

White v. Singletary, 717 So. 2d 1054 (Fla. 3d DCA 1998). The appellate court found that improper impeachment of Defendant on cross-examination was reversible error.

State v. Meyers, 708 So. 2d 661 (Fla. 3d DCA 1998). My order sentencing Defendant to 65 months as a Violent Career Criminal was reversed for failing to impose the minimum mandatory. The court has discretion to not impose a Violent Career Criminal sentence, but once it does, it must impose the minimum mandatory.

Castillo v. State, 705 So. 2d 1037 (Fla. 3d DCA 1998). Defendant was convicted of first-degree murder. The appellate court found that the evidence supported a finding that Castillo committed second-degree murder and remanded the case with instructions to enter judgment against Castillo, convicting him of second-degree murder.

State v. Evans, 705 So. 2d 631 (Fla. 3d DCA 1998). I allowed the Defendant to vacate a plea based upon defective plea colloquy. The appellate court reversed, holding that the plea was not to be vacated automatically simply because the plea colloquy was insufficient.

Wilson v. State, 698 So. 2d 1377 (Fla. 3d DCA 1997). Following a probation violation hearing, the court violated the Defendant's sex offender probation and imposed a sentence which was calculated by assessing points for penetration of the victim's sexual organ rather than for contact with the sexual organ, resulting in a higher sentence for the defendant. On appeal, the order violating the probation was upheld but the case was remanded for resentencing using the correct score and to properly award credit for time served.

State v. Sherrill, 678 So. 2d 7 (Fla. 3d DCA 1996). My order imposing a sentence below the guidelines was reversed for lack of contemporaneous written reasons for departure. The case was remanded for re-sentencing within the guidelines.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a member of a trial level court, 99% of the decisions I issue result in an unpublished opinion. Those opinions which I have personally written are stored in my computer in a directory for each type of case (civil, criminal or family). The opinions that were not written by me but which were submitted by the parties for my review and execution, are filed in the court file which is maintained by the Clerk of Courts.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Butler v. State, 767 So.2d 534 (Fla. 4th DCA 2000) (No error in failing to conduct *Faretta* inquiry of criminal defendant who was experienced criminal defense attorney).

Carlson v. State, Case number 05-414 AP (upholding constitutionality of State's Hunter Harassment Law against First Amendment Free Speech challenge). Opinion supplied in response to 13(d).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Our jurisdiction does not have an "automatic" recusal system. Florida Rule of Judicial Administration 2.160(e) provides that the motion to recuse must be filed within a reasonable time not to exceed 10 days after the discovery of the facts that would require disqualification. The motion must be served upon the judge and the judge must rule within 30 days of service. If the judge does not rule within 30 days, the motion is automatically granted. A judge may not dispute the allegations in a motion to recuse, but must accept the allegations in a motion to recuse as true and then determine whether those facts, if true, would warrant recusal.

I have been able to locate the following cases in which motions to recuse or disqualify me were filed:

Blain v. Blain, 2010-615-FC-29. The court prepares its own orders from the bench. Following an oral argument, I took a short recess and then printed out and handed out a two page order. The attorney claimed that since the order was printed out only a few minutes after the hearing, I must have made my mind up before the hearing. The motion was denied as legally insufficient.

Ben-David v. Education Resources, 2001-29442 CA 11. Defendant was an attorney who refused to pay her three school loans. Although the total of the three loans exceeded the court's jurisdictional limit ($15,000.00), each loan was less than the court's jurisdictional limit and the case should therefore have been brought in the county court. The appellate court reversed and remanded for a trial in the county court. The appellate court directed that attorney's fees be granted to the Defendant. I did not feel I could be impartial in granting attorney's fees and recused sua sponte.

McDade v. McDade, 2006-9743-FC-29. The former husband filed two motions based upon his dissatisfaction with my rulings. This is not a legally recognized ground for recusal and I denied the motion as legally insufficient.

Ursi v. Ursi, 2008-18912-FC-29. The husband filed a motion claiming I made a comment on the record showing bias against him. The transcript of the hearing specifically refuted the husband's allegation and I denied the motion.

Colarusso v. Colarusso, 2008-22130-FC-29. The husband asked to be allowed to share time with his children in the presence of his pregnant girlfriend while the divorce case was still pending. I denied the motion, stating that I did not believe it was a good thing for a still-married man to be sharing time with his children and pregnant girlfriend. The husband filed a motion seeking to recuse based upon this statement, which I denied. A writ of prohibition was sought and the appellate court ordered that I recuse myself.

Hunt v. Hunt, 1991-46419-FC-29. The former husband filed a motion based upon his dissatisfaction with my rulings, which is not a legally recognized ground for recusal. The motion was denied.

Imbesi v. Bal Harbour, 1997-18345-CA-11. Plaintiff filed a motion based upon his dissatisfaction with my rulings, which is not a legally recognized ground for recusal. The motion was denied as legally insufficient.

Balbin v. Lexington Ins. Co., 1997-18802-CA-11 and 2004-15065-CA 11. The Plaintiff, a *pro se* litigant, claimed that I denied him a full opportunity to argue his pleadings. Although these allegations were untrue, I had to accept them as true for the purpose of ruling on the motion and the motion was granted.

Caravel Investments, Inc. v. Walgreen Co., 1998-9990-CA-11. The Plaintiff filed a motion claiming that I had overheard his conversations with his attorney at counsel table during a hearing which the Plaintiff claimed were attorney/client communications. I determined that for me to have heard the conversation from afar, the Plaintiff had to have been speaking too loudly to have reasonably believed his conversation was private and privileged. The motion was denied as legally insufficient.

Tome v. Pita, 2000-20659-FC-28. The former wife filed a motion based upon her dissatisfaction with my ruling, which is not a legally recognized basis for recusal. I denied the motion as legally insufficient.

Samaroo v. Samaroo, 1999-17490-FC-28. I had filed a bar complaint against the partner of one of the attorneys in the case and the attorney claimed that because I knew she was a partner of the attorney I sanctioned, I might not award attorney's fees out of fear that the sanctioned attorney would share in the award. The motion was granted.

Paraschak v. Lewis, 2001-11567-FC-28. I had recently filed a bar complaint against the attorney in the case and the attorney claimed I might be biased against his client. The motion was granted. The attorney later apologized for the conduct leading to the bar complaint and he has appeared many times before me since then and has not filed any further motions to recuse.

Partlowe v. Gomez, 1998-11694-FC-28. In this case, the attorney filed a motion claiming that I had been involved in an improper, ex parte communication with the opposing party. Because I had to accept the allegation as true, I granted the motion. However, I determined that the attorney was reckless in his accusations – which were absolutely not true – and filed a bar complaint against him for which he was sanctioned.

Fernandez & Fernandez, 1998-26129-FC-28. The attorney claimed in his motion that because I had been typing on the computer during the attorney's argument and printed out the order shortly after the hearing ended, I must have already made up my mind prior to hearing all of the arguments. I granted the motion, not because it was legally sufficient, but because the allegation was so ludicrous that I felt I could not be fair to that attorney.

State v. Gonzalez and Franqui, F92-2141B & D. I handled the re-sentencing of these two death penalty cases. I was not in any way involved in the first trials of the two defendants. One of the prosecutors in the first trial, who had left the prosecutor's office before the second trial, was a close friend of mine. In our circuit, the judge who handles a capital case must handle all future post-conviction motions on the case – even if the judge has transferred to another division of the court. I felt that there may someday be a claim of prosecutorial misconduct from the first trial and the credibility of the prosecutor who was my friend may be called into question. After the sentences were affirmed on direct appeal, and to avoid the appearance of impropriety, I *sua sponte* entered an order of recusal for all future post-conviction motions on the cases.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public offices other than a judicial office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held membership or office in any political party or election committee.

In 1994, I volunteered to work on the gubernatorial campaign of Lawton Chiles. I worked on one or two afternoons stuffing envelopes.

Since I am an elected official, I ran for office in 1996, 2002 and 2008 and was actively involved in my own campaign to the extent permitted by the Judicial Canons. I was unopposed in each campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a clerk to a judge.

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

From 1986 to 1992 and from 1993 to 1995, I practiced alone at Robert N. Scola, Jr. P.A.

From 1986 to 1991, the address of the office was 2600 Douglas Road, Penthouse One, Coral Gables, Florida 33134.

From 1991 to 1992 and 1993 to 1995, the address of the office was 2400 South Dixie Highway, Miami, Florida 33131.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1980 – 1986
Dade County State Attorney's Office
1341 Northwest 12th Street
Miami, Florida 33125
Assistant State Attorney (1980 – 1986)
Major Crimes Prosecutor (1984 – 1986)
Deputy Chief Assistant State Attorney (1986)

1986 – 1991
Robert N. Scola, Jr. P.A.
2600 Douglas Road, Penthouse One
Coral Gables, Florida 33134
Attorney

1991 – 1992
Robert N. Scola, Jr. P.A.
2400 South Dixie Highway
Miami, Florida 33131
Attorney

1992 – 1993
Quinon, Strafer & Scola, P.A.
2400 South Dixie Highway
Miami, Florida 33131
Partner

1993 – 1995
Robert N. Scola, Jr. P.A.
2400 South Dixie Highway
Miami, Florida 33131
Attorney

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as an arbitrator or mediator.

b. Describe:

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

From 1980 to 1986, I worked as a prosecutor in state court starting in county court handling misdemeanor cases and finishing as a major crimes prosecutor handling first degree murder, death penalty cases.

From 1986 to 1995, I worked as a criminal defense attorney, mostly as a solo practitioner except for a one year period from 1992 to 1993 when I joined two other attorneys who also practiced criminal defense.

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

From 1980 to 1986, I specialized in the prosecution of state criminal cases and my client was the State of Florida.

From 1986 to 1995, I specialized in criminal defense in both state and federal courts. It is difficult to define my "typical client" because they ranged from the innocent individual who was wrongfully accused to career criminals to police officers charged with corruption to professionals charged with white collar crimes. I have represented men and women from virtually every sector of our community. Additionally, I represented scores of indigent defendants both *pro bono* and as a Specially Appointed Public Defender.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

100% of my practice as an attorney involved litigation. During my tenure as an Assistant State Attorney I was in court on a daily basis and during my time as a private attorney I was in court on an almost daily basis.

i. Indicate the percentage of your practice in:
   1. federal courts: 45%
   2. state courts of record: 50%
   3. other courts: 5%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 1%
   2. criminal proceedings: 99%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Out of 600 total cases, I was sole counsel in 575; in 15 cases I was chief counsel and in 10 cases I was associate counsel. Most of the non-jury trials were in 1980-1981 when I was a prosecutor assigned to misdemeanor court and tried about 5 non-jury trials per day.

i. What percentage of these trials were:
   1. jury: 17%
   2. non-jury: 83%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State v. Johnson*, F82-22512; 455 So. 2d 1039 (Fla. 3rd DCA 1984).

I prosecuted the Defendant for the first degree murder of his wife, who had been bludgeoned to death with a hammer. There were no eyewitnesses to the crime, and the Defendant tried to make it appear as if his wife had been killed by a burglar. After a two-week trial, the jury took less than one hour to convict the Defendant as charged. The jury subsequently recommended a sentence of death. The trial judge, however, overrode the jury's recommendation and imposed a life sentence. The Defendant's conviction and sentence were affirmed by the Third District Court of Appeal.

Judge Morton Perry presided over the trial in the 11th Judicial Circuit Court of Florida in January 1983. I was the Assistant State Attorney representing the State with co-counsel John M. Hogan, now at Holland & Knight, 701 Brickell Avenue, Miami, Florida 33131; telephone (305) 789-7693. The Defendant was represented by Arthur Carter, who is no longer practicing law.

2. *State v. Mack*, F82-17735A; 461 So. 2d 142 (Fla. 3d DCA 1984), *rev. denied*, 471 So. 2d 43 (Fla. 1985).

This Defendant was charged with first degree murder, armed robbery and possession of a firearm by a convicted felon for an incident during which he shot and killed Metro-Dade Police Officer Cheryl Seiden. The possession of a firearm by a convicted felon count was severed from the other charges and the Defendant was tried by another prosecutor and convicted of the murder and robbery. I was then assigned to try the remaining count of possession of a firearm by a convicted felon. The Defendant was convicted after a jury trial.

Judge Thomas Carney presided over the trial in the 11th Judicial Circuit Court of Florida in June 1983. I was the sole prosecutor on behalf of the State. The Defendant was represented by Joel Hirschhorn, 550 Biltmore Way, PH 3A, Coral Gables, Florida 33134; telephone (305) 445-5320.

3. *State v. Snook*, F83-15647; 478 So. 2d 403 (Fla.3d DCA 1985), *cause dismissed*, 487 So. 2d 297 (Fla. 1986).

In this case, the Defendant, a teen-age adult, brutally beat his grandmother to death when she caught him burglarizing her apartment to steal money for drugs. The Defendant presented an insanity defense claiming that he suffered from a drug-induced psychosis due to his ingestion of LSD, marijuana and alcohol. The Defendant was convicted of first degree murder and sentenced to life in prison without eligibility for parole for 25 years.

Judge Sidney Shapiro presided over the trial in the 11th Judicial Circuit Court of Florida in February 1984. I was co-counsel with then-Assistant State Attorney John Kastrenakes, now a Circuit Court Judge in Palm Beach. Main Judicial Complex, 205 North Dixie Highway, West Palm Beach, Florida 33401; telephone (561) 355-7875. The Defendant was represented by Joel Robrish, 848 Brickell Avenue, Suite 800, Miami, Florida 33131; telephone (305) 373-5150.

4. *State v. Rojas*, F83-18500; 469 So. 2d 849 (Fla. 3d DCA 1985).

This Defendant killed the victim in an act of vigilante justice. The victim attempted to shoot the Defendant at point blank range but the gun mis-fired. The Defendant left the scene and, instead of calling the police, obtained a gun, returned to the scene and shot and killed the victim. The jury convicted the Defendant of first degree murder at the trial.

Judge Howard Gross presided over the trial in the 11th Judicial Circuit Court of Florida in April 1984. I was the sole prosecutor in the case. The Defendant was represented by Nathaniel Barone, P.O. Box 551806, Fort Lauderdale, Florida 33301; telephone (305) 458-8541.

5. *State v. Diaz*, F83-1891-B; 513 So. 2d 1045 (Fla. 1987), *cert. denied*, 484 U.S. 1079 (1988).

The Defendant was charged with first degree murder arising from an armed robbery at a bar. The Defendant fired several shots to "round up" the customers, then shot and killed the manager. The Defendant had previous convictions for robbery and murder. After the trial, the Defendant was convicted and sentenced to death. The Florida Supreme Court affirmed the conviction and sentence. The Defendant was executed by lethal injection in 2006.

Judge Amy Steele Donner presided over the trial in the 11th Judicial Circuit Court of Florida in October 1986. I was the Assistant State Attorney representing the State of Florida, with co-counsel John Kastrenakes who is now a Circuit Court Judge in Palm Beach. Main Judicial Complex, 205 North Dixie Highway, West Palm Beach, Florida 33401; telephone (561) 355-7875. The Defendant was *pro se*, with stand-by counsel Robert Lamons, 4160 West 16th Avenue, Suite 404, Hialeah, Florida 33012; telephone (305) 826-8171.

6. *United States v. BCCI*, 88-330-CR-T-13-B, *aff'd in part, rev'd in part sub nom. U.S. v. Awan*, 966 F.2d 1415 (11th Cir. 1992).

In this seven-month-long trial, the Defendants were charged with money laundering and conducting a cocaine importation conspiracy. The central Defendants in the case were *Banco de Credito Commercial International* (BCCI) and 5 of its officers. The arrests of the Defendants were the culmination of a two and one half year undercover operation involving the laundering of millions of dollars of narcotics proceeds. The Defendants were acquitted of the drug conspiracy charge but were convicted of money laundering.

United States District Court Judge W. Terrell Hodges presided over this trial in the United States District Court for the Middle District of Florida from January1990 through July 1990. I was sole counsel for Defendant Armbrecht. The government was represented by then-AUSA Mark Jackowski, 600 Superior Avenue East, Suite 2100, Cleveland, Ohio 44114; telephone (216) 348-5788, and AUSA Michael Rubenstein, 400 North Tampa Street, Tampa, Florida 33634; telephone (813) 274-6000. The co-Defendants were represented by attorneys: James Jay Hogan, 2400 South Dixie Highway, Miami, Florida 33130; telephone (305) 854-8989; Bennie Lazzara, 1 North Dale Mabry Highway, Tampa, Florida 33609; telephone (813) 873-0026; John Hume, 607 14th Street NW, Washington, DC 20005; telephone (202) 628-6600; Gary Trombley, 707 North Franklin Street, Tampa, Florida 33634; telephone (813) 229-7918; and Pat Doherty, P.O. Box 2354, Sylva, North Carolina 28779; telephone (828) 586-0142.

7. *United States v. Gonzalez*, 89-698-Cr-Kehoe.

The Defendant was charged with conspiracy to possess cocaine and possession of cocaine. The government alleged that her husband and another man had traveled to the Bahamas on the husband's vessel. Federal agents had received a tip that the vessel would be returning to the United States with cocaine. Agents claimed the Defendant was conducting counter-surveillance at the marina. The first trial resulted in a hung jury. During the second trial, the agent recanted his testimony and admitted he was mistaken about the "counter-surveillance" my client allegedly conducted, and she was acquitted.

United States District Court Judge James Kehoe presided over the two trials in September 1990 and October 1990. I was sole counsel for Defendant Gonzalez. The government was represented by then-AUSA Guy Lewis, The Offices at Cocowalk, Grand Avenue, Suite 340, Coconut Grove, Florida 33133; telephone (305) 442-1101.

8. *United States v. Gonzalez*, 89-712-Cr-Davis, 21 F.3d 1045 (11th Cir. 1994).

The Defendant was a police officer with the Metro-Dade Police department who, over the course of approximately eight years, was involved in numerous rip-offs of drug dealers. He and his partner stole millions of dollars of drugs and money from persons they arrested or investigated. The Defendant was convicted after a jury trial and sentenced to 20 years in prison. His sentence was later reduced to 11 years after he cooperated with the government in other investigations.

United States District Court Judge Edward Davis presided over the trial in the Southern District of Florida in January 1991. I was the sole trial counsel for Defendant Gonzalez. The government was represented by AUSA Richard Scruggs, 1350 NW Twelfth Avenue Miami, Florida 33128; telephone (305) 547-0100, and Donna Bucella, U.S. Customs and Border Patrol, 1300 Pennsylvania Avenue NW, Washington, DC 20005; telephone (202) 334-1150. The co-Defendants were represented by: Jose Quinon, 2333 Brickell Avenue, Suite A-1, Miami, Florida 33130; telephone (305) 858-5700; Albert Levin, 261 NE First Street, 6th Floor, Miami, Florida 33132; telephone (305) 379-7101; and Paul Finizio, 106 SE Ninth Street, Fort Lauderdale, Florida 33304; telephone (954) 767-6000.

9. *United States v. Abel*, 91-413-Cr-Moore; *United States v. Cerceda*, 172 F.3d 806 (11th Cir. 1999) (*en banc*) (*per curiam*), *cert. denied sub nom. De la Mata v. U.S.*, 120 S. Ct. 444 (2000).

Defendant was indicted for a massive cocaine importation conspiracy involving eight separate shipments of drugs totaling over 3,000 kilograms of cocaine, and was convicted following a month-long jury trial. After I became a judge, Abel was sentenced by a successor judge to 20 years in federal prison.

United States District Court Judge K. Michael Moore presided over the trial in the Southern District of Florida in January 1994 and Chief Judge William O'Kelley of the Northern District of Georgia presided over the post-trial motions in March 1995 after the

judges of the Southern District recused themselves. I was sole trial counsel for the lead Defendant Abel. However, attorneys Jose Quinon, 2333 Brickell Avenue, Suite A-1, Miami, Florida 33130, telephone (305) 858-5700, and G. Richard Strafer, 201 South Biscayne Boulevard, Suite 1380 Miami, Florida 33131, telephone (305) 374-9091, assisted me in preparing both the pre-trial motions and for trial. The government was represented by AUSA Karen Rochlin, 99 NE Fourth Street, Miami, Florida 33132; telephone (305) 961-9000. The co-Defendants were represented by: Edward Shohat, 800 Brickell Avenue, Miami, Florida 33131; telephone (305) 358-7000; Joel Kaplan, 100 Biscayne Boulevard, Miami, Florida 33131; telephone (305) 374-2111; G.P. Della Ferra, 10800 Biscayne Boulevard, Miami, Florida 33161; telephone (305) 892-6869; Frank Quintero, 2100 Ponce de Leon Boulevard, Suite 1180, Coral Gables, Florida 33134; telephone (305) 446-0303; Robert Becerra, 1001 Brickell Bay Drive, Suite 2002, Miami, Florida 33131; telephone (305) 350-5690; and Julio Gutierrez, 2464 SW 137th Avenue, Miami, Florida 33175; telephone (305) 325-8600.

10. *State v. Hernandez*, F94-2024C (Brown).

The Defendant was charged with assisting two co-Defendants in selling crack cocaine to an undercover police officer. I was appointed as a Specially Appointed Public Defender to represent the Defendant, who was a 16-time convicted felon. The Defendant – with his 16 convictions brought to the attention of the jury – testified and was acquitted. This case was significant because it demonstrated that even a person with a horrendous criminal record can be wrongfully accused and is entitled to competent representation and the ability to prepare and present a defense.

Judge Joel Brown presided over this trial in the 11th Judicial Circuit Court in October 1994. I was the sole defense counsel appointed as a Specially Appointed Public Defender. The prosecutor in the case was Leslie Quezaire, 201 NW Seventh Street, #207, Miami, Florida 33136; telephone (305) 788-8594.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I have not performed lobbying activities on behalf of any client or organizations.

I have been active with Florida Bar committees as both an attorney and a judge. From 1993 to 1995, I served on a Florida Bar Grievance Committee which investigated allegations of misconduct by attorneys. I served as the Chairperson from 1994 to 1995.

Once I was appointed to the bench, I served on the Florida Criminal Rules of Procedure Committee from 1999 to 2002 and on the Family Rules Committee from 2004 to 2006.

I was an active member of the Florida Association of Criminal Defense Lawyers – Miami Chapter from 1987 to 1995 and served on the Board of Directors from 1990 to 1995. I served as the President from 1994 to 1995.

Since my appointment to the bench, most of my legal activities have involved legal education to judges and attorneys. I have taught courses at the Florida College of Advanced Judicial Studies from 1997 through 2009 and served as the Department Head for Criminal Courses in 1999. I have also been a member of the Florida Conference of Circuit Court Judges Education Committee from 1997 to 2007 and served as Vice-Chairman from 2006 to 2007. I have also taught a number of courses at Circuit Court Conferences.

I have also participated as a member of the First Family Law American Inn of Court during the years I have served as a judge in the Family Division (2001 to 2005 and 2009 to present).

From 2000 to 2002, I served on the Eleventh Judicial Circuit Rotation of Judges Committee. The committee was comprised of judges whose task was to determine whether a formal rotation plan for the 11th circuit should be implemented and, if so, to devise such a plan. The assignment of judges within the divisions of the circuit had previously been made based solely on seniority. As a result of many judges having commenced their judicial careers at an early age, many positions in the civil division were "locked up" for potentially more than 20 years and it was taking judges over 10 years to be able to be assigned to the civil division. A survey of the 20 circuits in Florida revealed that only Broward and Miami-Dade made assignments based almost exclusively on seniority. The other circuits had formal or informal plans which allowed for movement by the judges among the different divisions. Our committee adopted a formal rotation plan which was implemented by Chief Judge Joseph Farina in 2003 and has been followed by his successor, Chief Judge Joel Brown.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have taught as an Adjunct Professor in the University of Miami School of Law Litigation Skills Program every semester since 1994. This is a trial skills program in which the students perform different parts of a trial and are critiqued by adjunct professors. There is no lecturing by the adjunct professors.

Since 2007, I have been in charge of the Florida International University Judicial Externship Program during each summer. Approximately 16 students are assigned to work with a judge for 30 hours per week for 10 weeks. There is also a two-hour per week classroom component that I conduct. We utilize a textbook, Cochran, *JUDICIAL*

EXTERNSHIPS: The Clinic Inside the Courthouse, 3rd Edition. A copy of the syllabus for the class is supplied.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I have no anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits from previous business relationships, professional services, firm memberships, former employers, clients or customers and there are no arrangements for being compensated in the future for any financial or business interest.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    The only outside employment I would like to pursue if I am fortunate enough to be confirmed is to continue to teach at the University of Miami Law School and at Florida International University College of Law.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       My wife, Jacqueline Hogan Scola, is a State of Florida Circuit Court Judge in the criminal division. There is a possibility that a defendant from a case over which

she had presided could file a 2254 petition and the matter could be assigned to me. Were such an event to occur, I would *sua sponte* recuse myself from the case.

My wife also worked in the United States Attorney's Office for the Southern District of Florida from 1995 to 2002. If a defendant who was prosecuted by her files a 2255 petition there is a slight chance the matter would be assigned to me. Were such an event to occur, I would *sua sponte* recuse myself from the case.

I am not aware of any other situations that are likely to present potential conflicts of interest when I first assume the bench.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will follow all applicable provisions of the Canons of Judicial Ethics and existing case law and if there is any conflict of interest or appearance of a conflict of interest, I will recuse myself from the case.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During my 16 years on the bench, I have been prohibited by the Florida Canons of Judicial Conduct from handling cases on behalf of any clients, including the disadvantaged. I have participated in the Court's Put Something Back Pro Bono Project by lecturing to attorneys who receive free credit hours of legal education in exchange for taking a pro bono case from the courts. I have also organized a Judges' Habitat for Humanity outing to help build a home.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In Florida, the senators utilize a nominating commission. The Florida Federal Nominating Commission was put together by Senators Bill Nelson and Mel

Martinez. The commission is comprised of members selected by both Senator Nelson (2/3 of the members) and Senator Martinez (1/3 of the members). When Senator George Lemieux was appointed to replace Senator Martinez, he did not replace any of the members selected by Senator Martinez.

I submitted an application to the Florida Federal Judicial Nomination Commission in October 2010 and was interviewed by the Commission on November 30, 2010. I was selected by the Commission, along with Judge Jerald Bagley and Federal Magistrate Judge John O'Sullivan, on that same date. The Commission does not recommend one candidate and does not rank the candidates. On December 11, 2010, I interviewed with Senators Nelson and Lemieux in Miami.

Since February 11, 2011, I have been in contact with pre-nomination officials from the Department of Justice. On March 18, 2011, I met with representatives from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 4, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Scola, Jr., Robert N.	United States District Court, Southern District of Florida	05/04/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
United States District Court Judge	☑ Nomination, Date 05/04/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 04/30/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Room 2826 Lawton E. Thomas Courthouse 175 NW 1st Avenue Miami, FL 33128	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Circuit Court Judge	State of Florida
2.	Adjunct Professor	University of Miami School of Law
3.	Adjunct Professor	Florida International University College of Law
4.		
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	1997	State of Florida Employee Retirement System; defined benefit plan; payout based upon years of service; employee's benefits payable in full upon reaching age 62
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 8	Name of Person Reporting Scalia, Jr., Robert N.	Date of Report 05/04/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2011	State of Florida Salary	$47,393.00
2. 2011	University of Miami School of Law	$3,000.00
3. 2010	State of Florida Salary	$141,753.00
4. 2010	University of Miami School of Law	$6,000.00
5. 2010	Florida International University College of Law	$9,000.00
6. 2009	State of Florida Salary	$143,853.00
7. 2009	University of Miami School of Law	$6,000.00
8. 2009	Florida International University College of Law	$9,000.00

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2011	State of Florida Salary as Circuit Court Judge
2. 2011	University of Miami School of Law Salary as Adjunct Professor
3. 2010	State of Florida Salary as Circuit Court Judge
4. 2010	University of Miami School of Law Salary as Adjunct Professor

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				

FINANCIAL DISCLOSURE REPORT Page 3 of 8	Name of Person Reporting Scola, Jr., Robert N.	Date of Report 05/04/2011

4.

5.

FINANCIAL DISCLOSURE REPORT Page 4 of 8	Name of Person Reporting Scola, Jr., Robert N.	Date of Report 05/04/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 5 of 8

Name of Person Reporting	Date of Report
Scola, Jr., Robert N.	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Wachovia Bank - Cash Accounts	A	Interest	K	T					
2. Nationwide Retirement Solutions Deferred Compensation									
3. - NW Inv Dest Mod Svc	A	Int./Div.	K	T					
4. - Invsco VK Gr Inc A	A	Int./Div.	K	T					
5. - AmCent Eq Gr Inv	A	Int./Div.	J	T					
6. - Fid Contra	A	Int./Div.	K	T					
7. - Fid Puritan	A	Int./Div.	K	T					
8. - Dodge Cox Inc	A	Int./Div.	K	T					
9. Virtus Mid Cap Growth Fund IRA	A	Int./Div.	J	T					
10. Schwab IRA									
11. - Vanguard Total Market Index Fund	A	Int./Div.	J	T					
12. US Treasury Strip	A	Interest	K	T					
13. Chevron Stock	A	Dividend	K	T					
14. Bencor 401(A) Fund (no control)	A	Int./Div.	J	T					
15. Vanguard Total Stock Mkt	A	Dividend	J	T					
16. Northwest Mutual Pension Plan									
17. - America Funds Small-Cap World Fund Class A	A	Int./Div.	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 6 of 8

Name of Person Reporting	Date of Report
Scolu, Jr., Robert N.	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - America Funds The Bond Fund of America Class A	B	Int./Div.	K	T					
19. - America Funds Europacific Growth Fund Class A	A	Int./Div.	K	T					
20. - America Funds The Growth Fund of America Class A	A	Int./Div.	K	T					
21. - America Funds Intermediate Bond Fund of America	A	Int./Div.	K	T					
22. - America Funds The Investment Company of America	A	Int./Div.	K	T					
23. ING Deferred Compensation									
24. --Baron Growth Fund Ret	A	Int./Div.	J	T					
25. --Vanguard Mid-Cap Index Fund Inst	A	Int./Div.	J	T					
26. Valic Deferred Compensation									
27. --Janus Forty S	A	Int./Div.	J	T					
28. --Pioneer Mid Cap Value Fund Y	A	Int./Div.	J	T					
29. --Dreyfus Tech Gr A	A	Int./Div.	J	T					
30. T. Rowe Price Deferred Comp									
31. --Equity Index Trust	A	Int./Div.	J	T					
32. --T. Rowe Price Mid Cap Growth	A	Int./Div.	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimate	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 7 of 8	Name of Person Reporting Scalia, Jr., Robert N.	Date of Report 05/04/2011

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

FINANCIAL DISCLOSURE REPORT Page 8 of 8	Name of Person Reporting Scalia, Jr., Robert N.	Date of Report 05/04/2011

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		40	000	Notes payable to banks-secured			
U.S. Government securities – U.S. Treasury STRIPS		29	000	Notes payable to banks-unsecured			
Listed securities – see schedule		404	783	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		519	200
Real estate owned – personal residence		800	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		112	000				
Cash value-life insurance							
Other assets itemize:							
Federal Thrift Savings Plan		162	600				
Bencor Inc. 401(A) pooled fund		1	390				
				Total liabilities		519	200
				Net Worth	1	030	573
Total Assets	1	549	773	Total liabilities and net worth	1	549	773
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged? (Add schedule)			
Legal Claims				Are you defendant in any suits or legal actions?			
Provision for Federal Income Tax				Have you ever taken bankruptcy?			
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Chevron stock	$21,498
Citigroup Inc. stock	145
Wave Systems Corp. stock	103
American Century Equity Growth Fund	14,783
American Funds Bond Fund of America	28,203
American Funds Europacific Growth Fund	31,960
American Funds Growth Fund of America	28,662
American Funds Inter. Bond Fund of America	22,896
American Funds Invest. Company of America	21,114
American Funds SMALLCAP World Fund	22,142
Baron Growth Fund	11,449
Dreyfus Technology Growth Fund	9,253
Dodge & Cox Income Fund	30,389
Fidelity Contrafund	18,294
Fidelity Puritan Fund	18,428
Invesco Van Kampen Growth & Income Fund	30,906
Janus Forty S	2,293
Nationwide Inv Dest Mod Svc Fund	15,404
Pioneer Mid Cap Value Fund Y	10,286
T. Rowe Price Equity Index 500 Fund	9,905
T. Rowe Price Mid Cap Growth	12,614
Vanguard Mid-Cap Index Fund	10,934
Vanguard Total Market Index Fund	4,811
Vanguard Total Stock Market Fund	10,679
Virtus Mid Cap Growth Fund	17,632
Total Listed Securities	$404,783

Real Estate Mortgages Payable	
Personal residence mortgage	$231,500
Personal residence home equity line of credit	287,700
Total Real Estate Mortgages Payable	$519,200

AFFIDAVIT

I, Robert N. Scola, Jr., do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

May 2, 2011
(DATE)

(NAME)
ROBERT N. SCOLA, JR.

(NOTARY)

Notary Public State of Florida
Ileana Perez
My Commission EE047642
Expires 12/08/2014

Senator BLUMENTHAL. Thank you very much, Judge Scola.

Let me say by way of preface, to each of you, thank you for being willing to take on this responsibility. As you well know from your experience, and I do as mine, having appeared before numerous district judges, you will be, if confirmed, the face and voice of justice for countless individuals who will come before you, some of them in very desperate circumstances, some of them as criminal defendants about to be sentenced, some of them as people about to become citizens, and you will be, for them, the source of an aspiration and dream or potentially punishment and you will need to address each of them with the kind of care and sensitivity, as well as intellect, that your background has prepared you to provide.

And talking about background, Mr. Mariani, by asking you, because you have had extensive experience as a labor lawyer and you have acted as an impartial mediator and arbitrator in a large number of cases.

Can you perhaps describe for the Committee how that background would prepare you for your duties as a United States district court judge?

Mr. MARIANI. Thank you, Senator, for the question. As an arbitrator, I have, on many occasions, been confronted with deciding cases of some complexity, recognizing the rights of both litigants to the matter. That has certainly developed my sense of fairness in adjudication.

As a litigator, I have brought many, many cases to court, particularly in the Federal courts, where I have had experience with virtually all of the Federal employment statutes that are in effect today. That, again, has given me, in my view, a very keen sense of what it takes to be a judge, particularly—particularly the qualities of integrity, impartiality, and that would be the approach I would take, if I were to be confirmed.

Senator BLUMENTHAL. And your experience is primarily in the civil area. You feel that you would be qualified, also, to preside over criminal matters.

Mr. MARIANI. I do, Senator, and I will tell you that it has been many years since I have had a matter of criminal nature to be involved in. So as a consequence of that, I will tell you that I am absolutely dedicated to making sure that as those cases come before me, I am well acquainted with both the substantive criminal law, as well as the criminal procedures that will be used in those cases.

I consider that a personal goal of mine, if I am confirmed.

Senator BLUMENTHAL. Thank you. And one last question for you, Mr. Mariani. What do you view as the role of precedent in guiding a district court judge?

Mr. MARIANI. Well, in particular, as a district court judge, I feel I am duty-bound to follow the precedents on matters that come before me. That's particularly true, of course, with respect to the precedents of the United States Supreme Court, and, as well, the court of appeals for the third circuit.

I regard that as the way to approach every case, beginning with the statute, where you must read the statute and be guided by it, but then, also, pay close heed to what the Supreme Court has said, as well as the court of appeals in my circuit.

Senator BLUMENTHAL. Thank you.

Judge Bissoon, you have been a judge magistrate since 2008, I believe. And I wonder if you could tell the Committee how you think that experience has prepared you for a United States district court judgeship, if confirmed.

Judge BISSOON. Thank you very much for the question, Senator.

I am fortunate to be in a district where magistrate judges have significant authority over cases. We have a very robust consent system in our court, and when the parties consent to my jurisdiction, I sit as the district judge in those cases. And so I do do that quite regularly.

I do not have the same level of criminal experience. I deal with preliminary criminal matters, preliminary hearings, detention hearings. I deal with issues of probable cause and issuing search warrants and arrest warrants, as well as complaints.

And it's been a while since I've done any felony criminal work. I did some work as a law clerk, but not for a while. But I would look to certainly lean on my colleagues, my Article 3 colleagues on the bench and look to their expertise and use all available resources to master that area.

Senator BLUMENTHAL. But you certainly have a familiarity with the Federal criminal statutes.

Judge BISSOON. Absolutely.

Senator BLUMENTHAL. And let me ask you the same question about the role of precedent in informing and shaping the opinions of a district court judge.

Judge BISSOON. Well, I certainly agree with Mr. Mariani. It is the cornerstone of what we do as judicial officers.

We are bound by precedent, both the precedent of the Supreme Court, as well as the court of appeals for the third circuit.

Senator BLUMENTHAL. Whether you agree or disagree.

Judge BISSOON. Regardless of whether I agree or disagree.

Senator BLUMENTHAL. Thank you.

Mr. Hornak, let me ask you. You have been an attorney. You have very extensive experience as a mediator and arbitrator in a variety of civil cases. Do you think that experience, as well as your experience as an advocate will guide you as a United States district court judge, if confirmed?

Mr. HORNAK. Thank you for the question, Mr. Chairman.

The short answer is yes. I've been very fortunate over the course of nearly 30 years of practicing law to have had the privilege of representing clients in a wide array of areas of practice, ranging from workplace issues to construction law to representing government officials, local units of government.

And the court in which Judge Bissoon sits has a very extensive alternative dispute resolution program and I've been very fortunate to have been selected by the parties and approved by the judges to serve as a mediator in a wide array of cases, and I believe that has given me an exposure to the breadth of the matters that would come before our district court in Western Pennsylvania.

Senator BLUMENTHAL. And do you share the views that have been articulated by Judge Bissoon and Mr. Mariani that precedent should be binding on United States district court judges?

Mr. HORNAK. I absolutely do share them. I believe that adherence to precedent by our trial judges is really central to litigants

and society having confidence in courts. It is adherence to the precedent and the commitment to following it that allows people to have predictability in our legal system.

Senator BLUMENTHAL. Thank you.

Judge Scola, you have served as a state circuit court judge for the Eleventh Judicial District of Florida in Miami-Dade County for 16 years, and you have worked on a vast variety of cases, because the court, I believe, is one of general jurisdiction.

And I wonder if you could tell us how you think that experience would shape your views as a United States district court judge, if confirmed.

Judge SCOLA. Thank you for the question, Chairman Blumenthal. I have had the opportunity to sit in the criminal, the family, and the civil or general jurisdiction divisions over the past 16 years, and I also, during my 9.5 years as a private attorney, tried a number of cases in Federal court.

So I have some familiarity personally with the issues that are brought up in Federal court, particularly criminal issues. And I think there are a lot of parallels to judging, whether you're in state court or Federal court. Certainly, some of the rules of procedure are different and some of the substantive laws are different, but one of the reasons I'm applying is because I'm looking forward to the challenge of learning a new area of law and relying on the lawyers to educate me and apply those new laws.

But I think a lot of the things I do in state court will apply to how I judge in Federal court, if I'm fortunate enough to be confirmed by this Committee and the Senate.

Senator BLUMENTHAL. And I think you have presided over about 600 cases that have gone to final judgment, including about 33 percent of that number being jury trials; have you not? So you have extensive experience in presiding over juries.

Judge SCOLA. Yes, sir, particularly in—I'm in the family division now, where there are no juries in Florida. Those are all non-juried proceedings. But in the criminal division and the general jurisdiction division, I was very active trying jury trials.

Senator BLUMENTHAL. I believe that before serving on the bench, you were a defense attorney and a prosecutor for various periods of time. Is that true?

Judge SCOLA. Yes, sir. I started in the state attorney's office in 1980 and I was there 6.5 years, and that's when we were the murder capital of the country.

I tried over 25 murder trials as a prosecutor and several death penalty cases and then was 9.5 years as a criminal defense attorney in state and Federal courts.

Senator BLUMENTHAL. And I presume that experience also would help you as a judge, even though it is on the Federal bench rather than in the state courts.

Judge SCOLA. I think having been both a prosecutor and a defense attorney, seeing the justice system from both sides and now being in the middle, hopefully I've been in the middle, for the last 16 years, I think all of those together have given me a good perspective on what I need to do.

Senator BLUMENTHAL. And one last question on the role of precedent for a district court judge, Federal trial judge, your view as to the binding effect, or not, of higher court decisions.

Judge SCOLA. I think my colleagues from the Commonwealth of Pennsylvania have accurately summed up our role as judges regarding precedent, and I would definitely follow the precedent of the United States Supreme Court and the eleventh circuit court of appeals, if I am fortunate enough to be confirmed.

Senator BLUMENTHAL. Thank you very much.

I am happy to yield to the Ranking Member, Senator Grassley.

Senator GRASSLEY. Congratulations to all of you. I am going to do the same thing and ask each of you different questions. I am going to start with Bissoon.

You have promoted diversity in the courts and in the legal profession for many years, particularly as director of diversity at Reed Smith.

I have three questions along this line. To what degree should the legal profession or the courts mirror the ethnic composition of the community?

Judge BISSOON. Thank you for the question, Senator. As far as I'm concerned, I think that it is very useful for the community, particularly young people, to see people who look like them in the court system.

I have looked at myself as a role model for young people, in particular, to show them that people of color can achieve great things.

Senator GRASSLEY. Then it would be natural to follow-up with this question. How much consideration should be given to diversity or other concerns of racial or ethnic justice in your decisions as a judge?

Judge BISSOON. I would say absolutely none, sir.

Senator GRASSLEY. Thank you. And, last, what about diversity in the courtroom—and you just spoke to this on the first one, but let me ask a little more specific.

What about diversity in the courtroom, particularly jury panels, what are your views on that and how would you approach the question, if confirmed?

Judge BISSOON. I honestly have not really given much thought to the issue of diversity in jury panels.

When I—I mean, I use the term "diversity" perhaps a little more broadly than some, and so I really look at diversity as a broadness of perspectives and backgrounds, and I think that our jury system is designed so that it is—it pulls from those various sectors geographically and I think that is what it is supposed to do.

Senator GRASSLEY. So your answer, I think, would respond more to what the pool is——

Judge BISSOON. Correct.

Senator GRASSLEY [continuing]. As opposed to what would actually be selected for the courtroom. Is that what you are saying?

Judge BISSOON. I suppose that would be what I was getting at, Senator Grassley. I don't think that I have a role in seeing that juries are diverse. I think that our system is designed so that it achieves that.

Senator GRASSLEY. Mr. Hornak, while speaking at the 2004 commencement ceremonies at your alma mater, you spoke at length

about preserving civil liberties during wartime. You noted, "These are indeed times of great challenge, but not times any more difficult than the previous generation saw."

Do you believe Americans have sacrificed liberty and freedom since 9/11 and if so, what is it that has been sacrificed?

Mr. HORNAK. I don't—thank you for the question, Senator, and the opportunity to address it. I don't believe, as I think about it, that there has been a loss by Americans of civil liberties or freedoms.

I think my remarks were aimed that at times of great challenge for our Nation, our responsibilities as citizens and as leaders in our society is heightened, to make sure that as we protect our country and protect our Nation and watch out for our security, that we remain true to all of our constitutional values.

And I think our history has taught us, as a Nation and as a society, we're capable of doing those things at the same time. It just requires a lot of attention and a lot of work.

Senator GRASSLEY. During wartime and other instances of national emergency, do you believe the judiciary owes any extra deference to the political branches?

Mr. HORNAK. Senator, thank you for the question. I have not given that topic a lot of thought. I do believe that one of the cornerstones of the obligations of the judicial branch are to have great respect for the role of the executive, for the President, in his capacity as commander-in-chief, and respect for the role of Congress, as the legislative branch of the government.

And it's often in times of peril and of national challenge that those other branches of government take on special responsibilities, and I think it's an obligation of the judge and the judiciary to have respect for the roles that the other branches of government play.

Senator GRASSLEY. Thank you.

And, Mr. Mariani, in a newspaper editorial, you argued that employees who want to unionize are often intimidated by their bosses to vote against forming a union. A card check, you said, "would eliminate all of that."

It is my understanding that card check bypasses the secret ballot elections. I would like to have you explain how card check better protects employees from coercion when employees within face pressure from both management and unions on how to vote.

I do not ask that question from not having some experience, because I was a member of the International Association of Machinists from 1961 to 1971, and I have been in this environment a little bit.

Go ahead.

Mr. MARIANI. Thank you for the question, Senator. Actually, I think the use of the card check as opposed to the typical petition to the National Labor Relations Board for an election doesn't really change the atmosphere in which elections are conducted.

I think, for the most part, elections are fairly conducted. I think the National Labor Relations Board's role to supervise the elections is well carried out.

Many times, the words have been used that the elections should be carried out in laboratory conditions, and, in fact, I believe that has been the case over my time as a lawyer.

Senator GRASSLEY. The doctrine of at-will employment has been a longstanding feature of our law. It has been accredited for helping promote a culture of entrepreneurism and economic growth.

Yet, you have said that, "It just does not seem fair," that at-will contracts should form the dominant employment relationship in the United States.

You have also said that the principles behind at-will employment are, "unfair and egregious." To what extent do you view employment as a right or an entitlement?

Mr. MARIANI. I do not view employment as a right or entitlement. I will also tell the Senator that I recognize in my state that the at-will employment rule has become bedrock, well established law for many, many years, and it is that, in my view, that would govern, to the extent that matter would come before me.

I do not see my personal views on the employment at-will rule to have any role in my role as a Federal judge and adjudicating controversies where state law may be in issue.

That is still the law and I'm duty-bound to follow it.

Senator GRASSLEY. I would like to have you tell me what you meant by this statement and whether you stand by it. You have also said that union protections are necessary if we are to remain, "a proud democracy."

Mr. MARIANI. In my view, Senator, if a free society recognizes, as it has for so many years since the Wagner Act was passed in 1935, the right of employees to collectively bargain.

It has been a right that has been time and time again upheld, and I believe that then, when it was passed, as now, it serves a salutary role in promoting democracy.

But, again, for purposes of my role as a Federal judge, the mission I have is to follow the law as it is given to me by the Supreme Court of the United States and by the Third Circuit Court of Appeals.

Senator GRASSLEY. I only have two other questions, if you think I am spending too much time with you.

In 1984, you successfully argued a precedent-setting case that allowed unionized employees to still collect unemployment compensation during a strike. Do you still believe that a court made the right decision in that case?

Mr. MARIANI. Well, I will tell you that the Pennsylvania Supreme Court allowed argument and re-argument on that issue before it was decided. I think they struck a very careful balance, making sure that the collection of unemployment compensation benefits will determine—would be determined, in large part, upon which party, union or employer, or responsibility for the work stoppage.

I recall Justice Nix, at that time, of the Pennsylvania Supreme Court saying that the rule would enhance the clarity and predictability that both sides in a labor dispute require, and I believe that case still to be good law.

Senator GRASSLEY. My last question for you is kind of along the lines of these views that you have expressed either today or previously and using them as background for this question.

What evidence can you provide the Committee that should labor-management issues come before your court, that you would remain neutral and be fair to all parties?

Mr. MARIANI. Thank you for the question, Senator. Thank you very much.

I can assure the Senator that I do not come to the bench with any predisposition whatsoever with respect to labor-management issues.

I have represented employers in those kinds of matters, as well, although the bulk of my work has been with labor. But, again, I can tell you that I bring no predisposition whatsoever to the bench.

I have long recognized over the course of my career that each case must be decided on its merits and the merits sometimes fall one way or the other, and that is the approach I will take.

Senator GRASSLEY. Just one question of you, Mr. Scola, and do not feel badly if I only ask you one and the others more.

You have been a Florida State court judge for many years. What is the most difficult decision you have ever had to make as a judge?

Judge SCOLA. I was called upon on two occasions to consider whether or not to impose the death penalty, and they were two men who ultimately I determined did deserve the ultimate punishment, but—and I did impose the death penalty.

But I think when you are called upon to make a decision of that magnitude, it is a very solemn responsibility and very difficult one and—but I did consider it and imposed the sentence.

So I think that was probably the hardest thing I did as a judge.

Senator GRASSLEY. I thank all of you and I congratulate all of you.

Judge SCOLA. Thank you.

Mr. HORNAK. Thank you.

Mr. MARIANI. Thank you very much, Senator.

Senator BLUMENTHAL. Thank you all for your candid and forthcoming responses and for your willingness to undertake this very important responsibility.

I am going to adjourn the hearing. The record will remain open for 1 week in case any Senators have follow-up questions for the nominees. And thank the visitors for attending, as well.

Thank you very much. This hearing is adjourned.

[Whereupon, at 3:44 p.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

Senator Chuck Grassley
Questions for the Record
Cathy Bissoon, U.S. District Judge for the Western District of Pennsylvania

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: Judges must be fair, impartial and committed to following the rule of law. As a United States Magistrate Judge, I have demonstrated that I possess these attributes.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: Judges should be respectful of the parties and their positions, should hear all cases with an open mind, and should treat all litigants with dignity. I meet those standards in my role as a Magistrate Judge and I would continue to do so if I am fortunate enough to be confirmed.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: Where neither the Supreme Court nor the Court of Appeals for the Third Circuit have spoken on an issue that I must necessarily resolve, I would look to the text of the Constitution, statute or applicable legal provision, look to analogous precedential rulings from the Supreme Court and the Court of Appeals for the Third Circuit and study the available legislative history for guidance.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: Judges must adhere to precedent regardless of their personal viewpoints and, if confirmed, I intend to continue to follow this mandate.

6. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: As a Magistrate Judge, I have experience in managing a heavy caseload. I proactively monitor my docket for matters ripe for disposition and do not allow motions to linger on my docket unresolved. Additionally, in matters in which I do not sit as the trier of fact, I frequently serve as a facilitator in dispute resolution discussions. These measures have been effective in ensuring that my cases are efficiently moved through the system and I intend to continue to utilize these docket control measures if I am fortunate enough to be confirmed.

7. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: Yes. Please see response to #6.

8. **Please describe with particularity the process by which these questions were answered.**

   Response: After carefully considering each question, I drafted responses which were reviewed by representatives of the Department of Justice. I finalized my responses before authorizing their transmittal.

9. **Do these answers reflect your true and personal views?**

   Response: Yes.

Senator Chuck Grassley
Questions for the Record
Christopher Droney, U.S. Court of Appeals for the Second Circuit

1. **At a speech in 2005, Justice Scalia said, "I think it is up to the judge to say what the Constitution provided, even if what it provided is not the best answer, even if you think it should be amended. If that's what it says, that's what it says." Do you agree with Justice Scalia?**

   Response: Judges must adhere to the text of the Constitution and not permit their personal views to influence their interpretation and application of the Constitution. The personal views of judges as to whether the Constitution should be amended are also not relevant to their duties of applying and interpreting the Constitution.

2. **At your hearing you said that it is "appropriate to look to legislative history" when interpreting statutes.**

   a. **In your view, are there certain circumstances when it would be inappropriate to look to legislative history? If so, what are those circumstances?**

      Response: It is inappropriate to consider legislative history if the meaning of the statute is plain and clear.

   b. **Do you believe that clearly conflicting legislative history can trump the unambiguous plain meaning of a statute? Please explain your answer.**

      Response: No. If the statute is plain and unambiguous it would be unnecessary and inappropriate to consider its legislative history.

3. **At your hearing I asked you about structural injunctions and the Supreme Court's recent ruling in *Brown v. Plata*. You said that were times when courts should intervene and grant structural injunctions. What factors would you look to in determining whether a structural injunction is appropriate?**

   Response: Structural injunction cases typically involve "sensitive federalism concerns," as such matters often involve areas of important state responsibility. Horne v. Flores, 129 S.Ct. 2579, 2593 (2009). District Courts are also ill-equipped to take over the administration of large state agencies, as such supervision requires expertise in areas often unfamiliar to District Judges. However, if federal rights are continuously violated on a system wide basis and the agency or department fails to address those violations over a long term, the federal courts must still "vigilantly enforce federal law." Horne, 129 S.Ct. at 2594. The Supreme Court in Horne, Brown v. Plata and other decisions has set forth the criteria for District Court involvement in such situations, and lower federal courts are bound by those decisions. Threshold statutory requirements, such as those in the Prison Litigation Reform Act of 1995 in Brown v. Plata, must also be met before judicial intervention is appropriate.

4. **Do you believe it ever appropriate for a judge to consult foreign law, when determining the meaning of the United States Constitution?**

   Response: No

5. **A recent Time magazine article said that "If the Constitution was intended to limit the federal government, it sure doesn't say so." Do you agree with this statement? Please explain your answer.**

   Response: I do not agree with that statement. The powers delegated to the three branches of government in the Constitution are limited. As James Madison wrote in Federalist 45, "The powers delegated by the proposed Constitution to the federal government are few and defined."

6. **Do you believe that the Second Amendment is an individual right or a collective right?**

   Response: I believe that the Second Amendment is an individual right, as held by the U.S. Supreme Court in District of Columbia v. Heller, 554 U.S. 570 (2008), and McDonald v. City of Chicago, 130 S.Ct. 3020 (2010).

7. **What standard of scrutiny do you believe is appropriate in a Second Amendment challenge against a Federal or State gun law?**

   Response: The Supreme Court did not specify the standard of scrutiny to be applied to a federal or state law in the Heller and McDonald decisions, but because the Court concluded that the right to keep and bear arms is fundamental, a heightened level of scrutiny would apply to any law that burdens that Second Amendment right.

8. **What is the most important attribute of a judge, and do you possess it?**

   Response: The most important attribute of a judge is to faithfully and fairly apply the law in all cases. I believe I possess that attribute.

9. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe the appropriate temperament of a judge includes the qualities of fairness, patience, open-mindedness, lack of bias, and diligence. I believe I meet that standard.

10. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully**

and giving them full force and effect, even if you personally disagree with such precedents?

Response: Yes.

11. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

    Response: If the matter concerned the interpretation of a statute, I would first look to the text of the statute itself. If its meaning was not plain from its text, I would then look to its legislative history and relevant decisions of the U.S. Supreme Court and U.S. Court of Appeals for the Second Circuit for guidance. Thereafter, I would consider decisions of other federal Courts of Appeal. The principles that guide me include stare decisis and not allowing my personal views to be involved.

12. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

    Response: I would still apply the binding decisions of the Supreme Court and Circuit Court. I would not allow my personal views to interfere with that duty.

13. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

    Response: A federal court should only declare a statute enacted by Congress unconstitutional if it violates a provision in the Constitution, or if the Congress exceeded its powers as set forth in the Constitution. Federal courts must also apply the precedents of the Supreme Court and higher federal courts in making that determination. Finally, federal courts must only make that determination if they have jurisdiction over the matter and it is justiciable.

14. **Under what circumstances, if any, do you believe an appellate court should overturn precedent within the circuit? What factors would you consider in reaching this decision?**

    Response: U.S. Courts of Appeal may overturn precedent only by sitting en banc. Panels of those courts are otherwise bound by stare decisis. Factors to consider when deciding whether en banc review is appropriate include whether the issue is of exceptional importance and the need for uniformity of the court's decisions.

15. **Please describe with particularity the process by which these questions were answered.**

Response: I received these questions on June 29, 2011. I then drafted responses. I reviewed my responses with a representative of the Department of Justice and asked him to forward my responses to the Committee.

16. Do these answers reflect your true and personal views?

Response: Yes.

Senator Chuck Grassley
Questions for the Record
Mark Hornak, U.S. District Judge for the Western District of Pennsylvania

1. **Your practice has been labor and employment law for many years, and you come from a town with a somewhat notorious labor history. Collective bargaining has also been in the spotlight. Do you believe companies and individuals have a right to form labor contracts that they find mutually beneficial?**

   Response: It has been my experience that issues regarding the formation of contracts, including employment contracts, are principally matters governed by state law. As a general matter, it is my understanding that companies and individuals may enter into employment contracts that they find mutually beneficial, subject to any specific limitations under applicable state law (for example, some states limit the ability of employers and employees to enter into enforceable non-competition provisions in such contracts), or specific limitations under applicable federal law (for example, the minimum wage and overtime provisions of the Fair Labor Standards Act, or situations in which an exclusive representative for collective bargaining as to wages, hours or terms or conditions of employment has been recognized under the National Labor Relations Act).

2. **You have very little experience with criminal law. As you understand, federal district court judges must preside over a spectrum of criminal law issues. What assurances can you provide both the Committee and future litigants that your judgment on criminal matters will be informed and sound?**

   Response: During my career, I have found it necessary to become familiar with the substantive provisions of a number of federal statutes that contain criminal law provisions in order to advise clients. Over the years, my practice has changed or expanded its focus from time to time to include a number of new or different areas of the law, such as general civil litigation, labor and employment law, construction law, the representation of authors and publishers, and the representation of government agencies. In order to assure this Committee and future litigants that my judgment on criminal law matters is both informed and sound, should I be confirmed as a district court judge, I would devote the same high level of energy and attention to that topic that I have devoted in the past when my legal practice has changed or expanded. I would also take full advantage of the initial and continuing educational programs offered by the Federal Judicial Center, and would call upon the more experienced judges of the court as a resource to make sure that I am fully informed and educated on all such issues that might come before me.

3. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe that the most important attribute of a judge is an unqualified commitment to promptly decide all matters before the court based solely on the applicable rule of law, and the specific facts of that matter, without regard to the identity of any party, or any personal beliefs of the judge. I believe that I possess that attribute.

4. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe that a judge's temperament is central to the judicial process. I consider the following elements most important: a strong personal work ethic, a genuine willingness to listen to all sides in a matter and being open to being convinced by the legal arguments presented, a commitment to deciding the issues before the court in a timely manner, and respect for, and fairness to, all persons participating in the judicial process -- the parties, counsel, jurors, and court staff. I believe that I meet that standard.

5. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

6. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If there were no Supreme Court or Third Circuit cases on point, I would closely examine the language of any applicable statute to determine if it resolves the matter. If that is unavailing, I would then look to the decisions of courts of appeal outside of the Third Circuit, and of other district courts, that may have considered the issue. If they do not provide the necessary guidance on the question, I would then consider judicial decisions of the other federal courts, beginning with the Supreme Court, addressing closely analogous legal questions. I believe that the most important principle in deciding cases of first impression is to decide the specific issue involved as narrowly as is possible while nonetheless disposing of the legal question presented for decision.

7. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I would apply the decisions of the Supreme Court or the Court of Appeals as decided by them, without regard to my own judgment of the merits of such decisions, or my best judgment of the merits of such decisions.

8. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: I would engage counsel for the parties early and often on case management matters, using reasonable but firm deadlines in scheduling orders, and then meeting with counsel at each important procedural juncture in the case. I would work to assure that each matter is proceeding to a just determination according to law, without unnecessary expense or delay. I would also maintain my prompt availability to counsel in order to immediately address any changed or new circumstances in a matter, and would work diligently to decide any matters before me in a timely manner.

9. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: I believe that judges do have that central role, and that the most important specific step that I would take would be on-going, direct and personal engagement in case management and the disposition of each matter on the docket, as is outlined above in response to Question #8. I believe that there is no substitute for such personal involvement and on-going judicial engagement.

10. **Please describe with particularity the process by which these questions were answered.**

    Response: Upon receiving these questions, I carefully reviewed them, and personally prepared my answers to them. I then reviewed my answers with a representative of the Department of Justice, and authorized their transmittal to the Committee.

11. **Do these answers reflect your true and personal views?**

    Response: Yes.

Senator Chuck Grassley
Questions for the Record
Robert Mariani, U.S. District Judge for the Middle District of Pennsylvania

1. **A number of federal statutes, particularly employment statutes, create statutory duties but do not explicitly call for private causes of action. What approach would you take when deciding whether to interpret a statute so as to create an implicit private cause of action?**

   Response: I would follow the precedents of the United States Supreme Court and the Third Circuit Court of Appeals to determine if Congress has expressed its intent to create a private right of action to enforce federal law. The intent of Congress to create a private cause of action is the central inquiry. I would examine the text and structure of the statute to determine if Congress has expressed its intent to create a private cause of action. In the absence of the expression by Congress of an intent to create a private cause of action, I would find that no such private cause of action exists.

2. **What is the proper role of the courts when (a) reviewing agency rulemaking, or when (b) reviewing agency enforcement actions based upon agency interpretations of rules?**

   Response: The proper role of the courts when reviewing agency rulemaking has been determined by the Supreme Court of the United States in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., et al.*, 467 U.S. 837 (1984), to require a court which reviews an agency's construction of the statute to address two questions. First is the question whether Congress has spoken directly to the precise question at issue. If the intent of Congress is clear, the agency and the court must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, and the statute is silent or ambiguous with respect to that issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute. *Chevron, supra,* 467 U.S. 842-843. Supreme Court precedent requires that this two-part analysis be applied. See, e.g., *Mayo Foundation For Medical Education and Research, et al. v. United States,* 131 S.Ct. 704 (2011).

   With respect to reviewing agency enforcement actions based upon agency interpretations of rules, Section 706 of the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*, sets forth the judicial authority to review and set aside agency action. See, e.g., *FCC v. Fox TV Stations, Inc.*, 129 S.Ct. 1800 (2009).

3. **What is the most important attribute of a judge, and do you possess it?**

   Response: Integrity, which necessarily includes impartiality, fairness and commitment to the rule of law. I believe I possess these attributes.

4. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: The appropriate temperament of a judge requires that the judge be fair, impartial, patient, diligent, courteous and respectful to counsel and all persons who come before the court. The most important elements of appropriate judicial temperament are, in my view, the ability to be fair and impartial; to treat all who come into court, whether as litigants, witnesses, lawyers, jurors or court personnel, with respect; and to demonstrate genuine humility and to at all times be mindful of the judge's obligation to preserve the integrity of the judicial process. I respectfully believe that I meet that standard.

5. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

6. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: In a case where there is no controlling precedent from the United States Supreme Court or the United States Court of Appeals for the Third Circuit that dispositively concludes an issue with which I am presented, I would review the opinions of the other circuit courts of appeals for guiding authority. If the issue to be resolved arose from the application or interpretation of a statute, I would give the words of the statute their plain and ordinary meaning. If the statute itself were ambiguous, I would attempt to aid my construction of the statute by review of legislative history, intent and purpose. I would also attempt to resolve the issue by reasoning from well settled general principles of law as set forth in United States Supreme Court precedent or Third Circuit precedent, which, though not dispositive, provide analytical direction by which to resolve the issue. In all cases, I would resolve the issue on the narrowest ground possible.

7. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: If I believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision, I would nonetheless apply that decision faithfully. As a district court judge, I would be duty bound to follow the law as set forth by the United

States Supreme Court and the United States Court of Appeals for the Third Circuit. I would apply the decision and would not use my own judgment of the merits or my best judgment of the merits since my personal beliefs would be irrelevant to the judicial decision-making process.

8. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: If confirmed, I would manage my caseload by applying the Local Rules of the District Court for the Middle District of Pennsylvania to require the joint preparation by counsel of the Joint Case Management Plan at the commencement of the litigation and to require periodic updates of the Plan to ensure that the case progresses in a prompt and orderly fashion without unnecessary or unreasonable delay. I intend to make myself available for resolution of discovery disputes and I would promptly resolve all pre-trial motions, including dispositive motions such as those brought pursuant to Federal Rule of Civil Procedure 56. I would hold pre-trial conferences for the purpose of expediting trial and identifying the issues that are genuinely in dispute so as to avoid unnecessary protraction of the matter. I would encourage mediation and alternative dispute resolution where, as a result of discussion with both counsel, the matters at issue appear to be susceptible of resolution through those processes.

9. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: I do believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, I would work with counsel to set firm and reasonable deadlines for motions and pre-trial discovery. With respect to cases assigned to me, I would monitor the process of each such matter and make regular inquiry with counsel to ensure compliance with the Case Management Plan. In addition, please refer to my response to Question No. 8.

10. **Please describe with particularity the process by which these questions were answered.**

    Response: I received these written questions on Thursday evening, June 30, 2011. I reviewed the questions carefully and prepared my responses. I then reviewed my responses with a representative of the Department of Justice. After finalizing my responses, I forwarded them to the Department of Justice for transmittal to the Senate Judiciary Committee on my behalf.

11. **Do these answers reflect your true and personal views?**

    Response: Yes.

Senator Chuck Grassley
Questions for the Record
Robert N. Scola, U.S. District Judge for the Southern District of Florida

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe that the most important attribute of a judge is personal and professional integrity. Integrity encompasses the concepts of fairness, impartiality and intellectual honesty in one's commitment to follow the rule of law. I believe that I do possess this attribute.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: The appropriate temperament of a judge is a critical component of an effective and respected system of justice. The most important elements of judicial temperament are patience, a calm demeanor, civility, humility and diligence. A judge should treat all litigants, attorneys, jurors and staff with dignity and respect. The behavior *of* the court should set the standard for the behavior of all *in* the court. I believe that I do meet that standard.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: I am fully committed to follow precedents of higher courts faithfully and give them full force and effect, irrespective of my personal views.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If the case involved the interpretation of a statute or provision of the Constitution, I would first look to the plain and ordinary meaning of the statute or Constitution and apply that ordinary meaning. If it were necessary to look beyond the language of the statute or Constitutional provision, I would look to prior rulings of the Supreme Court and Eleventh Circuit Court of Appeals involving analogous cases for guidance.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I understand that I am bound by precedents of higher courts and would not hesitate to follow the precedent of the Supreme Court and Eleventh Circuit Court of Appeals.

6. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: I have had sixteen years of experience in managing judicial caseloads in the Criminal, Family and Civil Divisions of the State of Florida Circuit Court. Each of those divisions presented different case management challenges and I have adjusted my management techniques to address the unique problems facing each of those divisions. My case management skills have allowed me to maintain a relatively low caseload in each of the divisions in our system. I would use some of the case management skills I have learned as a state court judge to set reasonable, yet meaningful, deadlines for the completion of pre-trial motions, discovery and trials. If assigned any uniquely complicated cases, I would hold an early case management conference to set deadlines with the input of the attorneys that will allow the parties to prepare the case and bring it to resolution within a reasonable period of time. I would also set hearings as soon as practicable and enter orders following hearings expeditiously to make sure the court is not unduly delaying the resolution of a case.

7. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: I do believe that judges have an important role in controlling the pace and conduct of litigation and, if confirmed, I would utilize the case management techniques discussed in my answer to Question 6.

8. **Please describe with particularity the process by which these questions were answered.**

   Response: I personally reviewed the questions and, after some careful reflection, prepared my responses. I then forwarded my responses to the Department of Justice for submission to the Senate Judiciary Committee.

9. **Do these answers reflect your true and personal views?**

   Response: Yes.

SUBMISSIONS FOR THE RECORD

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa G. Arrowood
78 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephan Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Joanne M. Garvey
17th Floor
4 Embarcadero Center
San Francisco, CA 94111-4158

Alan Van Etten
Suite 770
Pauahi Tower
1003 Bishop Street
Honolulu, HI 96813

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
cardmand@staff.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

November 18, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Cathy Bissoon
To the United States District Court
for the Western District of Pennsylvania

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Cathy Bissoon who has been nominated for a position on the District Court for the Western District of Pennsylvania. As a result of our investigation, the Committee is of the unanimous opinion that Judge Bissoon is "Qualified" for the position.

A copy of this letter has been provided to Cathy Bissoon.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Cathy Bissoon
The Honorable Robert F. Bauer
Michael Zubrensky, Esq.
ABA Standing Committee on the Federal Judiciary
Denise A. Cardman, Esq.

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa G. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
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Charlotte, NC 28202-6021

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Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Lottesman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 South Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Edith R. Matthai
Suite 1500
300 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Morley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulvard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 6, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Christopher Droney
To the United States Court of Appeals
for the Second Circuit

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Christopher Droney who has been nominated for a position on the United States Court of Appeals for the Second Circuit. As a result of our investigation, the Committee is of the unanimous opinion that Judge Droney is "Well Qualified" for the position.

A copy of this letter has been provided to Christopher Droney.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Christopher Droney
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 6, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

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Tampa, FL 33602-5156

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28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
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Suite 400
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NINTH CIRCUIT
Joanne M. Garvey
17th Floor
4 Embarcadero Center
San Francisco, CA 94111-4158

Alan Van Eten
Suite 770
Pauahi Tower
1003 Bishop Street
Honolulu, HI 96813

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

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LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
cardmand@staff.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

December 1, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Mark Raymond Hornak To the United States District Court for the Western District of Pennsylvania

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Mark Raymond Hornak who has been nominated for a position on the United States District Court for the Western District of Pennsylvania. As a result of our investigation, the Committee is of the unanimous opinion that Mr. Hornak is "WQ" for the position.

A copy of this letter has been provided to Mark Raymond Hornak.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Mark Raymond Hornak
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on December 1, 2010.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Russell D. Feingold
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Benjamin L. Cardin
Hon. Sheldon Whitehouse
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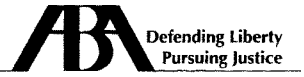
Hon. Edward E. Kaufman
Hon. Arlen Specter
Hon. Al Franken

Minority:

Hon. Jeff Sessions, Ranking Member
Hon. Orrin G. Hatch
Hon. Charles E. Grassley
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Tom Coburn



CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

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Lisa G. Arrowood
28 State Street
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E. Fitzgerald Parnell, III
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401 South College Street
Charlotte, NC 28202-6021

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Detroit, MI 48226

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Des Moines, IA 50309-4011

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San Francisco, CA 94111-4158

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TENTH CIRCUIT
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Miami, FL 33156-2719

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1100 15th Street, N.W.
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C. Timothy Hopkins
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Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
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AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

December 1, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Robert David Mariani To the United States District Court for the Middle District of Pennsylvania

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Robert David Mariani who has been nominated for a position on the United States District Court for the Middle District of Pennsylvania. As a result of our investigation, the Committee is of the unanimous opinion that Mr. Mariani is "WQ" for the position.

A copy of this letter has been provided to Robert David Mariani.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Robert David Mariani
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on December 1, 2010.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Russell D. Feingold
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Benjamin L. Cardin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Edward E. Kaufman
Hon. Arlen Specter
Hon. Al Franken

Minority:

Hon. Jeff Sessions, Ranking Member
Hon. Orrin G. Hatch
Hon. Charles E. Grassley
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Tom Coburn

CHAIR
Benjamin H. Hill, III
Suite 3700
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FIRST CIRCUIT
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NINTH CIRCUIT
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Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071
Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
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FEDERAL CIRCUIT
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1100 17th Street, N.W.
Washington, DC 20005-4056

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STAFF COUNSEL
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denise.cardman@americanbar.org

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AMERICAN BAR ASSOCIATION
Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 6, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Robert N. Scola, Jr.
To the United States District Court
for the Southern District of Florida

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Robert N. Scola, Jr. who has been nominated for a position on the United States District Court for the Southern District of Florida. As a result of our investigation, the Committee is of the unanimous opinion that Judge Scola is "Well Qualified" for the position.

A copy of this letter has been provided to Robert N. Scola, Jr..

Sincerely,

Benjamin H. Hill, III
Chair

cc: Robert N. Scola, Jr.
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 6, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

Statement of Senator Chuck Grassley

Before the Committee on the Judiciary

On the Nominations of:

Christopher Droney, to be United States Circuit Judge for the Second Circuit

Cathy Bissoon, to be United States District Judge for the Western District of Pennsylvania

Mark R. Hornak, to be United States District Judge for the Western District of Pennsylvania

Robert D. Mariani, to be United States District Judge for the Middle District of Pennsylvania

Robert N. Scola, Jr., to be United States District Judge for the Southern District of Florida

June 22, 2011

Mr. Chairman:

I welcome the nominees appearing before us today as well as their families and friends. As I mentioned at our last nomination hearing, this is an important event for the nominee as well as for this institution and for the public.

The nominations before us today illustrate the critical role of the Constitutional advice and consent function of the Senate. This Committee previously reviewed the qualifications of a nominee to the seat to which Judge Droney is now nominated. The Committee found that nomination to be lacking and returned it to the President without final action.

The three District nominees from Pennsylvania were first nominated shortly after the elections last November. I would note that a new Republican Senator was elected last fall in Pennsylvania.

When the nominations were resubmitted in this Congress, I made sure that the rights of the Senator from Pennsylvania were protected. Working with the Chairman, we agreed that all home state senators, particularly the new Senators, would be given time to review nominations and return blue slips before proceeding. I thank the Chairman for his courtesy in this matter.

I think this was a fair process to the Senate as well as to the nominees. We know it is crucial for nominees to have the support of home state Senators. Generally, nominations do not move forward without their support. We have arrived at the point where we can now consider the nominations, and I look forward to the testimony of the nominees.

I will put the balance of my statement, regarding the nominees, in the record.

Christopher Droney is nominated to be United States Circuit Judge for the Second Circuit. Judge Droney presently serves as a United States District Judge for the District of Connecticut. His legal career includes 14 years in private practice litigation and four years as the United States Attorney for the District of Connecticut.

Following his graduation from University of Connecticut School of Law in 1979, Judge Droney joined the Hartford firm of Day, Berry & Howard and was responsible for civil

matters such as personal injury defense, products liability, antitrust, and corporate disputes. In 1981, Judge Droney joined the law department of Aetna Life & Casualty for a brief period (approximately eight months) working on investment matters. Following his time at Aetna, he joined the private law firm of Buckley & Santos (now Santos and Seeley, P.C.) in Hartford, which specialized in complex civil and criminal trial work. In 1984, Judge Droney joined the Hartford law firm of Reid & Reige, P.C., where he was a member of the trial department for nine years.

He was appointed United States Attorney for the District of Connecticut in 1993. President Clinton nominated Judge Droney on June 5, 1997, and the Senate voted 100-0 to confirm his nomination on September 11, 1997. As a U.S. District Judge, he has presided over approximately 3600 cases (89% criminal) and over approximately 60 trials. The American Bar Association's Committee on the Federal Judiciary has given him a unanimous Well-Qualified rating.

Cathy Bissoon is nominated to be United States District Judge for the Western District of Pennsylvania. Judge Bissoon graduated *summa cum laude* from Alfred University with a B.A. in 1990. In 1993, she earned her J.D. from Harvard Law School. Judge Bissoon began her career at Reed Smith in Pittsburgh, PA. After her first year at Reed Smith, Judge Bissoon clerked for Judge Gary Lancaster of the U.S. District Court for the Western District of Pennsylvania.

Following her clerkship, Judge Bissoon returned to private practice at Reed Smith. During her tenure at Reed Smith, Judge Bissoon worked primarily with employment and labor litigation.

From 2001 to 2007, Judge Bissoon served as the Director of Diversity at Reed Smith. From 2003 to 2004, she was the leader of the firm's employment practice group. From 2007 to 2008, Judge Bissoon continued to practice employment and labor law as the Director and Department head of the labor group at Cohen & Grigsby. In August 2008, the United

States District Court for the Western District of Pennsylvania appointed Judge Bissoon as a United States magistrate Judge. The American Bar Association's Committee on the Federal Judiciary has given Judge Bissoon a unanimous Qualified rating.

Mark R. Hornak is nominated to be United States District Judge for the Western District of Pennsylvania. Mr. Hornak graduated with a B.A. from the University of Pittsburgh in 1978, and with a J.D. from the University of Pittsburgh School of Law in 1981.

Mr. Hornak began his legal career as a clerk for Judge Sprouse on the Fourth Circuit. Since his clerkship, he has spent his entire career at Buchanan Ingersoll & Rooney. He practices labor and employment law, representing primarily employers and public agencies. He has also practiced media defense law and general civil litigation, and managed negotiations of collective bargaining agreements. He served as lead counsel in approximately 120 actions filed in courts

of record. He served as lead counsel on four cases tried to verdict, and co-counsel on two cases tried to verdict. The American Bar Association's Committee on the Federal Judiciary has given him a unanimous Well-Qualified rating.

Robert D. Mariani is nominated to be United States District Judge for the Middle District of Pennsylvania. He received his A.B., *cum laude*, from Villanova University in 1972, and his J.D. from Syracuse University College of Law in 1976. Mr. Mariani began his legal career by practicing labor, employment, commercial, real estate, civil and criminal law. During this time, Mr. Mariani also served as the Solicitor to the Scranton-Dumore Sewer Authority.

Beginning in 1980, Mr. Mariani dedicated himself to the exclusive practice of labor and employment law. His expertise includes collective bargaining, labor arbitration, and employee pension and benefits law under ERISA and the Internal Revenue Code. Mr. Mariani has practiced before federal and state courts, the NLRB, the EEOC, and the

Pennsylvania Human Rights Campaign. He also serves as counsel to the Northeast Pennsylvania School District Health Trust and the Berks County School District Health Trust. Thirteen public school entities and 13 unions selected him for this position in 1999. In addition to his practice, Mr. Mariani also serves as an arbitrator, where he resolves complex labor disputes through negotiation. He received a unanimous Well-Qualified rating from the American Bar Association's Committee on the Federal Judiciary.

Robert N. Scola, Jr. is nominated to be United States District Judge for the Southern District of Florida. Judge Scola earned his B.A. in 1973 from Stanford University and his J.D. from Boston College of Law in 1980. From 1980 to 1986, Judge Scola served as a prosecutor in state court. He began with misdemeanor cases and finished with prosecuting first degree murder and death penalty cases.

From 1986 to 1995, Judge Scola served as a criminal defense attorney. He practiced solo for most of this time. From 1992

to 1993, he joined two other attorneys in criminal defense. Judge Scola specialized in criminal defense in both state and federal court.

Governor Lawton Chiles appointed Judge Scola to his current position as a Circuit Judge for the 11th Judicial Circuit of Florida in and for Miami-Dade County in 1995. Since then, the Circuit has elected and re-elected him without opposition in 1996, 2002 and 2008. The Circuit Court is the highest trial level court in Florida and has jurisdiction over all juvenile, family and probate matters, including felony criminal and civil cases involving disputes of over $15,000. The Circuit Court also has jurisdiction over the appeals from county court cases, as well as certiorari review of local administrative decisions.

Judge Scola initially served in the Criminal Division and presided over a variety of felony cases from drug possession to first degree murder and death penalty trials. From 2001 to 2005 and 2009 to the present, he has served in the Family

Division, handling divorce, adoption, and domestic violence cases. Between 2005 and 2009, he served the Civil Division and handled a variety of civil cases from foreclosure to personal injury to medical malpractice and commercial disputes. Since 2001, Judge Scola has also served as an appellate judge for county court and administrative law cases. He serves on three judge panels approximately four times per year. Judge Scola received a unanimous Well-Qualified rating from the American Bar Association's Committee on the Federal Judiciary.

The Hon. Patrick J. Leahy
Chairman, Committee on the Judiciary
United States Senate
433 Russell Senate Bldg
United States Senate
Washington, DC 20510

February 21, 2011

Dear Chairman Leahy:

I write this letter in enthusiastic support of United States Magistrate Judge Cathy Bissoon's nomination to the United States District Court for the Western District of Pennsylvania.

I have had the privilege to know Judge Bissoon for nearly eight years. I first met Judge Bissoon while she was a leading partner at the international law firm of Reed Smith LLP. At that time, I was a first year law student at the University of Pittsburgh. My first encounter with Judge Bissoon took place when I received an award created by Judge Bissoon during her tenure as Director of Diversity of Reed Smith - the Reed Smith Fellowship. The Fellowship is an annual award given to one law student who has overcome economic and/or social adversity. Born to an elderly father and a completely blind mother with little financial resources, I faced significant obstacles in life. Despite my hard work in school, at times I could appear to be a little rough around the edges. It was Judge Bissoon that recognized my potential and awarded me the Fellowship for 2003. Fast forwarding to today, I am now a clerk for a United States District Judge and next year I will be clerking for a United States Court of Appeals Judge. I can say without hesitation, that without the leadership, vision, kindness and generosity of Judge Bissoon, I would not be where I am today.

Obviously I have every reason in the world to personally admire my friend and mentor. Yet, I write without partiality that Judge Bissoon exemplifies everything the United States and the Commonwealth of Pennsylvania could value in a United States District Judge.

First, it would be absurd to describe Judge Bissoon's academic and professional qualifications as anything other than impeccable. Allow me to just highlight just a few of these qualifications. Judge Bissoon received her B.A., *summa cum laude*, in political science from Alfred University where she was valedictorian of the College of Liberal Arts and Sciences, a Phi Kappa Phi National Honor Society member and a National Hispanic Scholar. Judge Bissoon received her J.D. from Harvard University, where she was also a National Hispanic Scholar. Early in her legal career, Judge Bissoon was a law clerk to the Honorable Gary L. Lancaster, current Chief Judge of the United States District Court for the Western District of Pennsylvania. Prior to her appointment as a United States Magistrate Judge, Judge Bissoon was one of Pennsylvania's leading labor and employment attorneys as a partner and the firmwide head of Reed Smith's Employment Group, before becoming director and group head of Cohen & Grigsby, P.C.'s Labor & Employment Practice Group. Judge Bissoon has real litigation experience, including extensive pretrial litigation and first-chair jury trial experience. Of

course, this impressive experience culminated in Judge Bissoon's appointment as United States Magistrate Judge in 2008. While the Pittsburgh legal community boasts many fine jurists in its ranks, for the above reasons and more, Judge Bissoon stands out as a shining star.

Second, a description of Judge Bissoon would be incomplete without mentioning her devotion to her community. In addition to her extensive mentoring and work in promoting inclusiveness and diversity in the legal profession, Judge Bissoon has served on such boards as the Pittsburgh Zoo and PPG Aquarium, the Phipps Conservatory, the Botanical Gardens and the Girl Scouts (even serving as a troop leader). Judge Bissoon remains in a never-ending quest to improve her community.

Third, in my observations of her work and through conversations with Judge Bissoon, I know she has all the tools to make a wonderful United States Judge. Foremost, Judge Bissoon is a decent, humble, fair and even-tempered individual. She cares very deeply for the Constitution, the sacred values it espouses, and has the utmost respect for the rule of law. Judge Bissoon's fervent belief in the crucial precepts that form the foundation of our Federal Courts is unwavering: faithful application of precedent, honest interpretation of our Constitution, statutes and regulations, a respect for procedural safeguards, and an unwavering impartiality in deciding cases. Her approach to the law is one that anyone can support, regardless of personal background or political affiliation.

Finally, it is important to note that the United States Senate has the opportunity to make some history by this confirmation. If confirmed, Judge Bissoon would be the first woman of color to become a United States District Judge in the Western District of Pennsylvania.

I cannot express enough wonderful things about this Judge, scholar, wife and mother of two daughters. Needless to say, I highly recommend Judge Cathy Bissoon to the United States District Court for the Western District of Pennsylvania and hope your Committee, and the full Senate, confirms her quickly.

Yours very truly,

Kevin L. Jayne
112 E. 7th Street, #12A
New York, New York

cc: Members of the Committee on the Judiciary
Hon. Robert P. Casey, Jr.
Hon. Patrick J. Toomey
Hon. Cathy Bissoon

Statement of Senator Joseph Lieberman to the Senate Judiciary Committee
Introduction of Judge Christopher Droney
Nominee to the to the United States Court of Appeals for the Second Circuit

June 22, 2011

Thank you, Chairman Leahy and Ranking Member Grassley, for allowing me to introduce a good friend and eminently qualified nominee, Judge Chris Droney of West Hartford, Connecticut, at his confirmation hearing.

Let me begin by saying that Chris and his wonderful family--his lovely wife Liz and three accomplished daughters, Sarah, Emily, and Katherine--have been dear friends of mine for a very long time. I have had the pleasure of getting to know them and

watching them grow over the years as Chris's career has prospered.

About 13 years ago, in 1997, I spoke before this committee in support of Chris's nomination to serve as U.S. District Judge for the District of Connecticut. At that time, I commented that Chris was young enough then that I would look forward to continuing in this process as he rises within the court system. Surely enough, Chris has made an outstanding district court judge, and it is an honor for me to once again speak on his behalf following his recent nomination to Second Circuit Court of Appeals.

I commend President Obama for his decision last month to nominate Chris to serve on the Second Circuit. It is notable

that Chris was confirmed unanimously by the Senate in 1997 after President Clinton nominated him to the district court. I expect a similar result this time around, though I have noticed that these judicial nominations have become more partisan in recent years.

Since joining the federal bench 13 years ago, Judge Droney has presided over hundreds of federal civil and criminal trials. I can't imagine many other nominees who are more experienced and more qualified for this promotion than him. And I can say with confidence that he has demonstrated a profound commitment to the rule of law that has earned him widespread respect among lawyers practicing in the federal courts.

If you don't mind, I would like to take a few additional minutes to walk through Judge Droney's background to show exactly how qualified he is. During his 13 years as a district judge, Judge Droney has served on Second Circuit panels numerous times and written opinions for that court on topics as varied as antitrust law, criminal procedure, and federal labor law. He has also argued before the Second Circuit, both as a private lawyer and later as the U.S. Attorney for Connecticut. We don't see this often with judicial nominees, but Judge Droney also has some political experience. He served on the Town Council of West Hartford, as Deputy Mayor from 1983 to 1985, and as Mayor from 1985 to 1989.

As I mentioned, before his first judicial appointment, Judge Droney served as the U.S. Attorney for the District of

Connecticut from 1993 to 1997. In that capacity, he initiated new cooperative law enforcement efforts against gangs, health care fraud and financial fraud, in addition to personally trying some major cases in Connecticut and across New England and successfully arguing cases before the Second Circuit Court of Appeals. He was selected by then Attorney General Janet Reno to serve on the Attorney General's Advisory Committee of U.S. Attorneys in 1997, in which he was one of 17 U.S. Attorneys selected to assist the Department of Justice and Attorney General Reno on a range of pressing matters.

I am pleased that Judge Droney's nomination is proceeding through the confirmation process, and I look forward to working with you and the rest of our Senate colleagues to achieve his confirmation to the Second Circuit Court of Appeals.

It will be important for colleagues from both sides of the aisle to vote in favor of Judge Droney's confirmation, just as the Senate did in 1997. If confirmed, he will fill the last judicial vacancy on the Second Circuit – a vacancy which the Administrative Office of the U.S. Courts has declared to be an emergency vacancy.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CHAMBERS OF
FEDERICO A. MORENO
CHIEF U.S. DISTRICT JUDGE
UNITED STATES COURTHOUSES
THIRTEENTH FLOOR
400 NORTH MIAMI AVENUE
MIAMI, FLORIDA 33128

July 21, 2011

Senator Harry Reid
522 Hart Senate Office Building
Washington, DC 20510

Re: Nominations of Kathleen Williams and Robert Scola to the U.S. District Court for the Southern District of Florida

Dear Senator Reid,

As Chief Judge of the United States District Court for the Southern District of Florida, I urge you to expedite the Senate's confirmation of Kathleen Williams and Robert Scola to the positions of district judges in our district. I understand that the Judiciary Committee has sent both nominations by unanimous voice vote and is awaiting a vote by the full Senate. Ms. Williams, our district's Federal Public Defender, has been awaiting confirmation for the longest period of any present nominee to the district court in the entire country. State Judge Robert Scola's nomination is of a more recent vintage but the litigants are eagerly awaiting his confirmation.

The judgeship Ms. Williams has been nominated to fill has been vacant for two years! At the present time, our district has three vacancies. Unfilled positions in our Court present an undue hardship on the citizens residing in the Southern District of Florida, particularly those with cases pending in the affected division of the Court. Our district is huge and heavily populated. It includes the most populous counties in Florida, Miami-Dade, Broward (where Fort Lauderdale is located) and Palm Beach Counties. The district also includes Monroe, St. Lucie, Highlands, Okeechobee, Martin, and Indian River Counties.

We have been laboring under a judicial shortage for quite some time. The Judicial Conference of the United States has for the past several years annually recommended to Congress three additional permanent judgeships and to convert one temporary judgeship into a permanent one.

This shortage is exacerbated by the fact that we are one of the busiest district courts in the nation. Our district had 10,556 new filings in both criminal and civil cases in 2010, an increase of 6.7% over the year 2000. The latest national statistics (FY 2010) are attached and show that our district is first in "weighted filings" in the Eleventh Circuit.

In sum, the judicial shortage with three vacancies in our district is becoming acute. For this reason, I ask your assistance in expediting both confirmations. The Judiciary Committee has found the nominees qualified and the people of South Florida eagerly await their service.

Please call me if I can provide any additional information. I thank you in advance for your consideration of this important matter.

Sincerely,

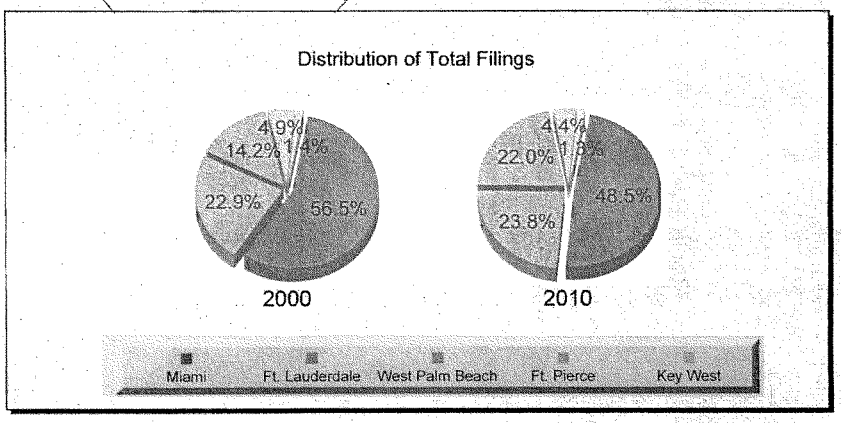
Federico A. Moreno
CHIEF U.S. DISTRICT JUDGE

encl.

c: Senator Bill Nelson
Senator Marco Rubio

Statistics....Total Filings

Civil and Criminal Filings by Division
Fiscal Year (Oct 1 - Sep 30)



	Civil Filings			Criminal Filings			Total Filings		
	2000	2010	Change	2000	2010	Change	2000	2010	Change
Miami	4,535	4,195	-7.5%	1,056	925	-12.4%	5,591	5,120	-8.4%
Ft. Lauderdale	1,904	2,175	14.2%	363	333	-8.3%	2,267	2,508	10.6%
West Palm Beach	1,240	2,148	73.2%	168	174	3.6%	1,408	2,322	64.9%
Ft. Pierce	411	373	-9.2%	74	95	28.4%	485	468	-3.5%
Key West	98	105	7.1%	44	33	-25.0%	142	138	-2.8%
District	8,188	8,996	9.9%	1,705	1,560	-8.5%	9,893	10,556	6.7%

Notes: Includes original and reopen filings. Excludes misc. filings.
Sources: CM/ECF; Administrative Office of the United States Courts. (2000,2010). Data File Exchange. Tables: C, D.
http://jnet.ao.dcn/Statistics/Data_File_Exchange.html

U.S. DISTRICT COURT -- JUDICIAL CASELOAD PROFILE

FLORIDA SOUTHERN			12-MONTH PERIOD ENDING SEPTEMBER 30						NUMERICAL STANDING WITHIN U.S. CIRCUIT	
			2010	2009	2008	2007	2006	2005		
OVERALL CASELOAD STATISTICS	Filings*		10,930	10,639	9,926	9,011	8,511	9,097		
	Terminations		10,856	10,775	9,506	9,362	8,979	9,463		
	Pending		5,803	5,703	6,035	5,563	6,538	6,948		
	Percent Change In Total Filings Current Year		Over Last Year. . .	2.7					42	4
			Over Earlier Years. . .		10.1	21.3	28.4	20.1	9	1
	Number of Judgeships		18	18	18	18	18	18		
	Vacant Judgeship Months**		13.0	7.1	.0	.0	.0	.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	607	591	551	500	473	505	13	2
		Civil	500	480	434	393	373	397	7	2
		Criminal Felony	86	89	97	88	76	87	32	3
		Supervised Release Hearings	21	22	20	19	24	21	61	6
	Pending Cases		322	317	335	309	363	386	66	7
	Weighted Filings**		668	595	593	549	501	525	8	1
	Terminations		603	599	528	520	499	526	13	2
	Trials Completed		26	29	27	22	19	20	21	3
MEDIAN TIMES (MONTHS)	From Filing to Disposition	Criminal Felony	5.3	5.5	5.5	5.6	5.8	5.8	7	1
		Civil**	3.9	4.3	4.6	5.0	6.7	6.6	1	1
	From Filing to Trial** (Civil Only)		16.9	15.7	15.6	17.9	16.3	16.7	7	1
OTHER	Number (and %) of Civil Cases Over 3 Years Old**		63 1.3	73 1.6	474 10.0	618 13.7	962 16.9	902 14.9	4	2
	Average Number of Felony Defendants Filed per Case		1.6	1.5	1.5	1.6	1.6	1.5		
	Jurors	Avg. Present for Jury Selection	43.90	47.72	46.27	46.56	49.48	41.83		
		Percent Not Selected or Challenged	21.2	23.1	22.4	26.2	26.9	21.7		

FOR NATIONAL PROFILE AND NATURE OF SUIT AND OFFENSE CLASSIFICATIONS SHOWN BELOW -- OPEN THE FOLD-OUT PAGE AT THE BACK COVER

2010 CIVIL AND CRIMINAL FELONY CASE FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	8996	178	1268	1113	90	91	1427	1411	864	297	791	31	1435
Criminal*	1535	38	280	302	135	516	39	57	33	23	26	50	36

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do no
** See "Explanation of Selected Terms."

The Southern District of Florida

Wilkie D. Ferguson, Jr. Courthouse– Miami

James Lawrence King Federal Justice Building– Miami

C. Clyde Atkins Courthouse—Miami

Sidney M. Aronovitz Courthouse— Key West

U. S. Courthouse - Fort Pierce

U. S. Federal Building and Courthouse—Fort Lauderdale

Paul G. Rogers Federal Building and Courthouse—West Palm Beach

The Southern District of Florida (SDFL) has long been one of the busiest Federal trial courts in this country. Stretching over 300 miles, from Fort Pierce in the north to the nation's southernmost point in Key West, the Court's bench includes 18 authorized District Judge positions; 6 Senior District Judges; 16 Magistrate Judge positions; and 3 recalled Magistrate Judges in 2010. The Court convenes court in five divisions—Miami, Fort Lauderdale, West Palm Beach, Fort Pierce and Key West-and maintains full-time staff in each.

The Southern District's Judges are supported by over 160 full-time Clerk's Office employees and over 100 chambers staff. The duties of this dedicated work force involve a broad spectrum of service ranging from operational activities, including case processing and courtroom support, to administrative services such as budget and financial activities. Because the efficient functioning of a court this size requires a wide variety of professional support, a full cross-section of professional disciplines is represented. Our staff includes lawyers, who directly assist chambers; linguists, who provide interpreter services in a wide variety of languages; computer technicians, who support all aspects of court automation; architects, engineers, and mechanics, who plan, maintain, and support the Court's facilities; and other highly-skilled professionals. All Court staff, wherever assigned, work closely with other governmental agencies and participants in the criminal justice system to provide necessary support services for the prompt and efficient handling of court matters.

With the help of this diversely skilled work force, the Court processed 1560 new criminal case filings involving than 2484 criminal defendants, and 8996 civil case filings during 2010. The Southern District's caseload reflects not only the increasing population of South Florida, but also the diversity and uniqueness of the communities it serves. In addition to one of the most complex criminal caseloads in the country, the Southern District also has a unique mix of civil and international litigation stemming from its geographic location as a gateway to the Caribbean and South America. The Court's docket has also included internationally notorious criminal and civil cases with social and political overtones.

COMMITTEE ON THE JUDICIARY

ELIZABETH DONOGHUE
CHAIR
15 MAIDEN LANE, 17TH FLOOR
NEW YORK, NY 10038
Phone: (212) 349-3000
Fax: (212) 587-0744
edonoghue@hmgdjlaw.com

PETER M. KOUGASIAN
VICE CHAIR
80 CENTRE STREET, ROOM 624
NEW YORK, NY 10013
Phone: (212) 815-0495
Fax: (212) 815-0498
pkougasian@specnarc.org

STEPHEN S. MADSEN
VICE CHAIR
825 EIGHTH AVENUE, 41ST FLOOR
NEW YORK, NY 10019
Phone: (212) 474-1886
Fax: (212) 474-3700
smadsen@cravath.com

MIRIAM M. BREIER
SECRETARY
156 FIFTH AVENUE, SUITE 600
NEW YORK, NEW YORK 10010
Phone: (212) 791-3900
Fax: (646) 649-9650
mmb@bdulaw.com

STEPHANIE G. WHEELER
SECRETARY
125 BROAD STREET
NEW YORK, NY 10004
Phone: (212) 558-7384
Fax: (212) 291-9166
wheelers@sullcrom.com

ELIZABETH DORFMAN
ADMINISTRATIVE ASSISTANT
42 W. 44TH STREET
NEW YORK, NY 10036
PHONE: (212) 382-6772
Fax: (212) 869-2145
edorfman@nycbar.org

June 14, 2011

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

We are pleased to inform you that the Committee on the Judiciary of the New York City Bar has found the Honorable Christopher Droney APPROVED for appointment to the United States Court of Appeals for the Second Circuit.

Very truly yours,

Elizabeth Donoghue
Chair

Statement of Senator Marco Rubio

I want to thank Senator Blumenthal for allowing me the opportunity to introduce Judge Robert Scola, who has been nominated by the President to serve as a District Court Judge for the Southern District Court of Florida. He is joined here today by his loving family. Jacqueline, his wife, a respected Judge from Florida's 11th Judicial district, Robert, his eldest son, a recent graduate from Tufts University, and his youngest son, Billy, an accomplished track runner from Ransom Everglades High school. Welcome, I know this must be a proud moment for all of you.

The process of nominating judges is very serious. Under Article II of the Constitution, the role of the Senate is to "Advise and Consent" to the President's nominations. This power allows the committee to look at judges who will uphold the laws enacted by Congress, and more importantly uphold the Constitution as intended by its framers. Ultimately, Judges are expected to use judicial restraint, as their rulings have the opportunity to influence our day to day lives.

I know each of you will have questions for Mr. Scola and will give his nomination the attention and consideration that it deserves. Mr. Scola is an intelligent and accomplished individual. He has extensive experience as an attorney in South Florida and has a lengthy record of service in the community.

Judge Scola, attended Brown University for undergraduate studies and Boston College School of Law, where he graduated with honors. Judge Scola began his legal career working as an Assistant State Attorney in Miami-Dade County, rising to the position of Deputy Chief Assistant for the Major Crimes division.

Judge Scola entered the private practice in 1986.

He was elected to serve as a Judge on Florida's Eleventh Judicial Circuit in 1995 and continues to hold that position today. During his time on the bench, and has presided over Criminal, Civil, and Family matters. Judge Scola is well regarded by the local legal community.

He received the "Justice of the Year Award" from both the League of Prosecutors and the Florida Association of Criminal Defense Lawyers. He also received Florida's Bar "Commission of Professionalism Award" for exhibiting the highest principals of professionalism on the bench.

Judge Scola is also an Adjunct Professor of Law at Florida International University College of Law and the University of Miami School of Law where he teaches litigations skills.

Robert Scola has the legal experience to make an exemplary U.S. District Court Judge for the Southern District of Florida. I am honored to introduce him today, and he has his family here with him today, for which I am sure he will proudly introduce to the committee.

Thank you for giving this nomination full consideration.

STATE ATTORNEY
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
E. R. GRAHAM BUILDING
1350 N.W. 12TH AVENUE
MIAMI, FLORIDA 33136-2111

HERINE FERNANDEZ RUNDLE
STATE ATTORNEY

TELEPHONE (305) 547-0100
www.MiamiSAO.com

JUL 6 '11 PM 2:39

June 13, 2011

The Honorable Michael Lee
United States Senator
316 Hart Senate Office Building
Washington, DC 20510

Re: Nomination of Judge Robert N. Scola, Jr. for
United States District Court Judge, Southern District of Florida

Dear Senator Lee:

I am writing to strongly recommend Judge Robert N. Scola, Jr. for the position of United States District Court Judge for the Southern District of Florida. Judge Scola was recently nominated and *is awaiting a hearing before the Senate Judiciary Committee.*

I have served as the State Attorney for Miami-Dade County for the past 18 years and have known Judge Scola for over thirty years. He and I worked together as young prosecutors in this office. Judge Scola quickly rose through the ranks to become a Major Crimes Prosecutor and the Chief of the entire felony division of the office. He successfully prosecuted dozens of homicide cases and tried over 25 homicide cases, including five death penalty cases.

After being appointed to the bench in 1995 Judge Scola has earned a well-deserved reputation as one of our finest trial judges. He has consistently been rated among the most qualified judges in judicial Bar polls and has received several awards for his judicial service, most notably the *Justice Award* from the League of Prosecutors. He is a fair-minded judge who has demonstrated an ability to follow the law. He has imposed the death penalty against two defendants who killed a police officer in the line of duty and his sentences were upheld by the Florida Supreme Court.

I believe Judge Scola will make an excellent federal judge and ask that you support his nomination and confirm him as quickly as possible. The citizens of Miami-Dade County would be well-served by his speedy confirmation.

Sincerely,

Katherine Fernandez Rundle
State Attorney

NOMINATION OF MORGAN CHRISTEN, OF ALASKA, NOMINEE TO BE CIRCUIT JUDGE FOR THE NINTH CIRCUIT; SCOTT W. SKAVDAHL, OF WYOMING, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF WYOMING; SHARON L. GLEASON, OF ALASKA, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF ALASKA; YVONNE GONZALEZ ROGERS, OF CALIFORNIA, NOMINEE TO BE DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA; AND RICHARD G. ANDREWS, OF DELAWARE, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE

WEDNESDAY, JULY 13, 2011

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 2:35 p.m., in room SD–226, Dirksen Senate Office Building, Hon. Christopher A. Coons, presiding.

Present: Senators Coons, Feinstein, Franken, Grassley, and Hatch.

Senator COONS. Good afternoon, everyone. I am pleased to call to order this nominations hearing of the Senate Committee on the Judiciary. I would like to welcome each of the nominees, their families, friends, and supporters to the U.S. Senate and congratulate them on their nominations. I would also like to welcome those of my colleagues who are here to introduce several of the nominees today.

Due to the large number of home State Senators here to give introductions, I will hold off on my opening statement until the introductions are complete. Today we will hear introductions by each nominee's home State Senators from each delegation in order of their seniority. I know that my colleagues' schedules are quite demanding, so please do feel free to leave if you so choose after you have concluded your introductions.

Following opening statements and introductions, each of the nominees will be permitted to give an opening statement, and I en-

courage them to also recognize their loved ones and supporters when their respective panels are called.

We will begin, therefore, with Hon. Yvonne Rogers, who is nominated to be a district judge for the Northern District of California, and I will invite Senator Feinstein to proceed.

PRESENTATION OF YVONNE GONZALEZ ROGERS, NOMINEE TO BE DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, BY HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman. It is a great pleasure for me to introduce and express my support for Judge Yvonne Gonzalez Rogers whom the President nominated to be a United States District Judge for the Northern District of California. She is a well-regarded judge with a proven record of success and dedication in Northern California. Her nomination is also historic. She will be the first Latina district judge for the Northern District of California.

Judge Gonzalez Rogers has been screened and recommended to me by a bipartisan screening selection Committee that I have used these past 18 years. This Committee reviews candidates for their legal acumen, professionalism, breadth of personal experience, judicial temperament, and overall commitment to excellence in the field of law. And so Judge Gonzalez Rogers stood out because of her impressive record, her life of service, and her dedication to her community. She also has Senator Boxer's strong support as well.

Judge Gonzalez Rogers represents an American success story. Her parents were each the eldest of nine siblings and grew up in South Texas, and Spanish was their first language. Her father served in the United States Army and went to college with assistance from the GI bill. Of her parents, her 16 aunts and uncles, and their children, Judge Gonzalez Rogers is one of only three family members to attend college.

Her path in life has been extraordinary, rising from modest beginnings to graduating from one of the best universities in the country—Princeton. During school breaks and weekends, she worked cleaning houses and cutting grass to help pay her tuition. She took pride in the callused hands she got doing that work.

She excelled at Princeton, graduating cum laude. She then went on to attend two of the best public law schools in the country: the University of Texas at Austin and the University of California at Berkeley. She began the practice of law at the prestigious San Francisco firm Cooley LLP, where she had a distinguished career in private practice and continued to break down barriers. When she began practicing, no Latina woman had been elected into the partnership ranks of any major San Francisco law firm. She worked her way up the ranks, starting as a young associate in complex litigation in 1991. In her own words, she worked hard to break that mold by becoming an excellent attorney worthy of invitation to the partnership.

Over years of litigating complex cases, she did just that. By all accounts, she was intelligent, balanced, reasonable, and represented her clients extremely well. She built a sterling reputation as an attorney and was elected to Cooley's partnership in 1998.

In 2003, she took time away from the practice of law to devote time to her children, who I believe are here today. Judge Gonzalez Rogers and her husband, Matt, have three young children—Christopher, 16; Maria, 12; and Joshua, 10—and they are very excited not only to support their mother's nomination, but also to tour the Capitol tomorrow.

So even while away from the practice of law, Judge Gonzalez Rogers has remained passionately dedicated to her community. For example, she served as the foreperson of the Alameda County civil grand jury. Now, in Alameda, the civil grand jury is an active, investigative division of the county court system that holds the county government accountable. As foreperson, Judge Gonzalez Rogers oversaw all of the grand jury's investigations, including major reviews of the county hospital system and the county office of education. In addition, she served as a pro tem judge on the superior court, sitting in for absent judges and providing mediation assistance in civil cases, often managing over 100 cases a day.

She also worked hard as a strong advocate for Piedmont Public Schools. As the co-chair of Citizens for Piedmont Schools, Judge Gonzalez Rogers helped lead a campaign to pass funding measures for the local public schools. The campaign was successful, passing those measures with over 80 percent of the votes each. That is pretty rare in California.

She also committed herself to being directly involved in her children's schools, serving on the PTA of Piedmont Middle School as president of the Wildwood Elementary School Parent Board. As a former mayor, I know how valuable it is for members of the community to contribute to making your community a better place, and I would like to applaud Judge Gonzalez Rogers' extraordinary record of service.

In 2008, the California Governor, Arnold Schwarzenegger, appointed her to be a judge of the Alameda County Superior Court. The president of the State bar praised her nomination, saying, "There are certain skills they look for in a judge: be well prepared, a good listener, have good judgment, and be decisive." She demonstrates all of those skills.

So by all accounts that I can find, she has been an outstanding superior court judge, handling substantial criminal and civil caseloads. And during the past few years, she has presided over a criminal calendar, conducted over 30 jury trials, and hundreds of hearings on all kinds of civil cases. She oversees a civil docket now of more than 500 civil cases. So she has a great record. She has the breadth of experience in private practice. She has been on the bench, and she has served in public service, and she is prepared to hit the ground running as a Federal judge.

So I hope that you will agree with me, Mr. Chairman. I believe she will be a fine addition to the Federal bench, and I urge my colleagues to support her nomination.

Thank you, Mr. Chairman.

Senator COONS. Thank you very much, Senator Feinstein.

Next we welcome Hon. Scott Skavdahl. Judge Skavdahl currently sits as a magistrate judge of the District of Wyoming, and he is nominated to serve as a district judge on that same court, and both

of his home State Senators are here to offer introductions and encouragement, and I invite Senator Enzi to proceed.

PRESENTATION OF SCOTT W. SKAVDAHL, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF WYOMING, BY HON. MICHAEL B. ENZI, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator ENZI. Thank you, Mr. Chairman. I am pleased to have the opportunity to introduce Judge Scott Skavdahl, who has been nominated by the President to serve as a judge for the United States District Court for the District of Wyoming. His nomination was submitted by our Governor Freudenthal, who is a Democrat, and is supported by both Senators, as is demonstrated by the two of us being here to introduce him. I want to thank the Chairman and Senator Grassley and all the staffs for scheduling this hearing and Senator Coons for chairing this hearing and getting it done so promptly.

While Judge Skavdahl grew up in Harrison, Nebraska, he has established deep roots in Wyoming. He first moved west to our great State to play football for the University of Wyoming, where he received his undergraduate degree and law degree. He walked onto the team and played Division I football after graduating from a high school of less than 50 students. While others might have been discouraged or intimidated, Scott committed and played for the Cowboys for 4 years.

Judge Skavdahl has been described as an incredibly smart and hard-working attorney and judge. Between his time in private practice and his service on the judicial bench, he knows the issues that face the people of Wyoming. I have heard nothing but good things about his approach to the law and his demeanor as a judge. The judge has lengthy experience already as a judge, making him uniquely qualified for this position. He is currently a full-time magistrate judge for the District of Wyoming and served as a judge on the Seventh Judicial District Court in Casper, Wyoming, from 2003 to 2011. The judge has also served as a part-time United States magistrate judge from 2001 to 2003.

From 1994 to 1997, he served as a judicial law clerk to Chief Judge William F. Downes of the United States District Court for the District of Wyoming. He is now poised to fill Judge Downes' seat. Through his experience, Judge Skavdahl already knows the administrative ins and outs of the District of Wyoming.

I also want to mention how important this judgeship is to Wyoming. While Senators disagree at times about specific nominees, we can all agree that without judges in place, our legal system slows down and does a disservice to the people we represent. Judge Downes announced his retirement nearly a year ago with the hopes that his seat would not remain vacant and that the nomination process would run efficiently. I am pleased the Senate Judiciary Committee is moving quickly and thoroughly on this nomination, and I appreciate the Committee's time and look forward to your approval of the nomination of this judge.

Senator COONS. Thank you, Senator Enzi.

Senator Barrasso.

PRESENTATION OF SCOTT W. SKAVDAHL, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF WYOMING, BY HON. JOHN BARRASSO, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator BARRASSO. Thank you very much, Mr. Chairman. Thanks for allowing me the opportunity to join my colleague Senator Enzi in supporting Scott Skavdahl's nomination to be the United States District Judge for the District of Wyoming. As Senator Enzi has said, Scott came to Wyoming, played football for 4 years at the university, and I can personally attest to his orthopedic injuries.

[Laughter.]

Senator BARRASSO. He graduated from the University of Wyoming College of Law, and in the 19 years since his graduation, he had distinguished himself both as an attorney and as a trial judge. He worked in private practice. He clerked for U.S. District Judge Bill Downes and then was appointed by former Governor Dave Freudenthal to serve as a district court judge for Wyoming's Seventh Judicial District.

In Wyoming, district court judges are required to stand for retention every 6 years. Judge Skavdahl was up for retention in 2010. Prior to the November election, members of the Wyoming State Bar were surveyed on their views of sitting judges, and the results of the survey are very telling about Judge Skavdahl. He exceeded the average score of all judges in every single category. He was recognized by members of the bar for his integrity and his ethics to carry out his duties, for his reasoned decisions, for the manner in which he conducts himself in the courtroom, for being prepared, and for his knowledge of the law. Ninety-six percent of the attorneys surveyed supported the retention of Judge Skavdahl. In November, the voters agreed with the findings of the Wyoming Judicial Advisory Panel by overwhelmingly retaining Judge Skavdahl.

So, Mr. Chairman, you have before you an outstanding individual in Scott Skavdahl. He is an excellent choice to fill the seat of retiring Federal Judge William Downes. Judge Skavdahl is joined here today by his wife, Cidne; their daughter, Caitlyn; and his father, John.

Thank you, Mr. Chairman.

Senator COONS. Thank you, Senator Barrasso, and thank you to both Senators from Wyoming.

I am proceeding now in order of seniority. I would like to invite Senator Carper to introduce our nominee from the State of Delaware, Rich Andrews.

PRESENTATION OF RICHARD G. ANDREWS, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE, BY HON. THOMAS R. CARPER, A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator CARPER. Thanks, Mr. Chairman. This reminds me of the last time, about a year or so ago, we had a hearing for another fellow who was nominated to be a district court judge in Delaware, and the person presiding that day was your immediate predecessor, Ted Kaufman, and I had the privilege of introducing our nominee. You may recall that in the audience that day was the legendary

University of Delaware professor Jim Soles who has recently passed away. So we had not only the nominee here, but both Senators, one presiding and one introducing, and the mentor, if you will, lifelong mentor for the nominee in the audience. That was a very special day. This is a special day, too, and I am pleased to present to this Committee our nominee for the district court vacancy.

Before I start, I just want to say to the other nominees that are here in the room, whether they might be from Alaska, whether they might be from Wyoming, but interestingly enough, these are three at-large States where we have more Senators—we all have more Senators than we have Representatives, and then also our nominee from California. Just a special thanks to our nominees for your willingness to serve and to your families for your willingness to share your husband or your wife or your mom or your dad with the people of this country.

Last year, I was pleased to provide the President with the names of three superbly qualified Delawareans for him to consider for the open seat in the U.S. District Court in Delaware. I believe any one of them would have made excellent additions to the court, and all of them uphold the high regard in which this court is held. As the Chairman knows, we have four judgeships on that court, and we have had—for some period of time, we actually had only two people serving. Now we are back up to three, and hopefully we will soon be at four.

The President has made, I believe, a strong choice in nominating Richard G. Andrews for this judicial appointment. Again, I believe our Nation is fortunate and our State if fortunate having someone with his outstanding credentials who stepped forward to do this important work.

Mr. Andrews' education, his background, and his legal experience make him superbly qualified for this position. I kid him. He was unable to get into Ohio State as an undergraduate, but he did get into Haverford, which is not a bad school, right across the line from us in Delaware. He graduated at a Bachelor of Arts in political science. Then he earned his law degree at the University of California in Berkeley where he served as note and comment editor for the California Law Review. I asked him, I said, "Is that some kind of gossip column, the note and comment editor for the California Law Review?" He insists it was a legitimate position and a real job and one that was sought after. I am sure it was.

But after law school, Rich Andrews launched his career as a clerk for the legendary Collins J. Seitz, who was the chief judge of the Third Circuit Court of Appeals, a revered name in our State, as our Chairman knows.

Following his clerkship, for 23 years Rich Andrews served as a prosecutor in the U.S. Attorney's Office in Wilmington, Delaware, serving in a number of high-profile positions and eventually rising to the position of Assistant U.S. Attorney. As Senator Coons knows, in addition, on three separate occasions Rich Andrews stepped up to serve as Acting U.S. Attorney when the incumbent had resigned. I like to kid him and say he has probably served more time as the Interim U.S. Attorney than some people have served as U.S. Attorney. So he got just really a wealth of experience there.

During his time with the U.S. Attorney's Office, Rich prepared and prosecuted countless Federal cases—and I think he told me how many, but it is a huge number—and in so doing gained wide-ranging trial experience that he will draw upon heavily while serving as a district court judge, if confirmed.

Currently Rich Andrews serves as a State prosecutor for the Delaware Department of Justice where he manages the criminal division, oversees more than 70 deputy attorneys general, makes critical decisions about how to proceed in high-level criminal cases. He is also the supervisor there for State Attorney General Beau Biden. I said that with a smile. But he is a senior guy on the Attorney General's team.

In his free time Rich Andrews has coached for the Concord Soccer Association of Delaware for more than a decade, and I understand that Rich has also spent the last 4 years grading answers for the Delaware Bar exam. I say, for you no purgatory, straight to heaven, Rich.

[Laughter.]

Senator CARPER. Finally, in addition to his professional experience, Rich is a family man and a person of great character. He is joined today by his wife, Cathy Lanctot. Cathy is sitting right behind him over there, and Cathy is in the green. And Cathy is—I said, "What kind of name is that, Lanctot? You do not see that name every day." And she says it is French Canadian, so bienvenue. Cathy is associate dean and professor of law at the Villanova University. And when he testifies here today at this table, if you watch carefully, you can see her lips move. In the case of my family, my wife is far brighter than me, and he married up as well.

Their son, Peter, will be a rising sophomore at Columbia University. Their daughter, Amy, will be a senior, and she is also the student council president at Mount Pleasant High School, a place that our Chairman knows well, and a place where I literally run every Sunday morning. It is one of the places I run when I go out for a run early Sunday mornings. So I feel like I am a Green Knight along with her, but she is not just any student there. She is the leader of the student body, elected by her peers.

In every facet of his life, Rich Andrews has performed with distinction, and let me just conclude by saying that I am proud to have the privilege of introducing someone who has provided and who will continue to provide exemplary service for the people of our State and Nation. His sound legal judgment, his tireless work ethic, and his experience as a Federal prosecutor have prepared Rich Andrews well to fill this seat on the U.S. District Court in Delaware, and I urge our colleagues on this Committee and in the Senate as a whole to move quickly on his confirmation.

I thank you for this opportunity to introduce him today, Mr. Chairman and colleagues.

Senator COONS. Thank you, Senator Carper.

If I might, I will briefly add to your comments of introduction of the nominee.

Senator CARPER. You may want to correct parts of it.

Senator COONS. I may be tempted, but the record I think will stand for itself, particularly with regard to the location of your Sunday morning running habits.

Rich Andrews is, as you have heard at length from Senator Carper, a distinguished public servant in Delaware who has served us 30 years, and in his current role as State prosecutor, someone who has led both policy formation and supervised literally tens of thousands of prosecutions in Delaware's State court system. He has tried 50 felony jury cases and argued 17 cases before the Third Circuit Court of Appeals. He has in my view all the qualities that will make an outstanding district judge in any court, but his familiarity in particular with Delaware, its legal community, its long tradition of decency and civility makes him in my view an ideal candidate for the District Court of Delaware.

I simply will close by saying that Rich in my view has established himself as a talented, dedicated, and humble public servant who possesses a strong work ethic and the highest integrity and intellect, and we are grateful he will have the opportunity, God willing and the Senate acting, to continue to serve the people of our great State as a district court judge, and I join Senator Carper in welcoming Cathy, Peter, and Amy as well.

Thank you, Senator Carper, for introducing Rich Andrews to our panel today.

Finally, we welcome Hon. Morgan Christen and Hon. Sharon Gleason. Judge Christen is nominated to be a circuit judge for the Ninth Circuit Court of Appeals, and Judge Gleason is nominated to be a district judge for the District of Alaska. Judge Christen and Judge Gleason will be introduced today by their home State Senators, Senator Murkowski and Senator Begich.

Senator Murkowski, please proceed.

PRESENTATION OF MORGAN CHRISTEN, NOMINEE TO BE CIRCUIT JUDGE FOR THE NINTH CIRCUIT, AND SHARON L. GLEASON, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF ALASKA, BY HON. LISA MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman. It is not very often that I get to come to the Judiciary Committee to introduce Alaskans to you, so today is a special treat. As Senator Carper said, it is a special day for Delaware as he made the introduction. It is not only special for Alaskans. Today is a historic day for us in Alaska.

We are a very young State. We are just a little over 50 years old as a State, and since Alaska was admitted as a State, only two Alaskans have served on the Ninth Circuit: Robert Boochever, who was appointed by President Carter back in 1980; and then Andrew Kleinfeld, appointed by President Bush in 1991. Both of these individuals are currently on senior status.

The President has nominated Justice Christen to succeed Judge Kleinfeld on the Ninth Circuit. Further, only ten individuals have served on the U.S. District Court for Alaska. None of those individuals on either court have been women. So while it is historic whenever a vacancy arises on either court, today's hearing is especially historic because, if confirmed, Morgan Christen and Sharon Glea-

son will be the first two Alaska women to serve on the Federal bench.

As a member of the Alaska Bar and as the senior Senator from Alaska, let me say that the President could not have nominated two more qualified individuals to fill these seats. And in saying that, I speak not only for myself but for also a broad segment of those who are involved in the justice system in Alaska. Both Justice Christen and Judge Gleason are products of the Alaska court system and won their positions through a merit selection process. That merit selection process was created by the Alaska Constitution. It was intended really to keep politics out of the judicial selection process. And we are very proud of that system.

Before an individual may serve on an Alaska court, he or she is broadly vetted by the Alaska Judicial Council, which is a nonpartisan and independent body consisting of citizen and attorney members. Every candidate is formally evaluated on issues like integrity, professional competence, fairness, judicial temperament, and suitability of experience. I think if you were to ask any Alaskan attorney about the rigor of this process, I think you would get pretty much the same answer. The grading is tough, and for those who are not up to the challenge, they are told no in no uncertain terms. But both Justice Christen and Judge Gleason have survived this selection process, and I think survived it most admirably.

I should point out that Justice Christen has survived this process now twice. Once before, she was appointed to the superior court by Democratic Governor Tony Knowles and again before, she was appointed to the Alaska Supreme Court by Republican Governor Sarah Palin. Now, if that does not speak itself to Justice Christen's exceptional integrity and competence for a judicial role, I would also point out to you that Justice Christen received the highest score of all candidates for the Supreme Court seat within that vetting process.

Under Alaska's system, State judges must stand for periodic retention elections. Prior to those elections, they are vetted once again by the Judicial Council through polls of peace and probation officers, jurors, social workers, fellow judges, and practicing attorneys. This information then provides the Judicial Council with an evidentiary basis to make a recommendation to the public on whether or not the judge should be retained.

I would note that Justice Christen and Judge Gleason have both participated in this very rigorous retention process, and each has been returned to the bench by the voters with an affirmative recommendation of the Judicial Council.

I have known Justice Christen for almost 25 years now. We graduated from law school just about the same time. We both clerked for the Alaska State court system at just about the same time. We have kept in touch over the years, and I have come to know her husband, Jim, and her family. I have appreciated that Justice Christen has been mindful of the separation of powers throughout her judicial career and mindful of the fact that her personal views have no bearing when it is time to determine what the rule of law is. And I know that we can expect her to continue in that vein when she moves to the Federal bench.

Judge Gleason was appointed to the Anchorage Superior Court by Governor Knowles back in 2001. She was last evaluated for retention by the Alaska Judicial Council in 2010. Her rating by each of the stakeholder groups polled as part of the Alaska Judicial Council's retention process was, again, among the highest of all the superior court judges in the State.

In 2009, when Morgan Christen was elevated to the Alaska Supreme Court, Judge Gleason was appointed to become the presiding judge of the Third Judicial District. That position is responsible for overseeing nearly 70 percent of the caseload of the entire State trial courts and includes 40 judges and 20 magistrates. Like Justice Christen, Judge Gleason is exceptionally well qualified to serve, and I strongly support her nomination.

I appreciate the opportunity again to speak to the Committee on behalf of two exceptional—exceptional—judges from the State of Alaska and would encourage confirmation through the process. Thank you.

Senator COONS. Thank you very much, Senator Murkowski.

Senator Begich.

PRESENTATION OF MORGAN CHRISTEN, NOMINEE TO BE CIRCUIT JUDGE FOR THE NINTH CIRCUIT, AND SHARON L. GLEASON, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF ALASKA, BY HON. MARK BEGICH, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator BEGICH. Thank you very much, Chairman Coons, Committee members. Thank you for the opportunity to join Senator Murkowski in introducing two of Alaska's finest judges who have been nominated for Federal appointments. I know both of these candidates quite well, have worked with them for years, and recommended both to President Obama for the positions he has nominated them for.

Let me start with Judge Christen. Morgan and I have known each other for more than a decade. I worked with her in her capacity as a judge and as a member of nonprofit boards. When I was elected mayor of Anchorage in 2003, she was the presiding judge for Alaska's Third Judicial District. It is there we worked especially closely together on a task force that I created to address gangs in south-central Alaska, our State's largest population center.

We also worked together to better coordinate the technology used by the municipality of Anchorage, the Anchorage Police Department, and the State of Alaska court system. From that work I can say without reservation that Judge Christen is a person of great integrity, ability, and compassion. She has built an excellent reputation in Alaska's legal circles for fairness, thoroughness, and sound professional judgment.

Alaska's judicial system is set up to be nonpartisan, and Morgan certainly is. Her fellow lawyers have given her the highest marks over the years, and she has the support of the Alaska public through her retention elections. To her credit, she is deeply committed to public service. As a lifelong Alaskan, I also appreciate that Judge Christen has traveled extensively in our State and knows its diversity. I am confident that Morgan will be an excellent judge on the Ninth Circuit Court of Appeals.

The Alaskan nominated for our State's U.S. district court, who will be on your second panel, is Judge Sharon Gleason. Like with Morgan, I know Sharon well. She was appointed to the Anchorage Superior Court by Governor Tony Knowles, who was my boss when he served as mayor of Anchorage. On the court Judge Gleason has presided over a large variety of cases, including complex civil litigation, divorce and custody proceedings, child-in-need-of-aid proceedings, and criminal cases.

After Judge Christen was nominated to the Alaska Supreme Court, Judge Gleason was appointed to become the presiding judge of the Third Judicial District. That position is responsible for overseeing nearly 70 percent of the caseload of the entire State trial courts. It includes 40 judges and 20 magistrates. Her record as a judge has been excellent. She is widely praised for her temperament, her fairness on the bench, and especially her pioneering work on behalf of families and children. For that work she was awarded the prestigious Light of Hope Award.

Sharon is active in her community and served on numerous legal committees. I think the way she relaxes is with her clarinet, and she has been playing in the Anchorage Symphony Orchestra for more than 25 years.

Mr. Chairman and Committee members, my only regret—and I know Senator Murkowski's regret, too—with recommending these two outstanding Alaskans is that Alaska's State courts will lose two of their finest when these two outstanding judges move to the Federal bench. But our Federal judiciary and our country will be much better off.

Thank you again for this opportunity to introduce two fine Alaskan judges.

Senator COONS. Thank you very much, Senators Murkowski and Begich. From your description it sounds as if Alaska has a remarkably thorough, nonpartisan, and effective means of selecting qualified and talented judges. As someone who had the honor of clerking for Judge Jane Roth on the Third Circuit, who also just happened to be the first woman on the Federal bench in Delaware and an incredible, outstanding judicial contributor to Delaware's legal culture for a generation, I am grateful to hear your introductions of the two outstanding nominees from Alaska. Thank you very much for joining us today.

I will now move, if I can, to a brief opening statement to be followed by Senator Hatch, and then we will proceed to our first panel, if we might.

STATEMENT OF HON. CHRISTOPHER A. COONS, A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator COONS. I am pleased to be here once again. I am pleased to be joined by Senator Hatch at our nominations hearing. I am especially pleased our Committee has Richard Andrews before us today, nominated to sit on the Federal trial court in my home State of Delaware, and I thank both Chairman Leahy and Senator Grassley for their cooperation in allowing this Committee to hear Rich Andrews' nomination today.

Nomination hearings are important. The positions to which all of our nominees today are seeking confirmation carry with them life-

time tenure. It is in my view important the Senate takes seriously its role to examine the qualifications, work ethic, and intelligence of our nominees. We serve as the final gatekeeper, and it is our role to ensure the Federal judiciary is staffed with capable, honest, and hard-working judges.

Another qualification we must examine in nominees is their temperament, for not every great attorney is appropriate to be a great judge. Great judging requires modesty and respect for the role that judges play in our system as arbiters of facts and the law rather than makers of policy. Judging also requires a certain degree of selflessness. Each of these candidates could no doubt make a much better living in another line of work, yet they choose to forgo a larger paycheck for their families in order to serve the broader public interest. Finally, in my view being a great judge requires some balance of empathy and evenhandedness—empathy to understand the situations and motivations of litigants who come before them, and evenhandedness to apply the law fairly and independently, regardless of any personal concerns of the outcome.

Just as serious as our obligations to scrutinize the nominations closely, however, is our obligation to consider the President's nominees expeditiously. It goes without saying judges are essential to our judiciary. Just as they seek a non-political office, we in this body ought not in my view play politics, to the extent possible, with nominations. There are 15 judicial nominees sitting on the executive calendar who were reported out of this Committee without dissent. Some have been awaiting action for 3 months, an unfortunate and difficult period of time. Candidates should be scrutinized and, when the conscience of a member demands it, even opposed. But where candidates have been scrutinized and no objection raised, I believe we owe it to them and the American people to act swiftly.

Because of the failure to reach some consensus on their consideration, litigants throughout this country, from Maine to New York, Missouri to Colorado, are receiving today slower and less justice in my view than they deserve. So the nominees before us today, it is my hope you will find this process fair and substantive. I can promise personally that I will consider your nominations on their merits and hope you will receive similarly fair and open treatment from all of my colleagues.

Senator Hatch.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Well, thank you, Mr. Chairman. I am pleased to support the Ranking Member, Senator Grassley, to participate with you in today's hearing.

I note that the current total of 90 judicial vacancies across the country is 10 percent below what it was at this time last year.

Now, this is the tenth judicial confirmation hearing so far this year, and these hearings have included a total of 42 judicial nominees—the busiest schedule during the comparable period under the last several Presidents, by the way.

The 24 district court nominees confirmed so far this year is the highest total during the comparable period under any President in American history.

I mention these facts only to say that while there are some real substantive differences about a handful of controversial nominees, I think we are making solid confirmation progress. I know that the Ranking Member and all Senators on our side are committed to making progress.

Mr. Chairman, we have before us today several nominees to the Federal district and appellate courts. I see they include a nominee to the U.S. district court in your State of Delaware with nearly a quarter century of experience as a Federal prosecutor.

I just want to welcome all of you nominees as well as your families and friends to the Judiciary Committee. I look forward to hearing from you, and we will proceed from that.

Thanks, Mr. Chairman.

Senator COONS. Thank you, Senator Hatch, and I agree with you that we are blessed to have a working partnership that is allowing us to continue to move forward with nominees. I just hope we will continue to sustain the current pace.

Now I would like to ask Justice Christen to step forward and remain standing. Please, if you would, raise your right hand and repeat after me. Do you solemnly swear that the testimony you are about to give to this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Justice CHRISTEN. I do.

Senator COONS. Please be seated. Thank you. Let the record show the nominee has taken the oath.

Now, Justice Christen, I would welcome you to acknowledge any family members or friends you may have with you here today and give an opening statement to the Committee. Thank you.

STATEMENT OF MORGAN CHRISTEN, NOMINEE TO BE CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Justice CHRISTEN. Thank you, Senator. I am going to take you up on your offer to introduce my family, but that requires a list so that I do not forget any of them, or I would be in big trouble.

My husband, Jim Torgerson, is here, and my daughter, Erin Torgerson, and June Smith; and that is my Alaskan family.

My sister, Betty Thompson, and niece, Christen, and nephew, Max, are here from North Carolina.

Pat Christen, my sister, and Rene Durazzo, my brother-in-law, are here from the San Francisco Bay Area, with two more nieces—Morgan and Madison. And our two brothers are not here, Michael and Bob, but they will be watching.

Our parents will be watching from Washington State, and I have in-laws and a lot of extended family watching from northern Minnesota.

Thank you, Senator. I do not have an opening statement, Senator. I know you all are very busy. I just want to thank you very much for this hearing, and, of course, I would like to thank the President for nominating me.

[The biographical information of Justice Christen follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Morgan Brenda Christen
   Brenda June Christen

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

   United States Circuit Judge for the Ninth Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Boney Memorial Courthouse
   303 K Street, Fifth Floor
   Anchorage, Alaska 99501

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

   1961; Chehalis, Washington

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   2008 – present, The National Judicial College; candidate for Master's Degree in Judicial Studies
   2002 – 2008, The National Judicial College; various courses, no degree received
   2009, New York University School of Law, Appellate Judges Seminar – New Judges Series, Certificate of Completion
   1983 – 1986, Golden Gate University School of Law; J.D., 1986
   1980 – 1983, Jackson School of International Studies, University of Washington; B.A., 1983
   1981, Nanjing University, People's Republic of China; summer intensive language study, no degree received
   1979 – 1980, American College of Switzerland, Leysin, Switzerland, and Richmond College, London, England; no degree received

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises,

partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2009 – present
Alaska Supreme Court
303 K Street, Fifth Floor
Anchorage, Alaska 99501
Justice

2002 – 2009
Alaska Superior Court
Third Judicial District
825 West Fourth Avenue
Anchorage, Alaska 99501
Presiding Judge (2005 – 2009)
Superior Court Judge (2002 – 2009)

1987 – 2002
Preston Gates & Ellis LLP (formerly known as Preston Thorgrimson Ellis & Holman and Preston Thorgrimson Shidler Gates & Ellis)
420 L Street, Fourth Floor
Anchorage, Alaska 99501
Partner (1993 – 2002)
Associate (1987 – 1992)

1986 – 1987
Alaska Superior Court
303 K Street
Anchorage, Alaska 99501
Law Clerk to the Honorable Brian Shortell

Summer 1986
Day Law Corporation (now known as Vaught & Boutris LLP)
80 Swan Way
Oakland, California 94621
Law Clerk

1986
U.S. District Court Law Library
Federal Building
450 Golden Gate Avenue
San Francisco, California 94102
Library Assistant

1985
Municipality of Anchorage
Department of Law (Prosecutor's Office)
310 K Street
Anchorage, Alaska 99501
Certified Legal Intern

1984 – 1985
Law Office of Bruce E. Krell, Inc.
Grove Street Law Offices
345 Grove Street
San Francisco, California 94122
Law Clerk

Other Affiliations (uncompensated):

2005 – present
Alaska Community Foundation
400 L Street, Suite 100
Anchorage, Alaska 99501
Member, Board of Directors

2004 – present
Rasmuson Foundation
301 West Northern Lights Boulevard, Suite 400
Anchorage, Alaska 99503
Member, Board of Directors

2002 – 2004
United Way of Anchorage
701 West Eighth Avenue, Suite 230
Anchorage, Alaska 99501
Member, Board of Directors

Approx. 1992 – 1996
Planned Parenthood of Alaska
4001 Lake Otis Parkway, Suite 101
Anchorage, Alaska 99508
Member, Board of Directors

1988 – 1992
Big Brothers/Big Sisters of Anchorage
1057 West Fireweed Lane, Suite 202
Anchorage, Alaska 99503
Member, Board of Directors

Approx. 1990 or 1991
Anchorage Association of Women Lawyers
712 West Fourth Avenue
Anchorage, Alaska 99501
President

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military or registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   YWCA Anchorage, Women of Achievement Award (2009)
   Alaska Supreme Court's Community Outreach Award (2008)
   Anchorage Chamber of Commerce Athena Award (2006)
   Anchorage Chamber of Commerce Athena Society (2004)
   National Association of Philanthropy, Alaska Chapter, Philanthropist of the Year (2004)
   (jointly awarded, with husband)
   Court Appointed Special Advocate (CASA), Light of Hope Award (2004)
   (for work on behalf of Alaska's children)
   Alaska Journal of Commerce, Top 40 Under 40 Award (1998)
   Martindale Hubble AV rating (1996 until appointed to the bench)
   Golden Gate University School of Law, American Jurisprudence Awards
   Constitutional Law (1985)
   Evidence (1985)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   Alaska Bar Association (1987 – present)
   Disciplinary Committee (1994)
   Alaska Joint State-Federal Courts Gender Equality Task Force
   Alaska Supreme Court
   Civil Rules Committee (2000 – 2005)
   Civil Rule 90.3 Review Committee (2002 – 2005)
   CINA/Delinquency Rules Committee (2005 – present) (co-chair)
   Committee on Involuntary Commitments & Involuntary Medications (2007 – 2011)
   Anchorage Association of Women Lawyers
   President (approx. 1990 or 1991)

Federal Admiralty Rules Committee (Chair) (1998 – 1999)
Federal Merit Selection Committee (Magistrate Judge Retention Committee)
National Association of Women Judges (2003 – present)
Ninth Circuit Judicial Conference
Co-Chair Lawyer Representative (2001 – 2002)
Lawyer Representative (1999 – 2002)
Tri-Borough Anti-Gang & Youth Violence Policy Team (2006 – 2008)
Washington State Bar Association (2001 – present) (inactive status)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

1987, Alaska
2001, Washington

There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

I am eligible to practice in Alaska and Washington state courts. In addition:

United States Court of Appeals for the Ninth Circuit, 1989
United States District Court for the District of Alaska, 1988
United States Court of Claims, 1992

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Anchorage Chamber of Commerce Athena Society (2004 – present)
Alaska Civic Learning Assessment Project Advisory Board (2004 – 2006)
Alaska Community Foundation
Member, Board of Directors (2005 – present)
Anchorage Chamber of Commerce
Athena Society (2004 – present)
Anchorage Downtown Rotary Club (1994 – present)

Big Brothers/Big Sisters of Anchorage
Member, Board of Directors (1988 – 1992)
Member, Board of Ambassadors (1993 – 2005)
Big Sister (1987 – 1989)
Christen Sisters, LLC (1998 – 2009)
Coalition for Fire Rescue Technology (1998)
Commonwealth North (1993 – 1995)
Planned Parenthood of Alaska
Member, Board of Directors (approx. 1992 – 1996)
Rasmuson Foundation
Member, Board of Directors (2004 – present)
Member, Substance Abuse Task Force (2009 – present)
Grants Committee (2004 – 2010)
Audit Committee (2004 – 2010)
Sabbatical Committee (vice-chair) (2011)
Roadrunners (1994 – present)
Top-2005, LLC (2005 – 2009)
Top-2005 Liquidating Trust (2010 – present)
United Way of Anchorage
Member, Board of Directors (2002 – 2004)
Chair, Grant Allocation & Agency Review Panels (1998 – 2001)
Y.W.C.A. Anchorage (1994 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

I believe Rotary International did not admit women at one point in its history. Otherwise, to the best of my knowledge, none of the groups listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

I have not published any books, articles, reports or letters.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

Committee on Involuntary Commitments and Involuntary Medications, Rule Recommendations to the Alaska Supreme Court, May 17, 2010. Copy supplied.

Tri-Borough Anti-Gang and Youth Violence Policy Team, final report, January 2009. Copy supplied.

Advancing Civic Learning in Alaska's Schools, final report of the Alaska Civic Learning Assessment Project, November 2006. Copy supplied.

Federal Admiralty Rules Committee, Admiralty Rules for the District of Alaska, November 15, 1999. Copy supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following is a list of speeches that I have been able to identify through a search of my files and publicly-available databases. I speak frequently to attorneys and to other members of the public, including at Youth Court, Law Day, and Color of Justice events for youth. Although this represents my best efforts to compile a list that is as complete as possible, it is likely that I have given other speeches that I have been unable to recall or identify.

May 19, 2011: Swearing in ceremony for new admittees to the Alaska Bar. Outline supplied.

April 21, 2011: Swearing in ceremony for West Anchorage High School Honor Society. I spoke briefly about the importance of civic education and the National Honor Society. I have no notes, transcript, or recording. The address of the high school is 1700 Hillcrest Drive, Anchorage, Alaska 99517.

April 19, 2011: Anchorage Municipal Assembly – swearing in ceremony for new members of Municipal Assembly (administered oath only). I have no notes, transcript or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

March 30, 2011: Alaska Bar Association CLE: "Contempt of Court: A Lynching that Changed the American Justice System," panel member with author Mark Curriden, judges and lawyers discussing 1906 case involving the arrest, trial, conviction, and lynching of Ed Johnson. Copy of recording supplied.

February 15, 2011: Anchorage Downtown Rotary, lunch presentation regarding experience as a Habitat for Humanity International volunteer. I presented slides from my experience working on a Habitat single-family residence in Romania. Outline supplied.

January 31, 2011: Remarks at retirement reception honoring Judge Stephanie Joannides and presentation of plaque from the Alaska Supreme Court. I provided remarks thanking Judge Joannides for her service on the Superior Court bench. I have no notes, transcript, or recording. The address of the Supreme Court is Boney Memorial Courthouse, 303 K Street, Fifth Floor, Anchorage, Alaska 99501.

December 4, 2010: High School Mock Trial Competition, final round judge and award ceremony. Remarks supplied.

November 18, 2010: Swearing in ceremony for Youth Court – new Head of the Bay Chapter – Kenai Peninsula Youth Court. I made remarks congratulating the graduates. I have been unable to obtain notes, transcript or recording from this event, however I have supplied remarks from another Youth Court graduation that are similar to what I would have said at this event. The address of the Kenai Peninsula Youth Court is 3733 Ben Walters Lane, #5, Homer, Alaska 99603.

November 1, 2010: Anchorage Association of Women Lawyers luncheon, discussion about how the legal community can support the Color of Justice program. I have no notes, transcript, or recording. The address for the Anchorage Association of Women Lawyers is 712 West Fourth Avenue, Anchorage, Alaska 99501.

October 15, 2010: WestPac Law Library Association meeting, keynote for morning session. Remarks supplied.

October 12, 2010: Golden Gate University School of Law, introduction of Justice Dana Fabe at Second Annual Justice Ronald M. George Distinguished Lecture Series. Remarks supplied.

October 11, 2010: CASA (Court Appointed Special Advocates). Congratulatory remarks to new graduates at swearing in ceremony. I have no notes, transcript, or recording. The address for CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

October 6, 2010: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

October 6, 2010: Fall Judicial Conference, remarks at lunch for lawyers, social workers, guardians and CASAs (Court Appointed Special Advocates) involved in child protection cases. Remarks supplied.

September 20, 2010 and February 17, 2010: Alaska Supreme Court Live Program, Q&A session with students after hearing an oral argument at a local high school. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Alaska Supreme Court is 303 K Street, Fifth Floor, Anchorage, Alaska 99501.

May 25, 2010: Anchorage Youth Court Annual Meeting, presentation of Golden Gavel Award, administration of oath to new Youth Court Bar admittees, and congratulatory remarks. I do not have notes from this particular Youth Court swearing-in ceremony, but I have supplied a typical set of notes from one of several Youth Court ceremonies where I have presided in response to the November 18, 2010 event. The address for the Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99501.

May 15, 2010: Shining Light banquet honoring Arliss Sturgulewski. Remarks supplied.

May 7, 2010: Presentation for Youth Court Class, Begich Middle School. I spoke to a middle school class regarding the structure and jurisdiction of Alaska's state courts. I also answered questions regarding what is required to become a judge. I have no notes, transcript, or recording. The Begich Middle School address is 7440 Creekside Center Drive, Anchorage, Alaska 99504.

May 6, 2010: National Association of Legal Secretaries – installation ceremony for new NALS officers in the Alaska Supreme Court courtroom. I spoke about the logistics of preparing appeals and how to comply with our court's filing rules. This was a joint presentation with the clerk of the appellate courts. I have no notes, transcript, or recording. The NALS of Anchorage address is Post Office Box 101197, Anchorage, Alaska 99510.

May 2010: Goldenview Middle School. I hosted a field trip of middle school students visiting the Alaska Supreme Court. I spoke about our court, gave a tour of the courtroom, and arranged for the students to try on robes and have their photos taken. I have no notes, transcript, or recording. The address for Goldenview Middle School is 15800 Goldenview Drive, Anchorage, Alaska 99516.

April 30, 2010: Friends of CASA (Court Appointed Special Advocates) in Anchorage town square. I have no notes, transcript, or recording. The address for CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

April 20, 2010: Anchorage Municipal Assembly – swearing in ceremony for new members of Municipal Assembly (administered oath only). I have no notes, transcript or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

April 16, 2010: Installation of Justice Stowers to the Alaska Supreme Court. Remarks supplied.

April 15, 2010: University of Alaska Anchorage College of Education, Culturally Responsive Teaching class, panel member, held at Hanshew Middle School. I participated in a class for new teachers on the importance of culturally responsive teaching, and Alaska's very diverse community. I have no notes, transcript, or recording. The address for the University of Alaska Anchorage College of Education is 3211 Providence Drive, Professional Studies Building, Anchorage, Alaska 99508.

April 15, 2010: Welcoming remarks for Alaska Court System Judicial Assistant Conference. I have no notes, transcript, or recording. The conference was held in the Alaska Court System's Snowden Administration Building, 820 West Fourth Avenue, Anchorage, Alaska 99501.

February 25, 2010: Swearing in ceremony for Judge Pfiffner. Outline and audio recording supplied.

February 3, 2010: CASA graduation and swearing in; congratulatory remarks and graduation ceremony. I have no notes, transcript, or recording. The address for

CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

January 19, 2010: Panel moderator during Newer Judges Training with Marla Greenstein (Alaska Commission on Judicial Conduct) and Larry Cohn (Alaska Judicial Council) on Judicial Ethics. Presentation materials supplied.

January 11, 2010: Young Lawyers Section of Alaska Bar Association – lunch speaker. I spoke on best practices for preparing an appellate argument. This session was held in the Alaska Supreme Court. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

December 2, 2009: Anchorage Youth Court swearing in ceremony. I do not have notes from this particular Youth Court swearing-in ceremony, but I have supplied a typical set of notes from one of several Youth Court ceremonies where I have presided in response to the November 18, 2010 event. The address for Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99501.

November 13, 2009: Swearing in ceremony for new admittees to the Alaska Bar. Welcoming remarks. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

October 8, 2009: CASA (Court Appointed Special Advocates) swearing in ceremony – welcome and congratulatory remarks for commencement ceremony. I have no notes, transcript, or recording. The address for CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

September 3, 2009: National Association of Legal Secretaries dinner speaker. My recollection is that I spoke about my transition to the Supreme Court, explained the differences between its operations and trial court operations, and fielded questions about best practices for preparing appellate briefs to comply with court rules. I have no notes, transcript, or recording. The NALS of Anchorage address is Post Office Box 101197, Anchorage, Alaska 99510-1197.

June 12, 2009: Alaska Supreme Court installation ceremony. This was the public installation ceremony held after I joined the Alaska Supreme Court. My remarks are supplied.

May 3, 2009: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K

Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 29, 2009: Alaska Court System dedication of new addition to Palmer Courthouse. I have no notes, transcript, or recording. The Palmer Courthouse address is 435 South Denali Street, Palmer, Alaska 99645.

April 13, 2009: Alaska Court System dedication of Kenai Courthouse addition. I have no notes, transcript, or recording. The Kenai Courthouse address is 125 Trading Bay Drive, Kenai, Alaska 99611.

April 1, 2009: Alaska Bar Association CLE: Evidence - presented with panel. I have no notes, transcripts, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

February 18, 2009: Young Lawyers Section – member of mentoring panel; informal question and answer session. I have no notes, transcript, or recording. The Alaska Bar Association address is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 27, 2009: Alaska Bar Association CLE: "Off the Record – 3rd Judicial District" presented with panel. I gave an administrative report concerning the trial courts in the Third Judicial District, participated in the panel discussion with the clerk of court and answered questions from the Bar on trial court operations. I have no notes, transcript, or recording. The Alaska Bar Association address is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 4, 2009: Administered oath of office to former Anchorage Mayor Matt Claman. I made no additional remarks. I have no notes, transcript, or recording. The address for the Municipality of Anchorage is 632 West Sixth Avenue, Anchorage, Alaska 99501.

November 20, 2008: Office of Public Advocacy, National Adoption Day Event. Remarks supplied.

November 19, 2008: Alaska Bar Association Section Meeting - ethics presentation. This was an ethics discussion that focused on a set of hypotheticals supplied by the group participants. I have no notes, transcript, or recording. The address for the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

November 13, 2008: Alaska Association of Paralegals – Pointers and Tips from a Judge's Perspective. I have no notes, transcript, or recording. The address of the Alaska Association of Paralegals is Post Office Box 101956, Anchorage, Alaska 99510-1956.

November 12, 2008: Alaska Bar Association, Bench Bar – legal writing. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

November 4, 2008: Alaska Bar Association, Family Law Section presentation. Outline supplied.

October 27, 2008: Wellness Court Graduation – congratulatory remarks to graduates. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

October 14, 2008: Alaska Black Chamber of Commerce - administered oath to Directors and Executive Board members of newly-formed chapter. I have no notes, transcript, or recording. The address of the Alaska Black Chamber of Commerce is 1231 Gambell Street, Anchorage, Alaska 99501

October 10, 2008: Swearing in ceremony for Judge Easter. Remarks supplied.

October 7, 2008: Alaska Bar Association CLE "Voir Dire: Picking the Winning Strategy for Your Case." Video recording supplied.

September 24, 2008: Presented and participated in Evidence Cranium CLE at a Magistrate Training Conference. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

June 16, 2008: Alaska Court System dedication of new courthouse in Unalaska. I have no notes, transcript, or recording. The address of the Unalaska courthouse is Post Office Box 245, Unalaska, Alaska 99685.

April 15, 2008: Swearing in ceremony for Anchorage Municipal Assembly members. I administered the oath and made no additional remarks. I have no notes, transcript, or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

April 4, 2008: Anchorage Chamber of Commerce Athena luncheon, keynote speaker. Remarks supplied.

April 1, 2008: Anchorage Bar Association, Young Lawyers Section, informal question and answer session on practice in Superior Court. I have no notes, transcript, or recording. The address of the Anchorage Bar Association is 425 G Street, Suite 920, Anchorage, Alaska 99501.

March 20, 2008: Alaska Association of Paralegals, I spoke on "Preparing for Your Day in Court." I have no notes, transcript, or recording. The address of the Alaska Association of Paralegals is Post Office Box 101956, Anchorage, Alaska 99510-1956.

March 8, 2008: Swearing in ceremony for Judge Kristiansen and Judge White. Remarks supplied.

February 2008: Anchorage Bar Association, Young Lawyers Section: Informal bench to bar discussion, panel member. I have no notes, transcript, or recording. The address of the Anchorage Bar Association is 425 G Street, Suite 920, Anchorage, Alaska 99501.

January 24, 2008: Alaska Bar Association CLE: "Off the Record: An Informal Bench/Bar Exchange." I provided an administrative report for the trial courts in the Third Judicial District, participated in the panel discussion with the clerk of court and other judges, and answered questions from the Bar. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 24, 2008: Alaska Association of Women Lawyers: Top 10 Things to Avoid in Court from the Judiciary's Perspective (brown bag lunch series). I have no notes, transcript, or recording. The address for the Anchorage Association of Women Lawyers is 712 West Fourth Avenue, Anchorage, Alaska 99501.

December 7, 2007: Swearing in ceremony for Judge Bauman. Remarks supplied.

November 6, 2007: Fifth Annual Alaska Bar Historians Luncheon, panel member, topic "Privacy in Alaska: Who gets it? How much do they get? When do they get it?" Audio recording supplied.

October 5, 2007: Swearing in ceremony for Judge Postma. Remarks supplied.

September 21, 2007: Swearing in ceremony for Judge Illsley. Remarks supplied.

June 18, 2007: Swearing in ceremony for Judge Moran. Remarks supplied.

March 2, 2007: Swearing in ceremony for Judge Spaan. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 20, 2007: Swearing in ceremony for Judge Smith. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 13, 2007: Alaska Bar Association CLE: "Off the Record: 3rd Judicial District." Video recording supplied.

January 2007: Hosted King Career Center class in courtroom, presented welcoming remarks, and an informal question and answer session. I have no notes, transcript, or recording. The address for the King Career Center is 2650 East Northern Lights Boulevard, Anchorage, Alaska 99508.

October 2006: Alaska Judicial Observers, Inc. I made congratulatory remarks and thanks to new graduates. As presiding judge, I also provided a tour of the jury rooms and chambers for the new graduates and spoke about the important role the Judicial Observers play by providing candid comments and ratings for trial court judges. I have no notes, transcript, or recording. The address of Alaska Judicial Observers was 308 G Street, Suite 315, Anchorage, Alaska 99501 but I do not believe it continues to operate from that location.

May 22, 2006: Anchorage Chamber of Commerce, Athena Award ceremony. I gave brief, extemporaneous acceptance remarks upon learning that I received the award. I have no notes, transcript or recording. The address of the Chamber of Commerce is 1016 West Sixth Avenue, Suite 303, Anchorage, Alaska 99501.

May 10, 2006: Panel Member University of Alaska, Anchorage, Leadership Conference. I participated in a panel discussion fielding questions from a moderator and from the audience. I have no notes, transcript, or recording. The address of the University of Alaska is 3211 Providence Drive, Anchorage, Alaska 99508.

April 28 or 29, 2006: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 3, 2006: CINA (Child In Need of Aid) Presentation. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

March 30, 2006: Alaska Association of Paralegals Conference. I gave an administrative update, solicited input regarding remodeling plans (for courtroom technology and storage options for trial exhibits), and answered questions. I have no notes, transcript, or recording. The address of the Alaska Association of Paralegals is Post Office Box 101956, Anchorage, Alaska 99510-1956.

March 3, 2006: Swearing in ceremony for Judge McKay. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 1, 2006: Alaska Bar Association "Off the Record: An Informal Bench/Bar Exchange." Video recording supplied.

February 2006: High School Mock Trial Competition. I served as final round judge and made congratulatory remarks at this award ceremony. I have no notes, transcript, or recording, but I have supplied remarks similar to what I would have said at this event in response to the December 4, 2010 entry. The address of the High School Mock Trial Competition is: c/o Ryan Forston, Dorsey & Whitney LLP, 1031 West Fourth Avenue, Suite 600, Anchorage, Alaska 99501.

2006: I introduced Chief Justice Alex Bryner as the lunch speaker at Anchorage Rotary Club. I have been unable to recall the date, but my introduction is supplied.

November 2, 2005: Ethics discussion for new judges. I served as moderator for this discussion with Marla Greenstein (Alaska Commission on Judicial Conduct) and Larry Cohn (Alaska Judicial Council). Talking points supplied.

May 11 – 13, 2005: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 29, 2005: Participated in mock jury trial for Alaska Court System's Color of Justice program. I served as a juror. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

April 19, 2005: Anchorage Municipal Assembly. This was a swearing in ceremony for new members of Municipal Assembly. I administered the oath but gave no other remarks. I have no notes, transcript, or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

March 5, 2005: High School Mock Trial Competition. I served as final round judge and made congratulatory remarks at the awards ceremony. I have no notes, transcript, or recording, but I have supplied remarks similar to what I would have said at this event in response to the December 4, 2010 entry. The address of the High School Mock Trial Competition is: c/o Ryan Forston, Dorsey & Whitney LLP, 1031 West Fourth Avenue, Suite 600, Anchorage, Alaska 99501.

Spring 2005: University of Alaska Anchorage Family Law class. I do not recall the topic on which I spoke. I have no notes, transcript, or recording, but press coverage is supplied. The address of the University of Alaska, Anchorage, is 3211 Providence Drive, Anchorage, Alaska 99508.

January 20, 2005: Alaska Bar Association CLE: "Off the Record: An Annual Informal Bench/Bar Exchange," panel member. I participated in the panel discussion with the clerk of court and other judges, and answered questions from the Bar. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

September 24, 2004: CASA/GAL Conference, Advocating for Alaska's Children: Today's Voice for Our Children's Future, Judges' Panel "Expectations from the Bench." I spoke about the importance of the CASA program and encouraged active participation by CASAs in CINA proceedings. I have no notes, transcript, or recording. The address of the CASA office is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

July 2004: Color of Justice program presenter. This was a brown bag lunch discussion with high school students attending a statewide Color of Justice program. I discussed career options in law. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

May 19, 2004: Children in Alaska's Courts Public Forum. I served as a roundtable facilitator for a public discussion on Domestic Violence. I have no notes, transcript, or recording, but a report on the roundtable discussion and other similar events is supplied. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

April 20, 2004: Anchorage Municipal Assembly – swearing in ceremony for new members of Municipal Assembly (administered oath only). I have no notes, transcript, or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

November 14, 2003: Alaska Academy of Trial Lawyers Mediation CLE: panel member regarding preparation for settlement conferences. I have no notes, transcript, or recording. The address of the Alaska Academy of Trial Lawyers is Post Office Box 102323, Anchorage, Alaska 99510.

September 9, 2003: Anchorage Youth Court, Faces of AYC: More than Robes and Gavels. Welcoming remarks. I do not have notes from this particular Youth Court swearing-in ceremony, but I have supplied a typical set of notes from one of several Youth Court ceremonies where I have presided in response to the

November 18, 2010 event. The address of Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99501.

July 2003: Girl Scouts Susitna Council, I spoke to senior scouts regarding law as a career option. I have no notes, transcript, or recording. The address of the Girl Scouts Susitna Council is 3911 Turnagain Boulevard, East, Anchorage, Alaska 99517.

April 11, 2003: Alaska Bar Association CLE: "An All-Star Faculty Discuss and Debate How to Present Evidence Effectively at Hearings, Trials, and Settlement Conferences." I participated in a panel discussion with other judges and lawyers. Outline supplied.

April 11, 2003: Alaska Bar Association CLE: "A CLE Program Just for Lawyers (and Judges) on Domestic Relations Cases: How to Effectively Present Evidence at Hearings, Trials, and Settlement Conferences and How Judges Can Make Better Decisions." I participated in a panel discussion with other judges and lawyers. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

March 24, 2003: Alaska Judicial Observers, I spoke at training session regarding courtroom protocols for the Alaska Judicial Observers, a group that observes judges and provides ratings and comments regarding their performance. I have no notes, transcript, or recording. The address of the Alaska Judicial Observers was 308 G Street, Suite 315, Anchorage, Alaska 99501 but I do not believe it continues to operate at that location.

March 18, 2003: Alaska Bar Association – Tort Section Meeting. Panel provided observations and recommendations for effective settlement conferences. I have no notes, transcript, or recording. The address of the Alaska Bar is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

March 8, 2003: Alaska High School Mock Trial Competition. I served as a judge for the final round of this competition. I have no notes, transcript, or recording. The address of the sponsoring agency is: c/o Ryan Forston, Dorsey & Whitney LLP, 1031 West Fourth Avenue, Suite 600, Anchorage, Alaska 99501.

March 6, 2002: Anchorage Association of Women Lawyers and the Gender Equality Section of the Alaska Bar Association event honoring Senator Arliss Sturgulewski, Police Chief Shirley Warner, and Judge Beverly Cutler. Introductory remarks supplied.

January 18, 2002: Alaska Superior Court judge installation ceremony. Audio recording supplied.

June 22, 1999 and April 7, 1998: Anchorage Downtown Rotary invocation. Remarks supplied.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

McKibben Jackinsky, *New Youth Court Established at Head of Bay*, Homer News, Dec. 1, 2010. Copy supplied.

Dan Levine, *New Names Emerge for 9th Circuit Seats*, The Recorder, July 26, 2010. Copy supplied.

Morgan Christen: Justice for All in Profiles in Prominence, ed. Dan and Patricia Angel, Golden Gate University, 2010. Copy supplied.

Jill Goetz, *Her Most Rewarding Work*, Golden Gate Lawyer, Spring/Summer 2009. Copy supplied.

Beth Bragg, *Stewart, State Constitutional Stalwart, Dies – 88 Years Old: Retired Judge Was Alaska's Ben Franklin, Friend Says*, Anchorage Daily News, Dec. 14, 2007. Copy supplied.

Press release, *Governor Palin Orders Flags Lowered for Secretary of Alaska Constitutional Convention; Judge Tom Stewart Dead at 88*, Office of the Governor of Alaska, Dec. 13, 2007. Copy supplied.

Lisa Demer, *Mother Tries to Earn Daughters Back*, Anchorage Daily News, Jan. 30, 2005. Copy supplied.

Press release, *Rasmuson Foundation Welcomes Two New Board Members*, Rasmuson Foundation, Dec. 2004. Copy supplied.

Knowles Names Morgan Christen to Superior Court, 25 AK Bar Rag 13 (Nov/Dec 2001). Copy supplied.

Alaska Digest; Attorney Morgan Christen Named to Anchorage Superior Court, Anchorage Daily News, Oct. 28, 2001. Copy supplied.

Sheila Toomey, *Scout Settlement OK'd; Details Secret*, Anchorage Daily News, Apr. 11, 1991. Copy supplied.

Sheila Toomey, *Oil Firm Prepares for Inquiry; Exxon Staff to Testify on Destroyed Papers*, Anchorage Daily News, July 12, 1989. Copy supplied.

Joan Hamilton and David Castellon, *AIDS: Where Insurers Are Showing Little Mercy*, BusinessWeek, Nov. 21, 1988. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed to the Alaska Superior Court Bench on October 25, 2001. I was sworn in at a private ceremony on January 9, 2002 and at a public in ceremony on January 18, 2002. I served as a Superior Court Judge until April 6, 2009. I was Presiding Judge of the Third Judicial District, Alaska, from November 1, 2005, until March 25, 2009. On March 4, 2009, I was appointed to the Alaska Supreme Court. I have been a member of the Alaska Supreme Court from April 6, 2009 to the present.

All of the judicial offices I have held were the product of Alaska's judicial selection process, modeled after the Missouri Plan. A Judicial Council (composed of three members of the bar, three members of the public appointed by governor(s) in staggered terms, and the chief justice) nominates at least two candidates for each judicial vacancy. The governor makes the final decision regarding judicial appointments, but all appointed judicial officers are subject to retention elections in Alaska.

The superior court is the court of general jurisdiction in Alaska. The civil caseload principally consists of civil disputes with amounts in controversy exceeding $100,000, family law and probate matters, domestic violence, actions for declaratory or injunctive relief, administrative appeals, and appeals from the district court. The criminal caseload is typically felony offenses. The Third Judicial District accounts for just under 70% of the statewide trial court caseload. The presiding judge of this district supervises approximately 40 judicial officers in 13 court locations.

The Alaska Supreme Court is the highest level of state court in Alaska. Its jurisdiction includes direct appeals in civil cases from the state's general jurisdiction trial courts, discretionary appeals of decisions from the Alaska Court of Appeals in criminal cases, discretionary appeals of non-final orders in criminal cases and superior court civil cases, and original applications in matters for which relief is not otherwise available. The latter category includes bar admissions, attorney disciplinary matters, and questions of state law certified from federal courts.

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

Our court system's computer shows that while I served in the trial court, I was assigned to 3,641 cases at disposition. Courtview does not have an accurate list of the cases I tried. I was able to locate records of 19 jury trials. I estimate that I tried at least 150 bench trials.

i. Of these, approximately what percent were:

jury trials:	12%
bench trials:	88%
civil proceedings:	100%
criminal proceedings:	0%

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

I wrote the following opinions on the Alaska Supreme Court:

Bagby v. Bagby, S-13785, Op. No. 6559, 2011 WL 1814244 (May 13, 2011).

Henrichs v. Chugach Alaska Corp., S-13094, Op. No. 6553, 2011 WL 1519386 (April 22, 2011).

Olson v. City of Hooper Bay, S-13455, Op. No. 6552, 2011 WL 1441869 (April 15, 2011).

Calvert v. State, Dep't of Labor & Workforce Dev., S-13721, Op. No. 6549, 2011 WL 1441861 (April 15, 2011).

Doug Y. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13701, Op. No. 6527, 243 P.3d 217 (Alaska 2010).

Misyura v. Misyura, S-13809, MO&J No. 1374, 244 P.3d 519 (Alaska 2010).

Misyura v. Misyura, S-13579, Op. No. 6525, 242 P.3d 1037 (Alaska 2010).

Allstate Ins. Co. v. Dooley, S-13331, Op. No. 6524, 243 P.3d 197 (Alaska 2010).

Brotherton v. Warner, S-13541, Op. No. 6521, 240 P.3d 1225 (Alaska 2010).

Davis v. Kiewit Constr. Co., S-13291, MO&J No. 1371, 2010 WL 3928859 (October 6, 2010).

Kingik v. State, Dep't of Administration, Div. of Retirement & Benefits, S-13431, Op. No. 6515, 239 P.3d 1243 (Alaska 2010).

Hertz v. State, Dep't of Revenue, S-13661, MO&J No. 1370, 2010 WL 3719161 (Sept. 22, 2010).

Barnett v. Barnett, S-13177, Op. No. 6505, 238 P.3d 594 (Alaska 2010).

Smith v. Radecki, S-13171, Op. No. 6506, 238 P.3d 111 (Alaska 2010).

West v. State, Board of Game, S-13184/13343, Op. No. 6497, 2010 WL 3063151 (Aug. 6, 2010).

Anderson v. Alyeska Pipeline Service Co., S-13367, Op. No. 6496, 234 P.3d 1282 (Alaska 2010) (Dissent).

Croft v. Parnell, S-13200, Op. No. 6491, 236 P.3d 369 (Alaska 2010).

Roderer v. Dash, S-13106, Op. No. 6488, 233 P.3d 1101 (Alaska 2010).

Schug v. Moore, S-13162, Op. No. 6487, 233 P.3d 1114 (Alaska 2010).

Laughlin v. Laughlin, S-13683, MO&J No. 1365, 2010 WL 2637025 (June 30, 2010).

Osterkamp v. Stiles, S-13497, Op. No. 6482, 235 P.3d 193 (Alaska 2010).

Osterkamp v. Stiles, S-13297/13317, Op. No. 6481, 235 P.3d 178 (Alaska 2010).

Kent V. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13578, Op. No. 6480, 233 P.3d 597 (Alaska 2010).

Partridge v. Partridge, S-13256, Op. No. 6478, 239 P.3d 680 (Alaska 2010).

Mueller v. Buscemi, S-12943, Op. No. 6477, 230 P.3d 1153 (Alaska 2010).

Okpik v. City of Barrow, Op. No. 6473, S-13195, 230 P.3d 672 (Alaska 2010).

Laughlin v. Laughlin, S-13313, Op. No. 6472, 229 P.3d 1002 (Alaska 2010).

Krause v. Matanuska-Susitna Borough, S-13068, Op. No. 6471, 229 P.3d 168 (Alaska 2010).

Hertz v. Carothers, S-13245, Op. No. 6457, 225 P.3d 571 (Alaska 2010).

Hidden Heights Assisted Living, Inc. v. State, Dep't of Health & Social Services, Div. of Health Care Services, S-13029, Op. No. 6445, 222 P.3d 258 (Alaska 2009).

Weiner v. Burr, Pease & Kurtz, P.C., S-13214, Op. No. 6433, 221 P.3d 1 (Alaska 2009).

Hunter v. Conwell, S-13336, Op. No. 6432, 219 P.3d 191 (Alaska 2009).

Morris v. Horn, S-12514, Op. No. 6431, 219 P.3d 198 (Alaska 2009).

Valdez Fisheries Dev. Ass'n, Inc. v. Froines, S-13228, Op. No. 6424, 217 P.3d 830 (Alaska 2009).

Danielle A. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13377, Op. No. 6410, 215 P.3d 349 (Alaska 2009).

Johnson v. Johnson, S-13251, Op. No. 6403, 214 P.3d 369 (Alaska 2009).

State v. Jacob, S-13226, Op. No. 6402, 214 P.3d 353 (Alaska 2009).

Peterson v. Swarthout, S-12886, Op. No. 6398, 214 P.3d 332 (Alaska 2009).

Jon S. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13257, Op. No. 6395, 212 P.3d 756 (Alaska 2009) (Dissent).

Unpublished Orders:

Olson v. State, Dep't of Envtl. Conservation, and Alaska R.R. Corp., S-13381, Order (March 23, 2010).

State, Board of Dental Examiners v. Ness, S-13129, Order (January 28, 2010).

Opinions issued by superior court judges in Alaska are only published when the Alaska Supreme Court elects to incorporate an entire superior court order into one of its decisions on appeal. One of my trial court decisions was published in that way: *Dennis Lee d/b/a United Community Services of America v. State of Alaska*, 141 P.3d 342 (Alaska 2006). I do not know of any other decisions or orders I issued from the superior court that were published.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *DeNardo v. Carr*, 3AN-05-10726 Civil.

I entered a Pre-Filing Order in this case as presiding judge pursuant to *De Long v. Hennessey*, 912 F.2d 1144, 1147-49 (9th Cir. 1990). The order was issued in response to a motion asking that the plaintiff be deemed a "vexatious litigant" because of his practice of filing serial complaints arising from the same incidents, and because he routinely filed suit against judicial officers who ruled in favor of the opposing party. The latter practice resulted in judges recusing themselves and the cases being transferred, which disrupted the ability of the trial court to process plaintiff's claims on the merits. The Pre-Filing Order allowed plaintiff to

continue to file complaints, but directed that no summons would be issued until he affied that each new claim did not restate a cause of action that had already been asserted or could have been asserted in a prior case against the same parties, and that the new complaint did not raise issues of fact or law that were actually litigated and necessarily decided in a prior case. Order Granting Judge Joannides' Motion for Summary Judgment and Motion for Pre-Filing Order supplied (March 24, 2008).

Counsel:

Plaintiff DeNardo, pro se (deceased)

Mary Ann Lundquist
Assistant Attorney General, Civil
Office of the Attorney General
100 Cushman Street, Suite 400
Fairbanks, Alaska 99701
907-451-2811

Nancy Gordon
Statewide Chief, Civil Division
Office of the Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
907-277-3127

Counsel in related cases:

Peter Maassen
Ingaldson, Maassen, Fitzgerald PC
813 West Third Avenue
Anchorage, Alaska 99501
907-258-8750

Jennifer Coughlin
K&L Gates
420 L Street, Suite 400
Anchorage, Alaska 99501
907-276-1969

Thomas Melaney
Law Offices of Thomas L. Melaney
2263 Spenard Road
Anchorage, Alaska 99503
907-274-7551

Jim Reeves
Holmes Weddle & Barcott PC
701 West Eighth Avenue, Suite 700
Anchorage, Alaska 99501
907-274-0666

Greg Silvey
Guess & Rudd PC
510 L Street, Suite 700
Anchorage, Alaska 99501
907-793-2200

Jeff Feldman
Feldman Orlansky & Sanders
500 L Street, Fourth Floor
Anchorage, Alaska 99501
907-272-3538

Tom Owens (retired)
3705 Arctic Boulevard, Suite 2717
Anchorage, Alaska 99503
907-274-6883

2. *Alaskans for Efficient Gov't v. Knowles*, 3AN-02-07717 Civil, affirmed: 91 P.3d 273 (Alaska 2004).

This case concerned a proposal to move the Alaska state capital from Juneau to the Matanuska-Susitna Borough. Plaintiffs argued that AS 44.06.060 required the governor to appoint a commission to determine the cost of the proposal. I ruled that the statutory scheme contemplated a two-step process: if the voters passed the initiative to move the legislature, then a commission was to be appointed to investigate the cost of such a move; as a second step, voters were to separately decide whether to authorize the move. This decision was affirmed by the Alaska Supreme Court. Order Denying Plaintiff's Motion for Injunctive and Declaratory Relief supplied (July 22, 2002).

Counsel:

Sarah Felix
Assistant Attorney General
Labor & State Affairs Section
Box 110300
Juneau, Alaska 99811
907-465-3600

Kenneth Jacobus
310 K Street, Suite 200
Anchorage, Alaska 99501
907-277-3333

3. *Sunland Dev. Co., LLC v. Spizzirri*, 3AN-02-03705 Civil.

This construction contract dispute concerned a real estate development project for the construction of recreational cabins in Homer, Alaska. The claims included breach of cost-plus contract, breach of lump-sum contract, statutory lien claim, breach of change order modification agreements for bedroom additions, a septic system, water tanks and treatment system, and a telephone system. Defendants asserted misrepresentation as a counterclaim and argued several defenses, including equitable estoppel and quasi-estoppel. After a jury trial, judgment of $1,718,725 was entered in favor of Sunland Development Company, the builder, but defendant was credited with the value of real property conveyed during the dispute ($900,000). Order on Motion for Summary Judgment supplied (December 2, 2005).

Counsel:

Robert Dickson
Atkinson, Conway & Gagnon, Inc.
420 L Street, Suite 500
Anchorage, Alaska 99501
907-276-1700

Jim Reeves
Holmes Weddle & Barcott PC
701 West Eighth Avenue, Suite 700
Anchorage, Alaska 99501
907-274-0666

Tom Owens (retired)
3705 Arctic Boulevard, Suite 2717
Anchorage, Alaska 99503
907-274-6883

4. *Columbus v. Mehner and Prudential Jack White Real Estate*, 3AN-00-09060 Civil

This litigation concerned the failure to disclose that a real estate agent was acting in a dual capacity as required by former AS 08.88.396(c) and (d). Plaintiffs prevailed on their statutory and common law claims and received an award of compensatory damages. One of the plaintiffs was found to be entitled to an award of punitive damages. The case was settled by the parties after the liability phase of the trial and before the punitive damages phase. In a separate administrative

proceeding after de novo review, the Alaska Real Estate Commission imposed a 120-day suspension, one year probation, and $20,000 fine. Findings of Fact and Conclusions of Law supplied (April 15, 2002).

Counsel:

Robert Wagstaff
425 G Street, Suite 610
Anchorage, Alaska 99501
907-277-8611

Jeff Feldman
Feldman Orlansky & Sanders
500 L Street, Fourth Floor
Anchorage, Alaska 99501
907-272-3538

Greg Oczkus
4325 Laurel Street, Suite 270
Anchorage, Alaska 99508
907-276-6550

5. *Church Mut. Ins. Co. v. Redick d/b/a Able Mechanical*, 3AN-05-05813 Civil.

This litigation arose when a church was destroyed by fire. Plaintiff alleged the fire was caused by the negligent installation of a hot water heater. The evidence at trial consisted almost exclusively of expert testimony interpreting the physical evidence to determine the cause and path of the fire. After a bench trial I entered findings of fact and conclusions of law deciding that plaintiff did not show that the fire was caused by the negligent installation of the hot water heater. Judgment was entered for the defense. Findings and Conclusions supplied (September 10, 2007).

Counsel:

Richard Waller
Brown, Waller & Gibbs, PC
821 N Street, Suite 202
Anchorage, Alaska 99501
907-276-2050

James Talbot
Law Office of James Talbot
210 Summit Avenue East
Seattle, Washington 98102
206-905-7717

6. *Cook Inlet Region, Inc. v. New Alliance for the Future of CIRI, Inc.*, 3AN-08-0779 Civil.

This action arose from a complaint with the Alaska Division of Banking, Securities and Corporations alleging that a misleading proxy statement had been issued for the 2008 annual election for an Alaska Native Regional Corporation. In superior court, the board's motion for summary judgment alleged that the slate's proxy solicitation contained at least 20 materially false and misleading statements in violation of Alaska's Securities Act and Alaska proxy regulations. The slate's cross-motion alleged the Board's proxy materials violated the same statutory and regulatory requirements and common law proxy rules, and that the Board breached its common law fiduciary duties. I issued orders: (1) granting the request that the proxies given to the slate be declared void; (2) denying the slate's cross-motion for summary judgment; (3) denying one individual director's motion to dismiss; and (4) denying the defendants' motion to dismiss. Order regarding CIRI's Motion for Summary Judgment supplied (May 5, 2009).

Counsel:

Jahna Lindemuth
Dorsey & Whitney LLP
1031 West Fourth Avenue, Suite 600
Anchorage, Alaska 99501
907-276-4557

Ethan Schutt
Cook Inlet Region, Inc.
2525 C Street, Suite 500
Anchorage, Alaska 99503
907-263-5180

William English
310 K Street, Suite 200
Anchorage, Alaska 99501
907-274-3633

Ella Anagick
Law Offices of Ella Anagick
525 West Third Avenue, Suite 104
Anchorage, Alaska 99501
907-222-0456

Fred Triem
Box 129
Petersburg, Alaska 99833
907-772-3911

7. *Bedder v. Alaska Surgery Center, Inc.*, 3AN-05-05415 Civil.

This contract dispute arose between a physician practice group and an anesthesiologist recruited to work with the practice group. The primary questions concerned the parties' communications and whether they formed binding oral or written contracts. I issued an order denying summary judgment on five counts but granting summary judgment as to the claim for breach of the Second Anesthesia Services Contract and the associated claim for breach of the covenant of good faith and fair dealing. I also partially granted summary judgment as to the claim that the general partner breached the covenant of good faith and fair dealing by refusing to execute the second contract and/or by repudiating it. This case settled in a judicial settlement conference after the summary judgment rulings were issued. Order on Cross-Motions for Summary Judgment supplied (February 24, 2007).

Counsel:

John Treptow
State of Alaska, Department of Law
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
907-269-5168

Eric Sanders
Feldman Orlansky & Sanders
500 L Street, Fourth Floor
Anchorage, Alaska 99501
907-272-3538

8. *Brown v. L.D.G., Inc.*, 3KN-00-00513 Civil, affirmed: *L.D.G., Inc. v. Brown*, 211 P.3d 1110 (Alaska 2009).

Another judge presided over the jury trial in this wrongful death suit but recused himself after the jury awarded each of the victim's two sons an amount above the statutory cap for non-economic damages and plaintiff filed a motion for remittitur and a challenge to the statutory cap. I was assigned to decide the motions. I ruled that the statutory cap on damages was constitutional both facially and as applied to this case. The Alaska Supreme Court affirmed. Order on Pending Motions supplied (July 25, 2006).

Counsel:

John Hedland
Hedland Brennan & Heideman
1227 West Ninth Avenue, Suite 300
Anchorage, Alaska 99501
907-279-5528

Arthur Robinson
Robinson & Associates
35401 Kenai Spur Highway
Soldotna, Alaska 99669
907-262-9164

Ruth Botstein
Assistant Attorney General
Office of the Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
907-269-5190

Roger Holmes
3948 Clay Products Drive
Anchorage, Alaska 99501
907-248-8013

Marc Wilhelm
Richmond & Quinn
360 K Street, Suite 200
Anchorage, Alaska 99501
907-276-5727

9. *Larson v. Cooper*, 3AN-00-03607 Civil, affirmed: 113 P.3d 1196 (Alaska 2005).

An inmate brought an action against two guards at Spring Creek Correctional Center alleging that they violated his rights under the Alaska and United States Constitutions by refusing to allow him to hold hands and pray with family members during visitation. I found that defendants' conduct did not violate the United States Constitution or the Alaska Constitution. This decision was affirmed by the Alaska Supreme Court. Decision and Order supplied (September 20, 2002).

Counsel:

Timothy Terrell
Office of Special Prosecutions & Appeals
310 K Street, Suite 308
Anchorage, Alaska 99501
907-269-6250

10. *Anthoney v. Dep't of Corrections, State of Alaska*, 3AN-06-12520 Civil, affirmed: 229 P.3d 164 (Alaska 2010).

An inmate appealed after being found guilty of a disciplinary infraction in prison. The inmate was charged with "mutual combat," and found guilty after a hearing in the prison. The inmate alleged 24 errors in his appeal to the superior court. Grouping the arguments into seven points on appeal, I entered a decision addressing each. The decision concluded that the inmate was incorrectly charged, but was guilty of a lesser-included infraction under 22 AAC 05.400(d)(13). I ordered that his disciplinary record be amended to reflect that he was guilty of a "low-moderate infraction," and affirmed the prison tribunal's findings in all other respects. In a subsequent order, I found the inmate to be the prevailing party. The State's appeal of the latter ruling was affirmed by the Alaska Supreme Court. Decision on Appeal from the Alaska Board of Corrections August 7, 2006 Disciplinary Hearing of Kirby Anthoney supplied (September 22, 2008).

Counsel:

Marilyn J. Kamm
P.O. Box 110300
Juneau, Alaska 99811
907-465-3428

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Olson v. City of Hooper Bay*, S-13455, Op. No. 6552, 2011 WL 1441869 (April 15, 2011).

Counsel:

Michele L. Power
Power & Brown, LLC
P.O. Box 1809
Bethel, Alaska 99559
907-543-4700

William H. Ingaldson
Maryanne Boreen
Ingaldson, Maassen & Fitzgerald, P.C.
813 West Third Avenue
Anchorage, Alaska 99501
907-258-8750

Myron E. Angstman
Myron E. Angstman Law Office
P.O. Box 585
Bethel, Alaska 99559
907-543-2972

2. *Henrichs v. Chugach Alaska Corp.*, S-13094, Op. No. 6553, 2011 WL 1519386 (Apr. 22, 2011).

Counsel:

Fred W. Triem
P.O. Box 129
Petersburg, Alaska 99833
907-772-3911

Elizabeth P. Hodes
Joseph L. Reece
Davis Wright Tremaine LLP
701 West Eight Avenue, Suite 800
Anchorage, Alaska 99501
907-257-5337

3. *West v. State of Alaska, Board of Game*, S-13184/13343 (Consolidated), Op. No. 6497, 248 P.3d 689 (Alaska 2010).

Counsel:

Robert Erwin
Robert C. Erwin, LLC
121 West Fireweed Lane, Suite 208
Anchorage, Alaska 99503
907-279-8522

Ronald T. West
3220 Racquet Circle
Anchorage, Alaska 99507
907-522-1312

Michael Frank
Trustees for Alaska
1026 West Fourth Avenue, Suite 201
Anchorage, Alaska 99501
907-276-4244

Valerie Brown
Law Office of Valerie Brown, LLC
P.O. Box 91659
Anchorage, Alaska 99509
907-272-4544

Kevin Saxby
Senior Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
907-269-5100

4. *Hidden Heights Assisted Living, Inc. v. State, Dep't of Health & Social Services, Div. of Health Care Services*, 222 P.3d 258 (Alaska 2009).

Counsel:

John Pharr
Law Offices of John C. Pharr
733 West Fourth Avenue, Suite 308
Anchorage, Alaska 99501
907-272-2525

Jonathan Clement
Assistant Attorney General
Human Services Section
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
907-334-4488

5. *Croft v. Parnell*, 236 P.3d 369 (Alaska 2010).

Counsel:

Eric Croft
1135 Hillcrest Drive
Anchorage, Alaska 99503
907-258-1693

Joseph McKinnon
Law Office of Joseph H. McKinnon
1434 Kinnikinnick Street
Anchorage, Alaska 99508
907-278-9307

Michael Barnhill
(formerly Senior Assistant Attorney General)
(currently) Deputy Commissioner
Department of Administration
State of Alaska
P.O. Box 110200
Juneau, Alaska 99811
907-465-2200

6. *Krause v. Matanuska-Susitna Borough*, 229 P.3d 168 (Alaska 2010).

Counsel:

Joe Josephson
Josephson & Associates
912 West Sixth Avenue
Anchorage, Alaska 99501
907-276-0151

Nicholas Spiropoulos
Matanuska-Susitna Borough Attorney
350 East Dahlia
Palmer, Alaska 99645
907-745-9679

Patricia Hefferan
351 West Swanson Avenue, Suite 3
Wasilla, Alaska 99654
907-376-2439

7. *Jon S. v. State, Dep't of Health & Social Services, Office of Children's Serv.*, 212 P.3d 756 (Alaska 2009) (Dissent).

Counsel:

Marjorie Mock
Assistant Public Defender
900 West Fifth Avenue, Suite 200
Anchorage, Alaska 99501
907-729-4955

David Jones
Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
907-269-5100

8. *Harmon v. Olson d/b/a Jim's Towing*, 3KN-05-00641 Civil (order supplied).

Counsel:

Peter Ehrhardt
Friedman, Rubin & White
215 Fidalgo Avenue, Suite 201
Kenai, Alaska 99611
907-283-2876

Kim Colbo
Hughes Gorski Seedorf Odsen & Tervooren LLC
3900 C Street, Suite 1001
Anchorage, Alaska 99503
907-274-7522

9. *Citizens for Implementing Medical Marijuana v. Municipality of Anchorage*, 3AN-02-12732 Civil, affirmed: 129 P.3d 898 (Alaska 2006) (order supplied).

Counsel:

Karen Bretz
610 C Street, Suite 2B
Box 91457
Anchorage, Alaska 99509
907-277-5847

Kenneth Jacobus
310 K Street, Suite 200
Anchorage, Alaska 99501
907-277-3333

Shelley Ebenal
Executive Director & General Counsel
Greater Fairbanks Community Hospital Foundation
Box 71396
Fairbanks, Alaska 99707
907-458-5550

10. *Trust the People Initiative Comm. v. Leman*, 3AN-04-11341 Civil (order supplied).

Counsel:

Jeff Feldman
Felman Orlansky & Sanders
500 L Street, Fourth Floor
Anchorage, Alaska 99501
907-272-3538

Sarah Felix
Assistant Attorney General
Labor & State Affairs Section
Box 110300
Juneau, Alaska 99811
907-465-3600

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

I know of no cases of mine in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Millette v. Millette, 177 P.3d 258 (Alaska 2008). I entered custody, visitation, and child support orders. The Alaska Supreme Court affirmed the custody and visitation orders but remanded the child support order. I do not have a copy of this order but it is maintained on microfiche.

Samuel H. v. State, Office of Children's Services, 175 P.3d 1269 (Alaska 2008). I ruled that a parent failed to make adequate provisions for the care of his child during his incarceration. The Alaska Supreme Court ruled that the father's testimony, if believed, demonstrated he did make adequate arrangements for his daughter. Findings, Conclusions, and Order Terminating Parental Rights and Responsibilities and Permanency Findings (January 9, 2007) supplied.

Carr-Gottstein Foods Co. v. Wasilla, LLC, 182 P.3d 1131 (Alaska 2008). I ruled that the "use clause" of a shopping center lease did not permit the sale of alcohol and that the landlord was not estopped from enforcing the terms of its lease. I also ruled that the owners of the shopping center were the prevailing parties. The Alaska Supreme Court ruled that the landlord impliedly waived the right to enforce the "use clause" and held that the tenants were the prevailing party.

Order on Post-Trial Briefing (December 24, 2004), Findings of Fact and Conclusions of Law (April 9, 2004) supplied.

Allstate Ins. Co. v. Falgoust, 160 P.3d 134 (Alaska 2007). I ruled that a homeowner's insurance policy that excluded coverage for a "dependent person" in the care of the insured was ambiguous as to a foster child in the custody of the State of Alaska who was placed with the homeowner. (The child was dependent upon the foster family for care, but dependent upon the State of Alaska for financial support.) Because of this ambiguity, I ruled that there was coverage. I declined to rule on whether the State had an obligation to defend the foster parents and on whether the insurer had a claim against the State for its defense costs. The Alaska Supreme Court ruled that the policy's exclusion applied because the child was dependent upon the foster family. Order on Motions for Summary Judgment, Entry of Default Judgment, Motion for Entry of Judgment Against Fewer than All Parties, and Motion for Sanctions (April 23, 2004) supplied. Findings of Fact and Conclusions of Law (June 13, 2005) supplied.

State Farm Mut. Auto. Ins. Co. v. Lestenkof, 155 P.3d 313 (Alaska 2007) (rehearing denied). *State Farm Mut. Auto. Ins. Co. v. Lestenkof*, 144 P.3d 504 (Alaska 2006). I ruled that an insurer was obligated to pay attorney's fees on its underinsured motorist coverage pursuant to the "mirror rule." The Alaska Supreme Court ruled that under the facts of the case the insured was not entitled to recover attorney fees on the underinsured motorist coverage. Order on Motion for Judgment on the Pleadings, (September 24, 2003) supplied. Ruling on Plaintiff's Motion for Summary Judgment and Defendant's Cross-Motion for Summary Judgment (November 2, 2004) supplied. Order on Motion for Reconsideration supplied.

Pruitt d/b/a Seward Ship's Ace Hardware and Marine v. City of Seward, 152 P.3d 1130 (Alaska 2007) (Carpeneti, J. dissenting). In an enforcement action for violation of a city's building and zoning codes, I ruled that the citizen failed to exhaust his administrative remedies and that the canopy affixed to his building violated the City's setback requirements. The Alaska Supreme Court held that because the citizen did not receive notice that the City's decision was final, the exhaustion doctrine did not prevent him from defending against the City's enforcement action. The court remanded with instructions that the matter should be held in abeyance while the citizen exhausted his administrative remedies. Order on Motion for Summary Judgment and Cross-Motion for Summary Judgment (June 3, 2004) supplied.

Thoeni v. Consumer Elec. Services, 151 P.3d 1249 (Alaska 2007) (rehearing denied). I affirmed the Alaska Workers' Compensation Board's decisions that (1) claimant's failure to attend a medical examination was unexcused; and (2) she had achieved medical stability. The Alaska Supreme Court reversed those rulings. I also affirmed the Board's decisions that (1) claimant failed to prove the need for additional medical treatment; (2) claimant's depression and insomnia were not

work related; and (3) the controversions were not frivolous or unfair. The Alaska Supreme Court affirmed these rulings. Ruling on Appeal from Decisions of Alaska Workers' Compensation Board (March 17, 2005) supplied.

Board of Trustees, Anchorage Police and Fire Ret. Sys. v. Municipality of Anchorage, 144 P.3d 439 (Alaska 2006). I ruled that requiring a retirement system to absorb the actuarial impact of settling a grievance impermissibly increases the system's costs and impairs the system's ability to withstand future contingencies. The Alaska Supreme Court held that allowing the system to absorb losses from grievances did not impair vested rights, and that the Municipality was not required to compensate the system. Findings of Fact and Conclusions of Law (March 9, 2005) supplied.

B. R. v. State, Dep't of Corrections, 144 P.3d 431 (Alaska 2006) (Fabe, J., joined by Carpeneti, J., concurring in part and dissenting in part.). I ruled that the Department of Corrections was immunized from liability for an employee's intentional assaultive conduct by Alaska's tort immunity statute. The Alaska Supreme Court ruled that plaintiff should be given the opportunity to amend the complaint to allege claims based on the State's independent protective duty, recognized in its recent decision *Kinegak v. State*, 129 P.3d 887 (Alaska 2006), and to pursue a claim for the negligent failure to train other employees. I do not have a copy of this order but it is maintained on microfiche.

Jarvis v. Ensminger, 134 P.3d 353 (Alaska 2006). I granted summary judgment on plaintiff's contract, promissory estoppel, and misrepresentation claims. The Alaska Supreme Court affirmed dismissal of the contract claims but reversed dismissal of the promissory estoppel and misrepresentation claims. Order Re Defendants' Second Motion for Summary Judgment (March 9, 2004) supplied.

Byers v. Ovitt, 133 P.3d 676 (Alaska 2006). I ordered a party to file tax returns so that child support could be calculated. When the tax returns were not filed, I imputed income and calculated child support. The orders requiring production of the tax returns and imputing income were affirmed. The Alaska Supreme Court reversed the calculation of child support, holding that taxes and retirement contributions must be deducted from imputed income regardless of whether they have actually been paid. Child Support Order (September 3, 2002) and Order on Cross-Motions for Reconsideration and Child Support Findings (November 11, 2002) supplied.

State, Dep't of Revenue, Child Support Services Division v. Wise, 122 P.3d 212 (Alaska 2005). I entered a child support order effective as of the date the motion to modify child support was filed. The Alaska Supreme Court held that the order should have been effective as of the date the parties received notice of the motion. I do not have a copy of this order but it is maintained on microfiche.

State of Alaska, Division of Elections v. Metcalfe, 110 P.3d 976 (Alaska 2005). I granted an injunction allowing a candidate to appear on the ballot where he had signatures from less than 3%, but more than 1%, of the voters who voted in the prior election. Because it was a ballot access case, I applied strict scrutiny and ruled that the 1% signature requirement for individual candidates' nominating petitions should be sufficient to establish the required "modicum of support" required for candidates affiliated with political parties. The Alaska Supreme Court also applied strict scrutiny, but held that the State was justified in requiring a greater showing of support for a candidate affiliated with a political party. I do not have a copy of this order but it is maintained on microfiche.

Caldwell v. State, Dep't of Revenue, Child Support Enforcement Division, 105 P.3d 570 (Alaska 2005). I ruled that a parent who received a lump sum for the sale of his business, entered into a five-year non-competition agreement, and did not attempt to find new employment, was obligated to amortize the lump sum payment over the period of the non-competition agreement for purposes of determining his annual income and calculating child support. The Alaska Supreme Court held that one-time capital gains could not be treated as income amortized over the period of the non-competition agreement. I do not have a copy of this order but it is maintained on microfiche.

Wedman v. Wedman, 2005 WL 628806 (Alaska 2005) (unpublished MO&J). I ruled that a material change of circumstances warranted modification of child support and entered a revised child support order. The Alaska Supreme Court affirmed the decision to modify support, rejected appellant's due process claim, and affirmed the rulings on five of the points argued on appeal regarding the calculation. The court remanded the issue of how one party's earned income credit should affect the other's support obligation. Order Adopting Master's Report (June 11, 2003) supplied.

Alderman v. Iditarod Properties, Inc., 104 P.3d 136 (Alaska 2004). I ruled that the plaintiff's claim for breach of an agreement to pay rent was not barred by res judicata, ultimately entered judgment for the plaintiff, and awarded enhanced attorney's fees. The Alaska Supreme Court affirmed the ruling that the doctrine of res judicata did not bar plaintiff's action to recover commercial rent, and the calculation of prejudgment interest. The court reversed the award of enhanced attorney's fees. Order on Cross Motions for Summary Judgment (September 28, 2002), Findings of Fact and Conclusions of Law (November 21, 2002) and Order on Motion for Reconsideration of Attorney's Fees (January 29, 2003) supplied.

Kodiak Island Borough v. Mahoney, 71 P.3d 896 (Alaska 2003). A municipal clerk rejected a ballot initiative proposing term limits on the grounds that it raised constitutional issues of first impression. I ruled this was not a permissible reason to reject the ballot initiative. This ruling was affirmed by the Alaska Supreme Court. Because the citizens erroneously proposed a "ballot measure" rather than an "ordinance," I also ruled that the clerk should correct their error. The latter

ruling was vacated on appeal. Order Denying Defendant's Motion for Summary Judgment and Granting Plaintiff's Motion for Entry of Declaratory Relief (July 5, 2002) supplied.

Alaskans for Efficient Gov't, Inc. v. State of Alaska, 52 P.3d 732 (Alaska 2002) (Eastaugh, J. and Carpeneti, J. dissenting). I affirmed the lieutenant governor's decision approving a ballot initiative summary. The Alaska Supreme Court held that the language of the summary should be revised. Order (May 6, 2002) supplied.

Dobrova v. State, Dep't of Revenue, 171 P.3d 152 (Alaska 2007). I dismissed a late-filed administrative appeal. The Alaska Supreme Court determined that some of the pleadings that had been filed as part of the record on appeal had actually been filed in the wrong trial court case, and were therefore not considered when the motion to accept late-filed appeal was denied. The Alaska Supreme Court remanded the case so that appellant would have an opportunity to file the pleadings in the correct file and have his motion to accept late-filed appeal reconsidered.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Opinions issued by superior court judges in Alaska are only published when the Alaska Supreme Court elects to incorporate an entire superior court order into one of its decisions on appeal. One of my trial court decisions was published in that way: *Dennis Lee d/b/a United Community Services of America v. State of Alaska*, 141 P.3d 342 (Alaska 2006). I do not know of any other decisions or orders I issued from the superior court that were published.

All of the decisions and orders I authored as a superior court judge are maintained by the Records Division of the Nesbett Courthouse, 825 West Fourth Avenue, Anchorage, Alaska 99501. I also maintained a "reading file" where I stored hard copies of many of my trial court decisions. The reading file is now stored in my chambers in the Alaska Supreme Court.

As an Alaska Supreme Court justice, I have issued two unpublished orders and four unpublished decisions. All published and unpublished orders issued by the Alaska Supreme Court are maintained by the Clerk of the Appellate Courts, and I have hard copies in my chambers.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Olson v. City of Hooper Bay, S-13455, Op. No. 6552, 2011 WL 1441869 (April 15, 2011).

Croft v. Parnell, S-13200, Op. No. 6491, 236 P.3d 369 (Alaska 2010).

West v. State, Board of Game, S-13184/13343, Op. No. 6497, 248 P.3d 689 (Alaska 2010).

The Alaska Public Interest Research Grp. v. Murkowski, 3AN-04-10618 CI, copy supplied.

Kodiak Island Borough v. Mahoney, 3KO-01-00207 CI, copy supplied in response to 13(f). Reviewed by the Alaska Supreme Court, 71 P.3d 896 (Alaska 2003).

Trust the People Initiative Comm. v. Leman, 3AN-04-11341 CI, copy supplied in response to 13(d).

Brown v. L.D.G., Inc., 3KN-00-00513 CI, copy supplied. Reviewed by the Alaska Supreme Court, 211 P.3d 1110 (Alaska 2009).

Citizens for Implementing Medical Marijuana v. Municipality of Anchorage, 3AN-02-12732 CI, copy supplied in response to 13(d). Reviewed by the Alaska Supreme Court, 129 P.3d 898 (Alaska 2006).

Hinterberger v. State of Alaska, 3AN-04-03810 CI, copy supplied.

Larson v. Cooper, 3AN-00-03607 CI, copy supplied. Reviewed by the Alaska Supreme Court, 113 P.3d 1196 (Alaska 2005).

Board of Trustees, Anchorage Police and Fire Ret. Sys. v. Municipality of Anchorage, 3AN-03-10273 CI, copy supplied in response to 13(f). Reviewed by the Alaska Supreme Court, 144 P.3d 439 (Alaska 2006).

Alaskans for Efficient Gov't, Inc. v. State of Alaska, 3AN-01-09799 CI, copy supplied in response to 13(f). Reviewed by the Alaska Supreme Court, 52 P.3d 732 (Alaska 2002).

Price v. Ulmer, 3AN-02-10179 CI, copy supplied.

Jordan v. State of Alaska, 3AN-05-13722 CI, copy supplied.

Hertz v. Carothers, S-13245, Op. No. 6457, 225 P.3d 571 (Alaska 2010).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

    a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

    b. a brief description of the asserted conflict of interest or other ground for recusal;

    c. the procedure you followed in determining whether or not to recuse yourself;

    d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Alaska's Automatic Recusal System:

Alaska Rule of Civil Procedure 42(c) allows parties in district or superior court one change of judge as a matter or right. Under the rule, a Notice of Change of Judge is timely if filed before trial and within five days after notice that a case has been assigned to a specific judge. Since 2004, judicial assignments are made on a random basis by Courtview, our court system's computer case management system. (Prior to 2004, cases were randomly assigned by the clerk's office.) Judicial assignment notices are issued when new case files are opened in the clerk's office. As a judge in the superior court, I rarely received Notices of Change of Judge because the clerk's office typically reassigned the cases before new case files were routed to chambers. When I did receive a Notice of Change of Judge it was because the clerk's office was uncertain whether the notice was timely or otherwise invalid, usually because a party attempted to exercise a change of judge after the time allowed by Civil Rule 42(c) or because a party attempted to exercise a second change of judge as a matter of right. I cannot recall the names or case numbers of specific cases where a Notice of Change of Judge was routed to me.

In the Alaska Supreme Court, the clerk's office maintains a list of automatic recusals compiled by each justice. Notices are sent out in those files by the clerk's office directly.

To determine the cases and case types for the automatic recusal list, I have been guided by the Alaska Code of Judicial Conduct, advice from the Executive Director of the Alaska Commission on Judicial Conduct, published opinions from the Alaska

Commission on Judicial Conduct, and AS 22.20.020, the statute governing disqualification for cause in Alaska.

Recusal Sua Sponte:

Our court system's computer was not able to generate a list of cases in which I voluntarily recused myself, but my electronic records show that I recused myself from the following cases:

Isla Partners; CDC Real Estate Corp. v. The Weinstein Family L.C., 3AN-06-06383 CI. My friend was counsel of record in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Powercorp Alaska, LLC v. State of Alaska, AIDEA, 3AN-06-04543 CI. My former law firm was involved in this case. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Abbott v. State, Dep't of Administration, Division of Motor Vehicles, 3AN-06-06610 CI. The plaintiff is a family friend. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Laurin v. Household Fin. Corp., 3AN-06-05358 CI. My husband's law firm was counsel for one of the parties. I recused myself in accordance with Canon 3E(1)(d)(ii) of the Alaska Code of Judicial Conduct.

General Teamsters Local 959, State of Alaska v. Paratransit, Inc., 3AN-06-07134 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Colaska, Inc., dba QAP v. General Concrete Co., 3AN-05-09825 CI. My former law firm was involved in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Krone v. State of Alaska, Dep't of Health & Social Services, 3AN-05-10024 CI. A family member was potentially eligible for the same benefits at issue in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

McCann v. Wooten, 3AN-05-6836 CI. I was not the assigned judge for this case, but I was asked to conduct a settlement conference. The parties reached a settlement on custody and visitation, and put their agreement on record. About ten months later, they had a dispute about the interpretation of their agreement and they asked me to resolve it. By that time, I was a candidate for the Alaska Supreme Court. Because one of the parties is related to the former governor, I entered an order recusing myself from the case to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Chey v. Netzley, 3AN-04-03787 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Tunista, Inc. v. Bilista, LLC, 3AN-04-12322 CI. Counsel of record was a member of my husband's law firm. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

A&H Enterprises v. Sisson, 3AN-03-10497 CI. My former law firm was involved in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Hutchins v. Hutchins, 3AN-02-04977 CI. One of the parties provided house cleaning services for my family residence. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Johnson v. Sears Roebuck and Co., 3AN-02-06750 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Port Graham Seafoods, Inc. v. Port Graham Dev. Corp., 3AN-01-11477 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Talbot v. Guarino, 3AN-01-11676 CI. My daughter was riding with one of the parties at the time of the car accident at issue in this case. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

LaRose v. Columbia Investments, 3AN-00-10579 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Little v. Welch, 3AN-99-10717 CI. Counsel of record was from my previous law firm. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Thompson v. Thompson, 3AN-99-09467 CI. I had represented one of the parties while in private practice. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Moody v. MacGregor, 3AN-99-12107 CI. The defendant's sister was my health care provider. She made a statement about the case, thinking the case was resolved. The case was not yet concluded and I believed the fact that I had become aware of the relationship (which had previously been unknown to me) and the nature of the health care provider's comment created an appearance of impropriety. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Sea Hawk Seafoods, Inc. v. Valdez Fisheries Dev. Ass'n, 3AN-95-03500 CI. My husband's law firm was counsel for one of the parties. I recused myself in accordance with Canon 3E(1)(d)(ii) of the Alaska Code of Judicial Conduct.

Pacheo v. Pacheo, 3AN-92-03842 CI. The custodian of the child at issue in this case was a former co-worker. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Mapco Petroleum, Inc. v. Roy Marion Moats Revocable Trust, 3AN-92-11117 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

In the Alaska Supreme Court I recuse myself from cases involving my husband and his law firm, a few close friends who practice law, cases involving boards where I currently serve (Rasmuson Foundation and Alaska Community Foundation), and cases in which close friends have been litigants. I also recuse myself from cases that were assigned to me in the trial court and cases I was involved with in my capacity as presiding judge.

Notices:

In the superior court and in the Alaska Supreme Court, I have issued notices of prior or current affiliations that do not require automatic disqualification and have allowed the parties an opportunity to object to the case assignment. This category includes cases involving my former law firm, cases involving non-profit organizations where I have previously served as a board member, cases involving Alaska Legal Services Corporation (where my husband and I have made annual contributions), and cases involving more distant connections – such as cases involving lawyers whose children were my daughters' classmates or participated on my daughter's soccer teams. In cases involving challenges to an Individual Education Plan, I have given notice that my husband and I were parents of a child with special needs who had an Individual Education Plan.

Recusals Requested by a Party:

Superior Court:

At my request, the Administrative Director of the Alaska Court System arranged for a Courtview report of any "Motions for Recusal of Judge" under my name and found no cases where a motion for change of judge was filed. After reviewing my own records, I found the following cases in which the parties requested recusal or filed notice of change of judge:

Provost v. Nevitt, 3AN-06-00522 CI. This was a timely notice of change of judge. I asked that the case be reassigned in accordance with Alaska Rule of Civil Procedure 42(c).

Williams v. Williams, 3AN-05-06854 CI. One party asked that I recuse myself because he felt he was treated unfairly by not receiving notice of trial. I reviewed the case file and verified with my assistant that the party had telephoned chambers acknowledging his awareness of the trial date. After review of the file I concluded that the record did not support disqualification: written notices of the original and rescheduled trial dates were mailed to both parties, none were returned to the court, and the party requesting recusal contacted my assistant indicating his awareness of the scheduled trial date and his inability to attend. Accommodations were made for the party to appear telephonically if necessary, and the trial date was rescheduled to give him additional time. When the party did not appear at the rescheduled date, I went forward with the parties' divorce trial. I denied the request that I disqualify myself and referred the decision for review by another judicial officer pursuant to AS 22.20.020(c).

In the Matter of Ahkivgak, 3AN-04-00355 CN. The parties requested a specific judge who was familiar with the case. I considered the court system's policy that child-in-need-of-aid cases should be handled by the same judge assigned to other family law matters for the same family, and agreed the case should be reassigned.

DeNardo v. Municipality of Anchorage, 3AN-04-12244 CI. I gave notice of a personal association with the municipal attorney and plaintiff requested recusal. The former colleague was a person with whom I had worked closely for a number of years. Although he was not assigned to the case, he did have supervisory authority over it. I thought it best to recuse myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Stroud v. Stroud, 3AN-98-07905 CI. The parties requested a transfer of this case. This case was reassigned in keeping with the trial court policy that one judge handle all family law matters for one family.

Alaska Supreme Court:

In the Alaska Supreme Court, I have been asked to recuse myself from two cases:

1. *Planned Parenthood of Alaska v. Campbell*, S-13826/S-13835/S-13845. I issued a notice to the parties in this case that I am a former member of the board of Planned Parenthood of Alaska, and that I believed I could sit on the case in a fair and impartial manner. One of the parties asked that I recuse myself. After reviewing the file and considering briefing from all parties, I recused myself. Consistent with the practice of the Alaska Supreme Court, I did not state a reason for the recusal.

2. *NCO Fin. Sys., Inc. v. Ross*, S-13557. The Alaska Commission on Judicial Conduct has published an opinion permitting judicial officers to contribute to Alaska Legal Services Corporation but recommends that this be disclosed in cases where ALSC is counsel of record. The appellant in this action was represented by Alaska Legal Services Corporation in part of the trial court proceedings but Alaska Legal Services Corporation did not represent her on appeal. The Appellate Court Clerk's office

issued a notice that my husband and I contribute to Alaska Legal Services Corporation and that my husband has served as a campaign co-chair for Alaska Legal Services Corporation. One party requested that I recuse myself. I issued an individual justice order denying the motion seeking my recusal, explaining my reasoning, and referring the motion to the Alaska Supreme Court for review pursuant to AS 22.20.020(9)(c). The other members of the Alaska Supreme Court issued an order denying the motion for recusal. The same request was made of another member of the Alaska Supreme Court who has also contributed to Alaska Legal Services Corporation. It was also denied.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office other than judicial office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held any memberships or offices in, or rendered any services to, any political party or election committee, nor have I held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I clerked for Judge Brian Shortell, Alaska Superior Court, from September 1986 to September 1987.

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

I did not practice alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1987 – 2002
Preston, Gates & Ellis LLP
420 L Street, Suite 400
Anchorage, Alaska 99501
Associate (1987 – 1992)
Litigation Partner (1993 – 2001)

The firm name was "Preston Gates & Ellis LLP" at the time I was appointed to the bench. When I joined the firm it was called "Preston Thorgrimson Ellis & Holman." During my tenure it was also known as "Preston Thorgrimson Shidler Gates & Ellis."

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I served as a discovery master on at least two occasions while in private practice, and as an arbitrator one time that I can recall.

In re the Arbitration of Sarkissian v. Gregory, 3AN-99-08835 Civil. I acted as arbitrator for this dispute concerning the interpretation of an automobile insurance policy.

b. Describe:

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

I was a general civil litigator throughout my private practice. I began by assisting with large litigation projects for clients of the firm, particularly the State of Alaska, but I developed my own practice fairly early on. Many of my clients came as referrals from my involvement in the community and from previous clients. In the first three years of my practice, I was lead counsel on a large embezzlement case for the Susitna Girl Scout Council. By the time I became a partner in January of 1993, I had developed a practice area in Jones Act personal injury claims and was lead counsel in a case tried in the United States Court of Claims for the death of an infant due to a vaccine. I did not specialize in aviation cases, but I did serve as lead counsel on four aviation fatality cases between 1993 and 1999. Also between 1993 and 1999, I served as lead counsel in an Equal Pay Act case and represented a fuel barge line in several

commercial disputes, including its lease of a fuel tank farm and taxes it allegedly owed for the use of a city-owned fuel dock. Between 1999 and 2001, over half of my practice was devoted to defending two physician practice groups in a federal Medicaid fraud investigation and related False Claims Act case, and assisting with the defense of a class action anti-trust case brought against purchasers of salmon harvested in Alaska.

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

I had a general civil litigation practice. My clients included institutional entities such as the State of Alaska and University of Washington Physicians Group. They also included Alaska businesses in commercial disputes: an RV dealership, a pipeline inspection firm, a fuel barge line, and members of a professional practice group. I represented individuals and estates in wrongful death and personal injury claims (aviation fatalities, commercial fishing accidents, some auto and truck accidents, a rock slide, and an avalanche). I also represented the Susitna Girl Scouts in an embezzlement claim, and I handled some family law matters.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The frequency of my court appearances varied between "frequently" and "occasionally" depending on the litigation I was involved with at any given time. The time records from my former firm do not allow me to provide accurate estimates of the amount of time I spent in court over the course of my practice, but as is typical of most civil litigation, the bulk of my cases resolved short of trial, at judicial settlement conferences and mediations, after motions practice at the summary judgment level.

i. Indicate the percentage of your practice in:
   1. federal courts: 15%
   2. state courts of record: 80%
   3. other courts: 5%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 90%
   2. criminal proceedings: 10%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I believe I tried six cases as a lawyer; I was lead counsel on five of them.

i. What percentage of these trials were:
   1. jury: 66%
   2. non-jury: 33%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State of Alaska v. Exxon Corp.*, 3AN-89-6857 CI.

From 1989 to June 1991, I was one of four attorneys on the liability team representing the State of Alaska in its claims for compensation arising from the *Exxon Valdez* oil spill. I was the principal attorney responsible for establishing the events in the 24 hours before the grounding through 24 hours after the grounding. This included the activities of the captain and crew in port and after they returned to the tanker. I prepared for and participated in depositions of principal crew members. I created a timeline of events for use by all lawyers representing the State from my own informal witness interviews, depositions, interviews conducted by the Alaska State Troopers, NTSB investigators, Coast Guard responders, and sworn testimony provided at administrative proceedings. I accompanied the State's liability experts when they inspected the tanker at the shipyard, and walked them through the sequence of events to explore theories of liability addressing navigational tools available to the captain and crew and errors made on the night of the grounding. I participated in drafting the State's successful summary judgment motion establishing liability under AS 46.03.822 and drafted research memos to assist in advising the State Attorney

General on subjects such as the applicable statutes of limitations, vessel arrest under maritime law, preemption, Alaska's strict liability statutory scheme, and the availability of punitive damages. After the State settled its liability claim in 1991 until approximately 1994, I defended against claims brought by individuals who argued the State's response to the spill was inadequate.

Alaska Superior Court Judge Brian Shortell presided in the Third Judicial District. Lead co-counsel for the State of Alaska were Fred Boness, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969, and Craig Tillery, (retired) Assistant Attorney General, State of Alaska, current address 2222 Loussac Drive, Anchorage, Alaska 99517; telephone 907-433-9185. There were several dozen lawyers in this case. The service list for lead counsel for other key parties included: David Oesting, Davis Wright Tremaine, 550 West Seventh Avenue, Suite 1450, Anchorage, Alaska 99501; telephone 907-257-5323; Matthew Jamin, Jamin Law Office, 323 Carolyn Street, Kodiak, Alaska 99615; telephone 907-486-6024; Tim Petumenos, Birch, Horton, Bittner & Cherot, 1127 West Seventh Avenue, Anchorage, Alaska 99501; telephone 907-276-1550; Charles Flynn, Burr, Pease & Kurtz, 820 N Street, Suite 300; Anchorage, Alaska 99501; telephone 907-276-6100; Randy Weddle, Faulkner, Banfield, Doogan & Holmes, 550 West Seventh Avenue, Suite 100, Anchorage, Alaska 99501; telephone 907-274-0666.

2. *United States ex. rel. Erickson v. Univ. of Washington Physicians*, 2:99-cv-01261-BJR.

This case and the related criminal investigation arose out of a False Claim Act complaint filed in 1999 against the faculty practice plans of the University of Washington by a *qui tam* relator. The complaint alleged fraudulent claims for reimbursement and other impermissible billing practices for medical services by certain physicians in those faculty practice plans. Preston Gates & Ellis LLP represented the plans in criminal grand jury investigations. I had principal responsibility for several areas that were the subject of inquiry by the U.S. Attorney's Office and the grand jury relating to billing and documentation practices in several faculty departments and for different medical center sites. The investigation and related civil litigation were ultimately resolved by a settlement, a fine, and the implementation of an Institutional Compliance Agreement. (I was not involved in the settlement because I had been appointed to the bench by the time the case settled.)

Judge Barbara J. Rothstein presided in the United States District Court, Western District of Washington. Principal Counsel for the U.S. Department of Justice was the Office of the U.S. Attorney in Seattle where the grand jury was empanelled: John McKay, Robert Westinghouse, Susan Loitz, 700 Stewart Street, Suite 5220, Seattle, Washington 98101; telephone 206-553-7970. Principal Co-Counsel for the University of Washington included: Dan R. Dubitzky (retired), 8350 NE Oddfellows Road, Bainbridge Island, Washington 98110; telephone 206-467-6709. Principal Counsel for the CEO of UWP included: Irwin Schwartz, 710 Cherry Street, Seattle, Washington 98104; telephone 206-623-5084. Other counsel with whom I had regular

contact: Jeffrey Robinson, Schroeter Goldmark & Bender, 810 Third Avenue, Suite 500, Seattle, Washington 98104; telephone 206-622-8000; J. Ron Sim, Stoel Rives LLP, 600 University Street, Suite 600, Seattle, Washington 98101; telephone 206-386-7592; David Bukey, Law Offices of David Bukey, 1501 Fourth Avenue, Suite 2150, Seattle, Washington 98101; telephone 206-382-1787.

3. *Lane v. United States Dep't of Health & Human Services*, Case No. A93-54 V (unpublished), November 15, 1993.

   Between January 1992 and January 1994 I represented the parents of an infant who died after receiving a childhood vaccination. The claim was filed under 42 U.S.C.A. Sec. 300aa-1 et seq. I was lead counsel in this bench trial. Both parents testified at trial, as did the child's aunt (care provider), pediatrician, and plaintiff's retained expert physician witness. DHSS defended by presenting a competing expert and arguing that the child died of Sudden Infant Death Syndrome. DHSS relied upon: (1) the forensic pathologist's opinion attributing the cause of the child's death to SIDS; and (2) the child's medical records which did not show that he suffered an encephalopathy within three days of receiving the DPT vaccine. The bulk of trial preparation involved reviewing literature on the type of reaction at issue; reviewing the child's medical, paramedic, and autopsy records; preparing all lay witnesses to testify; working with a retained expert to prepare the presentation of his opinion; and preparing the cross-examination of DHSS's expert. I recovered a judgment in the amount of $250,000 (amount set by statutory scheme) on behalf of the child's family.

   Special Master Paul T. Baird of the United States Court of Federal Claims presided. Opposing counsel was Gerard W. Fischer, Torts Branch, Civil Division, United States Department of Justice, P.O. Box 146, Benjamin Franklin Station, Washington, DC 20004; telephone 202-616-4090.

4. *Guy v. Northern Television, Inc.*, A97-182 CV (JWS).

   Guy was promoted to serve as the first female president of NTV, a company that owned radio and television stations in Alaska. Her male predecessors received retirement packages but the owner of NTV and Guy did not finalize negotiations for her retirement package. The owner of NTV sold the company without informing Guy that he planned to do so. On behalf of Guy, I filed suit in the federal district court for the district of Alaska, alleging violations of Title VII, the Equal Pay Act, and the state law claim of violation of the covenant of good faith and fair dealing. I acted as lead counsel on the case, which was assigned to Judge Jack Sedwick. My co-counsel was my partner, Jennifer Coughlin. Judge Sedwick denied NTV's motion for summary judgment on the statute of limitations, and granted Guy's summary judgment motions establishing Guy's prima facie case on her Equal Pay Act and Title VII claims as a matter of law: (1) that the Anchorage and Fairbanks divisions of NTV are a single establishment for purposes of the Equal Pay Act; (2) that Guy performed equal work to her male predecessors for purposes of the Equal Pay Act; and (3) that Guy received less compensation than her male predecessors for performing equal work. Our

motion in limine was granted, preventing NTV's expert from testifying in its case in chief. Ms. Coughlin and I both worked on the written motions, which I argued. The remaining issues for trial were: NTV's affirmative defenses, Guy's claim for violation of the covenant of good faith and fair dealing, and Guy's damages. The case settled shortly before trial. We negotiated a structured settlement with a ten year pay out schedule. I represented Ms. Guy from May 1997 through January 1999.

Judge John (Jack) W. Sedwick presided in the United States District Court for the District of Alaska. Co-Counsel for plaintiff included Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Counsel for Northern Television, Inc. was Walter Featherly, Patton Boggs LLP, 601 West Fifth Avenue, Suite 700, Anchorage, Alaska 99501; telephone 907-263-6300.

5. *Susitna Girl Scout Council v. Ernst & Young*, 3AN-90-07700 CI.

I represented the Susitna Girl Scout Council's efforts to recover $667,000 in losses suffered as the result of an employee's long term embezzlement scheme. The Council pursued claims against two national auditing firms and one local auditing firm that conducted the Council's annual audits. (The auditors' work papers showed actions that fell short of Generally Accepted Accounting Principles.) The other defendant was a national bank where the embezzler was able to funnel hundreds of checks into separate bank accounts she set up in her name, contrary to the signature card authorizations the Council provided for negotiating its checks. I worked with counsel for all four potential defendants to enter into a tolling agreement permitting us to wait until after resolution of the criminal prosecution before moving forward with the banking and auditing malpractice cases. During the tolling period, I worked with a forensic auditor to prepare for and depose the embezzler after her criminal prosecution, and compiled the evidence and arguments supporting successful theories of banking and accounting malpractice liability as to all potentially responsible entities. The multi-party mediation resulted in a global settlement. The amount paid to the Council is subject to a confidentiality agreement. I represented the Susitna Girl Scout Council from January 1990 through April 1991.

Judge Karen Hunt presided in the Alaska Superior Court, Third Judicial District. Opposing Counsel was Jon Ealy, current address: Marsh Creek, LLC, 2000 East 88th Avenue, Suite 200, Anchorage, Alaska 99507; telephone 907-258-0050; Jean Kizer, current address: Alaska State Commission for Human Rights, 800 A Street, Suite 204, Anchorage, Alaska 99501; telephone 907-276-7474; Ray Plummer, 310 K Street, Suite 200, Anchorage, Alaska 99501; telephone 907-272-9665; Nina Ruffini, 1251 Avenue of the Americas, New York, New York 10020; telephone 212-819-4861.

6. *Claiborne v. Precision Airmotive Corp*, A:99-46 CI (JKS) (originally filed as F:98-22-CV (HRH) but venue was changed).

   I represented the estate of a commercial pilot who had been employed by Northern Air Cargo. Mr. Claiborne was killed while working as part of the flight crew on a DC-6A aircraft that was en route to Aniak, Alaska when it experienced a catastrophic engine failure and in-flight fire. Plaintiff's expert testified that the fire was caused by fatigue fractures in the component parts of the engine. Defendant sold Northern Air Cargo the overhauled aircraft engine that ultimately failed. Discovery showed the master rod had been salvaged from a heavily corroded engine and plaintiff's expert testified that the part was defective at the time it was installed. Precision defended the strict liability claim on the theory that it only repaired the engine, rather than selling a repaired engine into the stream of commerce. The federal district court granted Precision's summary judgment motion on the issue of strict liability, but on reconsideration the district court certified to the Alaska Supreme Court the question whether a repairer is strictly liable under Alaska law where the predominant purpose of its work was the overhaul of an aircraft engine. Because Precision also defended on the theory that the flight crew failed to properly respond to the fire by "feathering" the propeller, discovery required analysis of the master rod disassembly/repair, analysis of the NTSB investigation results, cockpit voice recorder, black box, and wreckage, in conjunction with several experts to determine the cause of the engine failure and how the crew responded. Ultimately, this case settled at mediation. I represented Mr. Claiborne's estate between August 1998 and March 2001.

   Judge James Singleton presided in the United States District Court, District of Alaska. Co-Counsel: Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Opposing Counsel: James Leik, Perkins Coie, 1029 West Third Avenue, Suite 300, Anchorage, Alaska 99501; telephone 907-279-8561; Mike Moody, Atkinson, Conway & Gagnon, 420 L Street, Suite 500, Anchorage, Alaska 99501; telephone 907-276-1700; and Robert Griffin, Law Offices of Robert Griffin, 1600 A Street, Suite 101, Anchorage, Alaska 99501; telephone 907-274-5546.

7. *Cherrier, King and Cherrier v. Western Pioneer*, 3AN-97-3712 CI.

   I defended a fuel barge company in this litigation involving their commercial lease of a fuel tank farm and improvements in Dillingham, Alaska. The primary issues concerned the condition of the premises at the conclusion of a five-year lease, whether the tenant complied with the terms of the Oil Discharge Prevention and Contingency Plan it filed with the State of Alaska, Department of Environmental Conservation, whether the tenant was liable for diminishing the capacity of the tank farm by deactivating some of the fuel tanks, and whether the tenant was obligated to replace a fuel dock, vehicles, and other equipment. Plaintiff's claims included breach of contract, breach of the covenant of good faith and fair dealing, waste, interference with business expectancy and punitive damages. This case was resolved at a

settlement conference. I represented Western Pioneer from May 1997 through February 2000.

The case was assigned to Judge Rene Gonzales presiding in the Alaska Superior Court, Third Judicial District, but was settled by mediation with retired Judge J. Justin Ripley. Opposing Counsel: Frank Bettine, Frank Bettine Law Offices, 343 Parks Highway, Wasilla, Alaska 99654; telephone 907-892-6971.

8. *Estate of Larson v. ERA Aviation*, A:00-0121 CV (JKS) consolidated with J:00-0014 CV and A:00-0194 CV.

This federal tort claims act case arose from a mid-air collision between a fixed wing aircraft and a commercial flight-seeing helicopter near Juneau, Alaska. My client was the Estate of a long-time employee of the FAA who was killed in the collision, as was the other occupant of the airplane. The helicopter landed safely, though one of its passengers was injured by the impact of the collision. No one on the helicopter ever saw the plane and there were no eyewitnesses on the ground who saw the collision. From accident reconstruction efforts, plaintiffs were able to establish that the helicopter ascended into the path of the airplane. The collision occurred in very congested airspace controlled by an agreement signed by air tour operators and published in the FAA's Flight Safety Program. Pretrial discovery focused on establishing the flight path of both aircraft, and establishing the corridor and altitude of the aircraft at the time of the collision to show that the helicopter violated the tour operators' voluntary air space agreement. The legal theories advanced by the Estate included theories of negligence and incorporation of administrative findings from the licensure action pursuant to the doctrine of collateral estoppel. The Estate sought pecuniary damages and loss of consortium under Alaska's Wrongful Death Statute. This case was settled short of trial. My representation was from June 1998 through October 1999.

Judge James Singleton presided in the United States District Court, District of Alaska, Anchorage. Co-Counsel: Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Opposing Counsel: Robert Richmond, Richmond & Quinn, 360 K Street, Suite 200, Anchorage, Alaska 99501; telephone 907-276-5727; Debra Fowler, Stephen R. Cerutti, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 14271, Washington, DC 20044; telephone 202-616-4112; Ken Roosa, (former) Assistant United States Attorney, current address: Cook & Roosa LLC, 3700 Jewel Lake Road, Anchorage, Alaska 99502; telephone 907-276-2744; Mike Moody, Atkinson Conway & Gagnon, 420 L Street Suite 500, Anchorage, Alaska 99501; telephone 907-276-1700; David Martin, contact information unknown.

9. *Alakayak v. All Alaksan Seafoods, Inc.*, 3AN-95-04676 CI.

I assisted with the defense of Kyokuyo Co., Ltd., a large Japanese fishing company, in a class action antitrust suit brought against U.S. and foreign processors and

purchasers of salmon by a class of commercial salmon fishers who fished in Bristol Bay, Alaska between 1989 and 1995. Among other work on the case, I prepared and argued Kyokuyo's motion for summary judgment at the same time the parallel importers' motion for summary judgment was argued. The court granted the importers' motion and dismissed the claims, mooting the individual Kyokuyo motion. Thereafter, Kyokuyo negotiated a favorable settlement of all claims. The firm's representation spanned September 1992 through May 2000 but my involvement in this case was from February 1999 through September 1999.

Judge Peter Michalski presided in the Alaska Superior Court, Third Judicial District. Co-Counsel: Hugh Bangasser, K&L Gates LLP, 925 Fourth Avenue, Suite 2900, Seattle, Washington 98104; telephone 206-623-7580; Jeff Feldman, Feldman & Orlansky, 500 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-272-3538. Opposing counsel: Parker Folse, Susman & Godfrey, 1201 Third Avenue, Suite 3800, Seattle, Washington 98101; telephone 206-516-3880; Phillip Weidner, 330 L Street, Suite 200, Anchorage, Alaska 99501; telephone 907-276-1200.

10. *Minnich v. Carlin*, 1KE-95-366 CI.

The plaintiff in this case suffered a catastrophic crush injury when a multi-ton boulder sheared off the top of a bluff in Ketchikan, Alaska, crashed through the commercial building located at the foot of the bluff, and pinned her to the floor. Defendants owned the residential property built at the top of the bluff which had a support beam located directly on top of the boulder. Extensive discovery efforts established facts to support claims for negligence, negligence per se, and destruction of evidence: deposition testimony established that defendants had been warned not to build on top of the bluff without an engineer's report, the engineer they approached to get one declined and advised against building on the slope, defendants built the deck without obtaining a building permit, they used an unlicensed contractor, and their home had downspouts that directed water to the base of the deck's foundation. Defendants received warnings from the City Engineer and from the Director of Public Works. The destruction of evidence claim was based on the decision to dismantle the deck after the accident and before the site could be examined by plaintiff's experts. In addition to extensive discovery efforts, trial preparation included working with geological experts to prepare reports and testimony on the freeze/thaw cycle's impact on slope stability, engineering techniques that could have been employed to stabilize the slope, negligent construction of the deck, the emergency response to the accident, plaintiff's medical treatment and expenses, and preparation/presentation of plaintiff's economic damage report. My co-counsel and I both participated in briefing and taking depositions on this case; I argued the summary judgment motions before Judge Thompson on defendants' vicarious liability for negligent acts of the builder, negligence per se, and a motion to shift the burden of proof to defendants (based on spoliation of evidence). This case settled at a judicial settlement conference conducted by Judge Patricia Collins. I represented Ms. Minnich from May 1995 through May 1997.

Judge Michael Thompson of the Alaska Superior Court, First Judicial District, Ketchikan, was the assigned judge who ruled on the summary judgment motions. Judge Patricia Collins acted as settlement judge. Co-Counsel: Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Opposing Counsel: Geof Currall, Keene & Currall, 540 Water Street, Suite 302, Ketchikan, Alaska 99901; telephone 907-225-4131; Greg Lessmeier, Lessmeier & Winters, One Sealaska Plaza, Suite 303, Juneau, Alaska 99801; telephone 907-586-5912; Michael Holman, 700 Water Street – upper, Ketchikan, Alaska 99901; telephone 907-225-8000; Thomas Bachelor, Bachelor, Brinkman & Pearson, 526 Main Street, Juneau, Alaska 99801; telephone 907-586-9455; A. Fred Miller, Attorney at Law, PC, 426 Main Street, Ketchikan, Alaska 99901; telephone 907-226-6666.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    While in private practice, I served on several firm committees, including the firm-wide Governance Council and, for four years, the Partner Compensation Committee. I served as chair of the Partner Compensation Committee in 2000.

    I spent about 50% of my time in the last few years of my private practice defending two physician practice plans that were responding to a federal grand jury investigation and False Claims Act allegations concerning Medicaid billing. This involved coordinating with private criminal defense counsel from approximately ten law firms pursuant to a joint defense agreement.

    Each year, the Alaska Supreme Court rules on approximately 85 petitions for discretionary review in criminal cases. One-fifth of the petitions are assigned to me to prepare recommendations for the full court. Because I have more civil experience than criminal experience, I draft each recommendation memo myself, and have used this as an opportunity to review and learn the substantive criminal issues presented by each petition.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I expect to receive income from the Alaska Judicial Retirement System, Supplemental Benefits System, and Deferred Compensation Program after retirement. I also have a 401(k) plan from my years in private practice.

    As a member of the Top-2005 Liquidating Trust, I may receive one small additional distribution in the fall of 2012.

    I have no other deferred income arrangements.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    Apart from my service on the boards of the Rasmuson Foundation and the Alaska Community Foundation, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court. My term on the Rasmuson Foundation Board expires on December 31, 2011. My term on the Alaska Community Foundation Board expires December 31, 2012.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

Other than my husband and daughter, the only parties that might present potential conflicts of interest if I am confirmed include the following: Rasmuson Foundation, its board members and staff; Alaska Community Foundation, its board members and staff; Stoel Rives LLP (spouse's current law firm); Jennifer Coughlin (personal friend and former partner); Louann Cutler (personal friend and former partner). In the event any of these persons or entities were to become parties in a case before me, I would recuse myself.

I would also review my financial investments to minimize the risk of conflicts.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will follow the federal recusal statutes and the Code of Conduct for United States Judges.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I served as a pro bono lawyer while in private practice. Specifically, I prepared wills for terminally ill clients, assisted with a social security disability claim, and prepared adoption paperwork for a child whose parent had died. I have not handled pro bono legal work since being appointed to the bench, but community involvement is a high priority for me. I continue to serve on two non-profit boards since being appointed to the bench, and have regularly participated in Youth Court and as a judge for high school mock trial competitions. I have hosted tours for schools, and conducted mock trials of Goldilocks and the Three Bears with elementary school children. I participate in the Color of Justice program, where minority high school students from all over Alaska come to Anchorage to learn about law as a career option, and I have made similar presentations in middle and high school classrooms and for the Girl Scouts. I have spoken at conferences and meetings for paralegals and legal assistants, court appointed special advocates (CASAs), and the Judicial Observer program. Also, another judge and I developed a game called Evidence Cranium where judges and lawyers participate together in teams and tackle tricky evidence problems. We have revised and re-presented this game several times at statewide bar conferences because it was well received as a good way to foster improved bench-bar relations. I was honored to receive the Alaska Supreme Court's Community Outreach Award in 2008.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your

jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

To the best of my knowledge, there was no formal selection committee or commission for this position. I provided writing samples and a resume to Senator Begich's office in May of 2010. I met with Senator Murkowski to discuss this position in early 2011. Since January 31, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 15, 2011 and May 4, 2011, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On May 18, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Christen, Morgan B.	2. Court or Organization 9th Circuit	3. Date of Report 05/18/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Circuit Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 05/18/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 04/30/2011
7. Chambers or Office Address 303 K Street Anchorage, AK 99501	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Justice	Alaska Supreme Court
2.	Director	Rasmuson Foundation
3.	Director	Alaska Community Foundation
4.	Member	Christen Sisters, LLC
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	2011	Alaska State Employee Accounts (Judicial Retirement; 457 Plan, 401(a) Plan); no control
2.	2001	Preston Gates & Ellis Retirement Savings with former law firm; no control
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 9	Name of Person Reporting Christen, Morgan B.	Date of Report 05/18/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2011	Alaska Court System	$63,126.00
2. 2010	Alaska Court System	$187,590.00
3. 2009	Alaska Court System	$178,911.32
4. 2010	Alaska Permanent Fund Dividend	$1,281.00
5. 2009	Alaska Permanent Fund Dividend	$1,305.00
6.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2011	Self-employed attorney
2. 2010	Self-employed attorney
3. 2010	Alaska Permanent Fund Dividend
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt	Exempt	Exempt	Exempt	Exempt
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 9	Name of Person Reporting Christen, Morgan B.	Date of Report 05/18/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt	Exempt	$0.00
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	Wells Fargo Bank	Mortgage on rental property #1	N
2.	Wells Fargo Bank	Mortgage on rental property #2	None
3.	Wells Fargo Bank	Mortgage on rental property #4	L
4.	Chase Home Finance	Mortgage on rental property #3	None
5.	Chase Home Finance	Mortgage on rental property #5	None

FINANCIAL DISCLOSURE REPORT
Page 4 of 9

Name of Person Reporting	Date of Report
Christen, Morgan B.	05/18/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. ASB Accounts	A	Interest	K	T	Exempt				
2. Wells Fargo Accounts	A	Interest	J	T	Exempt				
3. True North Federal Credit Union	A	Interest	J	T	Exempt				
4. Stoel Rives Cash Accounts	A	Interest	L	T	Exempt				
5. Amer. Century International Discovery Fund	A	Dividend	L	T	Exempt				
6. American Funds Growth Fund of America	B	Dividend	M	T	Exempt				
7. TD Ameritrade Municipal portfolio	A	Interest	K	T	Exempt				
8. Artio International Equity Fund	A	Dividend	J	T	Exempt				
9. Brandes International Equity Fund		None	J	T	Exempt				
10. Columbia Value & Restructuring Fund - Z	A	Dividend	J	T	Exempt				
11. Fidelity Retirement Money Market Portfolio	A	Interest	L	T	Exempt				
12. Great West - Alaska Supplemental Benefits Annuity		None	M	T	Exempt				
13. Great West - 457 Plan - Long Term Balanced Trust		None	M	T	Exempt				
14. Pacific Northern Acad. Bond (issued by Akhiak, AK)	A	Interest	J	T	Exempt				
15. Vanguard European Stock Index Fund	C	Dividend	L	T	Exempt				
16. Vanguard Health Care Fund	B	Dividend	K	T	Exempt				
17. Vanguard Institutional Index Fund	B	Dividend	M	T	Exempt				

1. Income Gain Codes (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 5 of 9

Name of Person Reporting	Date of Report
Christen, Morgan B.	05/18/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Vanguard Limited-Term Tax Exempt Fund	A	Interest	K	T	Exempt				
19. Stoel Rives Capital Account		None	L	T	Exempt				
20. HEWM VI Investment Fund - no control		None	J	T	Exempt				
21. HEWM VIII Investment Fund - no control		None	J	T	Exempt				
22. HEWM XII Investment Fund - no control		None	J	T	Exempt				
23. HEWM XV Investment Fund - no control		None	K	T	Exempt				
24. Venture Law Group Investment Fund 2004 - no control		None	J	T	Exempt				
25. Venture Law Group Investment Fund 2005 - no control	D	Distribution	K	T	Exempt				
26. Venture Law Group Investment Fund 2006 - no control	C	Distribution	K	T	Exempt				
27. Venture Law Group Investment Fund 2007 - no control	B	Distribution	K	T	Exempt				
28. Investment property #1, Nelson, NZ		None	N	W	Exempt				
29. Investment property #2, Blaine, WA		None	K	W	Exempt				
30. Investment property #3, Blaine, WA		None	M	W	Exempt				
31. Rental property #1, Blaine, WA (appraisal Oct. 2010)	E	Rent	O	Q	Exempt				
32. Rental property #2, Blaine, WA	D	Rent	N	W	Exempt				
33. Rental property #3, Blaine, WA	D	Rent	M	W	Exempt				
34. Rental property #4, Blaine, WA	D	Rent	M	W	Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less M =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 6 of 9

Name of Person Reporting	Date of Report
Christen, Morgan B.	05/18/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. Rental property #5, Bellingham, WA	C	Rent	M	W	Exempt				
36. Brokerage Account #1 (see lines 37 through 50)									
37. Black Diamond Inc. - common stock		None	J	T	Exempt				
38. Capital One Finl Corp. - common stock	A	Dividend	J	T	Exempt				
39. Cisco Systems Inc. - common stock	A	Dividend	J	T	Exempt				
40. ConocoPhillips Corp. - common stock	B	Dividend	K	T	Exempt				
41. Ericsson L M. Tel Co. Sponsored ADR - common stock	A	Dividend	J	T	Exempt				
42. Ingersoll-Rand PLC - common stock	A	Dividend	J	T	Exempt				
43. Internet Cap Group Inc. - common stock	A	Dividend	J	T	Exempt				
44. Monsanto Co. - common stock	A	Dividend	J	T	Exempt				
45. Nortel Network Corporation - common stock		None	J	T	Exempt				
46. Northrim Bancorp Inc. - common stock	A	Dividend	J	T	Exempt				
47. Pfizer, Inc. - common stock	A	Dividend	J	T	Exempt				
48. Red Hat, Inc. - common stock		None	K	T	Exempt				
49. Valueclick, Inc. - common stock		None	K	T	Exempt				
50. Williams Cos Inc. - common stock	A	Dividend	J	T	Exempt				
51. Christen Sisters, LLC		None			Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 7 of 9

Name of Person Reporting	Date of Report
Christen, Morgan B.	05/18/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. Stoel Rives Retirement Plan - no control		None	O	T	Exempt				
53. Northwestern Mutual - whole life	A	Dividend	J	T	Exempt				
54. Northwestern Mutual - whole life	A	Dividend	J	T	Exempt				
55. New York Life - whole life		None	J	T	Exempt				
56. Alaska Court System Retirement Plan - no control		None	L	W	Exempt				

1. Income Gain Codes (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000 N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000 O =$500,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less K =$15,001 - $50,000 L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P2 =$5,000,001 - $25,000,000			M =$100,001 - $250,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 8 of 9	Name of Person Reporting Christen, Morgan B.	Date of Report 05/18/2011

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

FINANCIAL DISCLOSURE REPORT Page 9 of 9	Name of Person Reporting Christen, Morgan B.	Date of Report 05/18/2011

IX. CERTIFICATION.

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

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

Signature Morgan Christen

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		98	800	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	151	107	Notes payable to relatives			
Unlisted securities – see schedule		141	441	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends		15	000	Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		823	258
Real estate owned – see schedule	3	165	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		138	000	Heller Ehrman Bankruptcy Estate		4	574
Cash value-life insurance		21	875				
Other assets itemize:							
Thrift Savings Plan		310	466				
Stoel Rives Retirement Plan (no control)		766	987				
				Total liabilities		827	832
				Net Worth	4	980	844
Total Assets	5	808	676	Total liabilities and net worth	5	808	676
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Amer. Century International Discovery Fund	$67,365
American Funds Growth Fund of America	175,886
Ameritrade holding account	15,166
Ameritrade stock	132,477
Artio International Equity Fund	12,891
Brandes International Equity Fund	14,394
Columbia Value & Restructuring Fund –Z	10,936
Fidelity Retirement Money Market Portfolio	84,544
Great-West – Alaska Supplemental Benefits Annuity	144,920
Great-West 457 Plan – Long Term Balanced Trust	147,990
Pacific Northern Acad. Bond (issued by Akhiak, AK)	5,000
Vanguard European Stock Index Fund	80,697
Vanguard Health Care Fund	25,583
Vanguard Institutional Index Fund	212,624
Vanguard Limited-Term Tax Exempt Fund	20,634
Total Listed Securities	$1,151,107

Unlisted Securities	
Stoel Rives Capital Account	$54,700
HEWM VI	5,302
HEWM VIII	3,128
HEWM XII	4,144
HEWM XV	18,021
Venture Law Group Investment Fund 2004	9,647
Venture Law Group Investment Fund 2005	18,110
Venture Law Group Investment Fund 2006	15,178
Venture Law Group Investment Fund 2007	13,211
Total Unlisted Securities	$141,441

Real Estate Owned	
Primary residence	$690,000
Family property #1	26,200
Family property #2	48,400
Family property #3	40,500
Family property #4	29,900
Investment property #1	500,000
Investment property #2	50,000
Investment property #3	150,000
Rental property #1	650,000
Rental property #2	350,000
Rental property #3	200,000
Rental property #4	250,000
Rental property #5	180,000
Total Real Estate Owned	$3,165,000

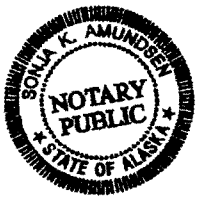
Real Estate Mortgages Payable	
Primary residence	$383,835
Rental property #1	352,903
Rental property #4	86,520
Total Real Estate Mortgages Payable	$823,258

AFFIDAVIT

I, **Morgan Brenda Christen**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

5/16/11
(DATE)

Morgan Christen
(NAME)



Sonja K. Amundsen
(NOTARY)
Notary public for the State of Alaska
My commission Expires: 7/31/2014

Senator COONS. Thank you, Justice. Then my inclination is to begin with 5-minute rounds and for us to proceed with questioning.

Justice Christen, could you begin by describing your judicial philosophy for us?

Justice CHRISTEN. Sure. Senator, I really believe that my job is all about public service, and the way my branch serves the public is to decide cases according to the rule of law, not according to how we would like the law to be or according to our personal views. I believe that we have an absolute obligation to provide a fair, impartial forum for litigants, to always be mindful of the separation of powers and the importance of judicial restraint. And I would say also that I think it is always incumbent upon judicial officers to make sure that they set the tone so that all litigants are always treated with courtesy and respect.

Senator COONS. You mentioned judicial restraint. Can you give us an example or two of cases where you were called upon to exercise judicial restraint and talk to us about how challenging or uplifting that might have and what the outcome was?

Justice CHRISTEN. Sure. When I talk about judicial restraint, I am speaking of the need to decide just the case or controversy before the court and nothing more. We are human beings, of course, but we are called upon to review the facts and review the law and rule just on the controversy that is before us.

One example of that might be *Brown* v. *LDG*, which is a case that I decided when I was a superior court judge. The case involved a woman who was killed, and she left a couple of young sons behind. There had been a lot of controversy in Alaska over the tort reform statute in our State. I think that is true in many States. We were no exception. But the question before me in that case was not about the pros and cons of tort reform. The question was really whether the legislature's cap on non-economic damages was constitutional. That was the issue. And in my judgment it was, and I upheld that statute. That might be an example that would speak to your question.

Senator COONS. In your view, Justice, how would your job as a judge of an intermediate appellate court differ from your previous experience as a trial court and differ from being a Supreme Court Justice? And how would the skills that you have developed in your various roles—excuse me, on different State benches, translate to your responsibilities as a Ninth Circuit judge?

Justice CHRISTEN. Well, I certainly think there are some different substantive areas, Senator. There is no question that there are different substantive areas. The work that I did on the trial court I think will be invaluable to me because, as an appellate court judge, I know what it takes to create that record and I know how to find things in the record. And that has been incredibly valuable to me as I made the transition from the trial court to the State Supreme Court.

I now have a full-time docket, of course, of appellate court work, and that in and of itself is a big transition because, of course, there are different standards of review and it is an entirely different analysis in that sense. We do not re-try the facts, certainly. And I have also made the transition from being a single-judge court to

being one of five on a multi-judge court, which is another very significant difference.

I think one of the challenges will be that the Ninth Circuit is enormous and there is a lot of travel time involved and I think will have to work very hard to know my colleagues because I think it is terribly important to have collegial relationships with all colleagues, not just because that is nice—but it is—but because I believe that courts function better and the work product is better if we know each other well. There is more tugging, pushing and pulling on those decisions, and we give each other more leeway to do that and generate a better work product if we know each other. And I think that is something we would have to work at given that there are so few judges over such a vast distance.

I hope that is not a sign.

[Laughter.]

Senator COONS. I think there was a thunderstorm outside.

Justice CHRISTEN. OK. All right.

Senator COONS. Maybe it was a resolution of the debt ceiling, Who knows?

[Laughter.]

Senator COONS. As a circuit court judge—last question from me—how would you see your role in ensuring fair access to the courts and to justice? It is a quite different role than a State judge, but I think all of us who have any connection with the justice system still need to have some concerns about access. How would you see your role as a Ninth Circuit judge?

Justice CHRISTEN. Well, I am always a little suspicious of people who have not served on a court giving advice to that court about how it ought to be done. So the first thing I would like to say—I am going to answer your question, of course, but the first thing I would like to say is I would first want to hear from the professional staff and the judges on the Ninth Circuit because I know they have worked at this very hard already.

My experience in the trial court might go to your question because Alaska, of course, is huge and there are only 700,000 people sprinkled throughout that State. And so we work very hard on access to justice, everything from our computer systems so that folks who cannot get to the courthouse because there literally is not a road—maybe it is only accessible by snow machine or boat or airplane—so that those people can participate by getting the court forms and getting them filed that way. And we have done a lot of work on television cameras in the courtroom on the Alaska Supreme Court. Almost all of our hearings are televised so that folks can participate or certainly have access to our hearings that way.

Senator COONS. Thank you, Justice.

Senator Hatch.

Senator HATCH. Thank you, Mr. Chairman.

Justice Christen, welcome to the Judiciary Committee.

Justice CHRISTEN. Thank you.

Senator HATCH. Now, my main focus in evaluating judicial nominees—I will try and get a little closer here—is whether they are qualified by legal experience as well as their judicial philosophy. Those are the two big areas that I currently feel are the most important.

Now, you currently serve on a State appellate court which follows common law, but you have been nominated to a Federal appellate court which uses written law.

Now, we have seen many needs take that path, but in my opinion, they do not always make the transition to what I believe is a more defined, limited judicial role in the Federal court system.

What do you see is the difference? Do Federal judges have as much discretion, as much power, when interpreting statutes or the Constitution as State judges have in developing and applying common law?

Justice CHRISTEN. Well, thank you, Senator. For the first 7 years when I was on the bench, of course, I was a superior court judge, and I was bound by precedent as well, bound by the Alaska State court precedent, and certainly bound by the statutes the legislature had given to us. Whether I have been called upon to apply statutes or regulations or have been required to very closely read our case law and follow that precedent, I think I have been very faithful about ruling according to the rule of law.

Senator HATCH. OK. In one of your opinions on the Alaskan Supreme Court, *Allstate Insurance Company* v. *Dooley*, you created a new cause of action for what you called "fraudulent concealment of evidence."

Now, versus Federal statutes, various Federal statutes create duties, but not all create private causes of action. Now, Federal judges are sometimes invited to create what Congress does not by simply saying that a cause of action is implied.

What approach are you going to use—or let us put it this way: What approach should a Federal judge take when asked to interpret a statute so as to create an implied private cause of action?

Justice CHRISTEN. A Federal judge, like a State court judge, should always interpret the law faithfully according to the law that we are given by the legislative branch. When a statute is unambiguous, Senator, my job is to apply it currently in the job that I have now, and it certainly would be if I am fortunate enough to be confirmed.

Senator HATCH. Well, according to the Constitution as well as written statute.

Now, President Obama has said that judges should base their rulings on "one's deepest values, one's core concerns, one's broader perspectives on how the world works, and the depth and breadth of one's empathy." Do you agree with that?

Justice CHRISTEN. I believe that judges have an obligation to rule based on the rule of law, and that is what I have done for 9½ years. I think I have that track record, Senator.

I do not think that empathy plays any role in determining what the rule of law is or in how we apply the rule of law. We are not allowed to tilt the scales depending on how we feel about a case. But I believe that there are life lessons that we have all learned that are very important that judges retain and take with them to the bench. By that I mean that I think it is very important that we are always mindful that there are real people on the receiving end of our orders, and very often there are people's lives on hold or their businesses are on hold waiting for our decisions. That is why it matters very much that our work is timely, for example.

Senator HATCH. Federal judges interpret and apply written law to decide cases. Now, interpreting the Constitution or statutes requires determining what their words mean.

Justice CHRISTEN. Yes.

Senator HATCH. A more restrained or limited approach says that the only legitimate meaning is already provided by those who made the Constitution law—in other words, its original meaning. A more activist or flexible approach says that judges may give new meaning to the Constitution that they find from various sources. Some judges focus on the text. Others focus on purposes and consequences that they really want to achieve.

Now, could you tell us your view? I do not mean to pigeonhole or label you, but I do want to understand more about your approach to judging. Which approach is more consistent with what you believe is the power and proper role of Federal judges?

Justice CHRISTEN. Thank you. What I have learned is that people, even judges, mean a really different thing by those phrases and terms, Senator, and so I try to avoid using them. For example, I do not use the phrase "living, breathing." I think that is subject to a lot of misinterpretation. I think a lot of members of the public, for example, hear that and they think we mean that we can—that any judge can change the words that are in the Constitution. And we clearly cannot do that. It is not permitted. There are other phrases, "calling balls and strikes" and so forth, and I try to avoid them.

What I do, what I have done for the last 9½ years, when I am, for example, called upon to look at a constitutional question, is always start with the language of the Constitution. I believe absolutely that those words are enduring. They have guided us for over 200 years. It is not the job or within the range of my duties or my power to change those words. We always start—I always start with the language of the Constitution, and then I look at binding authority. I have faithfully applied binding authority, Senator, and if I am fortunate enough to be confirmed, I will continue to do so.

Senator HATCH. Well, thank you.

Justice CHRISTEN. Certainly.

Senator HATCH. My time is up, Mr. Chairman. I appreciate it.

Senator COONS. Thank you, Senator Hatch.

Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

Justice Christen, I noticed you said you had some family viewing from northern Minnesota.

Justice CHRISTEN. A few dozen.

[Laughter.]

Senator FRANKEN. OK. And where in northern Minnesota would that be? Would they be all over northern Minnesota or located in one specific area?

Justice CHRISTEN. The closest place that has a dot on the map that you might be familiar with is probably Bemidji.

Senator FRANKEN. Oh, OK. Well, you know Senator Begich has family on the Iron Range. Well, I guess you did not know that.

[Laughter.]

Senator FRANKEN. I guess he did not prepare you.

Justice CHRISTEN. Are you going to tell him?

[Laughter.]

Senator FRANKEN. Yes. I have just told you.

Justice CHRISTEN. OK. Thank you.

Senator FRANKEN. Well, anyway, hello to all your family. They should be very proud.

Justice CHRISTEN. Thank you.

Senator FRANKEN. I noticed that while you were in private practice, you represented the State of Alaska in litigation that followed the Exxon Valdez oil spill. Can you tell us about that litigation and what you learned from it?

Justice CHRISTEN. What I learned from that litigation was what it is like to work on a very large litigation team with many different moving parts. That is for sure.

My particular part was small. There were just a few of us working on the liability portion of the case for the State of Alaska. That is where I fit in. And to be very specific, my job in the early years of that case—because it did extend for many years, but for the first couple of years, my job was focused on compiling the most accurate record I could of the timeline of events, 24 hours before the grounding of the tanker and 24 hours after the grounding of the tanker.

I also worked on the—because I was part of the litigation team, I worked on the summary judgment motion, which established liability.

Senator FRANKEN. OK. And leading up to that, there was some drinking involved, was there?

Justice CHRISTEN. Not by the litigation team.

[Laughter.]

Senator FRANKEN. I will do the jokes.

[Laughter.]

Senator HATCH. I kind of like yours better.

Senator FRANKEN. I am afraid you lost a vote.

[Laughter.]

Senator HATCH. Well, let me retract that.

Justice CHRISTEN. Thank you, Senator Hatch.

Senator FRANKEN. I have empathy so I will vote for you.

Speaking of which, I noticed that—because this is interesting, because on this empathy question, which we hear over and over and over again, and I agree that you have to decide on the law and that—certainly the way you feel, but I noticed that you said that you have to apply certain life lessons, and so you answered—to me, you answered with a little nuance, which actually I find a little refreshing because I think empathy sometimes is confused with sympathy.

Justice CHRISTEN. Yes.

Senator FRANKEN. And empathy simply means understanding human beings. And I think that the experience of a judge is whether—no matter how the judge factors, tries to factor that out, the experience of a judge has something to do with how they are a judge. Do you agree or not?

Justice CHRISTEN. The experience of a judge has something to do with how they——

Senator FRANKEN. The life experience cannot help but have—I mean, otherwise, we just have judges that were like in a bubble. That would be the ideal way to raise a judge, although then they

would have to recuse themselves on cases that involve people who lived in bubbles.

[Laughter.]

Justice CHRISTEN. And your question is?

Senator FRANKEN. Could you comment on that?

[Laughter.]

Justice CHRISTEN. I can try.

I agree with you that people sometimes confuse empathy with sympathy, and there is an important distinction to be made there, Senator. I meant what I said when I talked about interpreting the rule of law, and we do not get to tilt that scale based upon how we feel. But we are not robots, and in our system in our country, we do not leave judging to an Excel spread sheet or to robots, certainly.

I also meant what I said about believing very firmly that it is so important—and I trained judges in the trial court—that those life lessons mean a lot. Absolutely we need to always remember who is on the receiving end of those orders. It matters very much for some of the reasons that I mentioned earlier.

Senator FRANKEN. Well, thank you. You seem eminently qualified, and everyone in your family should be very proud of you.

Justice CHRISTEN. Thank you.

Senator FRANKEN. And thank you very much.

Thank you, Mr. Chairman.

Senator COONS. Thank you, Senator Franken.

Are there any further questions by members of today's panel?

Senator HATCH. No, sir.

I intend to support you, so I will follow up on that.

Justice CHRISTEN. Thank you.

Senator COONS. If there are no further questions, I will hold the record open for a week for members of the Committee who may not have been able to join us due to their schedules but may wish to submit questions. And, again, Justice, I want to particularly thank you and your whole family for joining us here today. I congratulate you on your nomination and wish you all the best. I am confident that you will serve admirably and thoughtfully as a member of the Ninth Circuit, and, Justice Christen, as you and your friends and family are departing, I would like to invite the next panel to come forward and join us.

Justice CHRISTEN. Thank you, Senator.

Senator COONS. Thank you very much, Justice Christen.

I would like to ask each of our four nominees on the second panel to please rise, raise your right hand, and repeat after me. Do you solemnly swear that the testimony you are about to give to this Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Judge GLEASON. I do.

Judge GONZALEZ ROGERS. I do.

Mr. ANDREWS. I do.

Judge SKAVDAHL. I do.

Senator COONS. Thank you. Let the record show the nominees have taken the oath. Now the nominees will have an opportunity to recognize their family and friends and give an opening statement in order.

Judge Gleason, starting with you, I welcome you to recognize any family members or friends you have with you today and then offer an opening statement.

STATEMENT OF SHARON L. GLEASON, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF ALASKA

Judge GLEASON. Thank you, Senator Coons.

First I would like to thank the Senators for having me here today to attend this hearing.

I will also press my microphone button and repeat that.

I would like to thank you both for having me here today to attend this hearing, and I would like to thank Senator Murkowski and Senator Begich for their very kind words that they had on behalf of me. And I certainly thank the President for the honor of this nomination.

My parents, Peter and Vera Gleason, are, I know, watching the webcast. They are in upstate New York and were unable to travel here today, but I certainly thank them for all of the support that they have given me. And my sister, Pat, is with them, and my other sister and brothers are watching throughout the country.

My daughter, Chloe, traveled with me here. She is a college senior, came from Alaska with me earlier this week. She is a government major so this has been quite a great experience for her.

My son, David, signed up months ago to be a camp counselor in San Diego at a tennis camp this month so he is not here, but one of his jobs is planning the evening activities, and he said the webcast will feature prominently on the camp program tonight.

My niece, Kristen Larson, is here in the courtroom, and a family friend, Molly Quinn, is here as well.

I know I have friends and colleagues in Alaska that are watching, and I certainly appreciate their support and, in particular, the support of my two office teammates: my administrative assistant, Anne, and my law clerk, Lindsay.

So I do not have an opening statement, but I certainly look forward to answering any questions that you might have.

[The biographical information of Judge Gleason follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Sharon Louise Gleason

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

   United States District Judge for the District of Alaska

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   825 West Fourth Avenue, Room # 634
   Anchorage, Alaska 99501

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

   1957; Rochester, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1980 – 1983, University of California, Davis, School of Law; J.D., 1983
   Fall 1979, Fletcher School of Law and Diplomacy, Tufts University; no degree awarded
   1975 – 1979, Washington University in St. Louis; B.A. (*magna cum laude*), 1979

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   2001 – present
   Alaska Court System
   825 West Fourth Avenue
   Anchorage, Alaska 99501
   Superior Court Judge (2001 – present)
   Presiding Judge of the Third Judicial District (2009 – present)

1984 – present
Anchorage Symphony Orchestra
400 D Street
Anchorage, Alaska 99501
Musician

1995 – 2001
Law Office of Sharon Gleason
510 L Street
Anchorage, Alaska 99501
Sole Practitioner

1984 – 1995
Rice, Volland, Gleason and Taylor (formerly known as Rice, Volland and Gleason, and, prior to that, Reese, Rice and Volland)
211 H Street
Anchorage, Alaska 99501
Associate (1984 – 1989)
Partner (1989 – 1995)

1983 – 1984
Alaska Court System
303 K Street
Anchorage, Alaska 99501
Law Clerk to Chief Justice Edmond Burke

1981 – 1982; 1982 – 1983
University of California, Davis
433 Mrak Hall
Davis, California 95616
Teaching Assistant

Summer and Fall, 1982
Graham & James LLP
1 Maritime Plaza
San Francisco, California 94111
Student Intern

1981 – 1982
State of California, Department of General Services
Office of Energy Assessments
915 Capitol Mall
Sacramento, California 95814
Student Intern

1980
Conservation Law Foundation
62 Summer Street
Boston, Massachusetts 02110
Volunteer Intern

1979 – 1980
33 Dunster Street (a restaurant)
33 Dunster Street
Boston, Massachusetts 02138
Waitperson

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the U.S. Military. I was not required to register for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Light of Hope Award, for "outstanding efforts on behalf of Alaska's children" (2006)

   Alaska Bar Association's Pro Bono Award (1996)

   University of California, Davis, School of Law, Order of the Coif (1983)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   Alaska Bar Association, Family Law Section
   - Co-Chair (1994 – 1997)

   Alaska Court System
   - Family Law Self Help Center Advisory Committee, Chair (2004 – 2009)
   - CINA Court Improvement Committee
   - Newer Judges Training Committee, Chair (2005 – 2009)

   Alaska Supreme Court
   - Advisory Committee on Adoption Rules
   - Advisory Committee on Civil Rules
   - Advisory Committee on Family Rules, Chair (1994 – present)
   - Time Standards Committee

Alaska Trial Lawyers Association

American Academy of Adoption Attorneys

American Academy of Matrimonial Lawyers

American Bar Association, Family Law Section

Anchorage Association of Women Lawyers

California Bar Association

National Association of Women Judges (approx. 2005 – present)
Member, New Judges Committee (2008 – present)

"Success Inside and Out" Steering Committee Member

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alaska, 1984
California, 1983

I was admitted to the California Bar in 1983 but never practiced law in that state. I allowed my membership to lapse in 1985, when I determined that I would not return to California to practice law. I have had no lapse in membership in Alaska.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Alaska state courts, 1984
United States District Court for the District of Alaska, 1985

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

The Alaska Club, tennis membership (1987 – 2009)

Alaska Network on Domestic Violence and Sexual Assault, volunteer attorney (approx. late 1990's – 2001)

Anchorage Symphony Orchestra (1984 – present)

Hillcrest Daycare Center
Treasurer (approx. 1990 – 1996)

KNBA public radio (1990's – present)

KSKA/KAKM public radio and television (1980's – present)

Road Runners (2010 – present)

Roger's Park Elementary School Parent Teacher Association (1995 – 2003)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations identified in my response to 11a currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None that I have been able to recall or identify.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the

name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

On October 20, 1999, as a member of the Time Standards Committee of the Alaska Supreme Court, I voted on proposed case processing time standards, which were submitted and adopted by the state Supreme Court. Alaska Bar Association coverage of the recommendations and the committee voting record supplied.

In 1989, as a member of the Alaska Bar Association's Law Related Education Committee, I helped create the curriculum for a college course entitled, "Law and Contemporary Issues," which was taken by Anchorage School District teachers and administrators. Alaska Bar Association coverage supplied.

In 1985, I wrote a report for the Alaska Women's Commission, which was entitled, "A Review of the Alaska Statutes for Sex Discrimination." Copy supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have not provided any testimony on public policy or legal interpretation, to the best of my recollection.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following is a list of the speeches that I have been able to identify with a search of my files and of publicly-available databases. I speak frequently to attorneys and to other members of the public, including students and young adults, and it is likely that I have given other speeches that I have been unable to recall or identify.

March 16, 2011: Installation of Anchorage Superior Court Judge Gregory Miller. Video supplied.

February 24, 2011: "3rd Judicial District Off the Record," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 18, 2011: Presenter on a panel at the Newer Judges' Conference for the Alaska Court System. The topic was Ethical Communications – How to avoid improper ex parte communications, and how to ethically discuss cases with other judges, staff, and the public. I have no notes, transcript or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

December 2010: Kodiak, Alaska Bench/Bar Luncheon. I have no notes, transcript or recording. There was no official sponsor for this event.

October 8, 2010: Installation of Anchorage Superior Court Judge Andrew Guidi. Video and notes supplied.

October 2010: "Tips for Newer Judges," panelist, National Association of Women Judges. I have no notes, transcript or recording. The address of the NAWJ is 1341 Connecticut Avenue NW, Suite 4.2, Washington, DC 20036.

September 7, 2010: Alaska Bar Association, Family Law Section, luncheon presentation on proposed Domestic Relations Procedural Order. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

August 17, 2010: "Off the Record," panelist, Alaska Bench/Bar Off the Record Meeting, Kenai, Alaska. I have no notes, transcript or recording. There was no official sponsor of this event.

May 26, 2010: Ceremony for new admittees to the Alaska Bar. Video supplied.

May 2010: "From the Mouths of Babes" (a program on the admissibility of children's hearsay statements), panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 16, 2010: Installation of Alaska Supreme Court Justice Craig Stowers. I have no notes or transcript. Although an audio recording of this event was made, I have been unable to obtain a copy in a usable format. The address of the Alaska Supreme Court is 303 K Street, Anchorage, Alaska 99501.

April 2010: Installation of Palmer District Court Judge David Zwink. I have no notes, transcript or recording. The address of the Palmer District Court is 435 South Denali Street, Palmer, Alaska 99645.

March 2010: Palmer, Alaska Bench/Bar presentation. I have no notes, transcript or recording. The Alaska Bar Association sponsored the event and is located at 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

February 25, 2010: Installation of Anchorage Superior Court Judge Frank Pfiffner. Video supplied.

February 24, 2010: Speech at a tribal court training session for the Justice for Native Children Project. My speech was entitled, "State Court Perspectives on Tribal Court Orders." The training was through Alaska Summit Enterprise, Inc. I have no notes, transcript or recording. The address of ASE is 11723 Old Glenn Highway, Suite 209A, Eagle River, Alaska 99577.

February 15, 2010: "Best Practices from the Bench," panelist, Alaska Network on Domestic Violence and Sexual Abuse and Alaska Bar Association. I have no notes, transcript, or recording. The address of Alaska Network is 130 Seward Street, Suite 214, Juneau, Alaska 99801.

February 2, 2010: "Making Your Appeal: Best Practices for Administrative Appeals before Agencies and the Court," panelist, Alaska Bar Association. Video and notes supplied.

January 27, 2010: "3rd Judicial District Off the Record," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

December 9, 2009: "Palmer Off the Record," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

December 2009: Kenai, Alaska Bench/Bar. I have no notes, transcript or recording. There was no official sponsor for this event.

November 5, 2009: "Palmer Off the Record," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

September 21, 2009: Writing for New Lawyers, remarks, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

September 2009: Installation Ceremony for Palmer District Court Judge Gregory Heath. I have no notes, transcript or recording. The address of the Palmer District Court is 435 South Denali Street, Palmer, Alaska 99645.

July 2009: "Celebrating Families," Reunification Picnic sponsored by the Alaska Office of Children's Services. I have no notes, transcript or recording, but Alaska Office of Children's Services coverage is supplied. The address of the OCS is 323 East Fourth Avenue, Anchorage, Alaska 99501.

June 2009: Installation Ceremony of Anchorage District Court Judge David Wallace. I have no notes, transcript or recording. The address of the Anchorage District Court is 825 West Fourth Avenue, Anchorage, Alaska 99501.

June 2009: Homer, Alaska Court Open House. I have no notes, transcript or recording. The address of the Homer District Court is 3670 Lake Street, Building A, Homer, Alaska 99603.

May 21, 2009: Swearing-in Ceremony of new admittees to the Alaska Bar. Video and notes supplied.

May 14, 2009: Begich Middle School. I have no notes, transcript or recording. The address of Begich Middle School is 7740 Creekside Center Drive, Anchorage, Alaska 99504.

May 2009: Palmer, Alaska Open Court. I have no notes, transcript or recording. The address of the Palmer District Court is 435 South Denali Street, Palmer, Alaska 99645.

May 2009: Kenai, Alaska Bench/Bar Meeting. I have no notes, transcript or recording. There was no official sponsor for this event.

January 21, 2009: "Principles of Caseflow Management," panelist, at the Newer Judges' Conference. I have no notes, transcript or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

October 16, 2008: "Tips for Newer Judges," panelist, National Association of Women Judges. I have no notes, transcript or recording. The address of the NAWJ is 1341 Connecticut Avenue NW, Suite 4.2, Washington, DC 20036.

February 20, 2008: "Try This Case Only Once," moderator, Newer Judges' Conference. I have no notes, transcript or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 19, 2008: "Managing Your Domestic Relations Caseload," panelist, Newer Judges' Conference. I have no notes, transcript or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

January 24, 2008: 3rd Judicial District Off the Record: an Informal Bench/Bar Exchange. I was a panelist with other judges. Notes supplied.

January 23, 2008: Panelist at Bench/Press Series, Anatomy of Civil Case, presented by the Alaska Court System. Notes supplied.

April 11, 2007: Grammar Fundamentals, class for employees of the Alaska Court System. Materials supplied.

February 13, 2007: "Anchorage Off the Record," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 17, 2007: Panelist at Newer Judges' Conference on a panel entitled, "Working with Court Personnel and Office Staff," and another panel entitled "Effective Courtroom Management Skills." I have no notes, transcripts, or recordings. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

January 12, 2007: Speaker to 16 students grades 3-8 at Polaris K-12 School. I have no notes, transcript, or recording. The address of the school is 6200 Ashwood Street, Anchorage, Alaska 99507.

November 2, 2006: Welcome remarks, Newer Judges' Conference. I have no notes, transcript or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

May 25, 2006: Swearing-In ceremony for New Members of the Alaska Bar Association. Alaska Court System. Speech notes supplied.

May 16, 2006: Speaker at U.S. government class at West High School. I have no notes, transcript, or recording. The address of the school is 1700 Hillcrest Drive, Anchorage, Alaska 99517.

May 1, 2006: Law Day event at local school, Alaska Bar Association and Alaska Court System. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

February 22, 2006: Family Law Class, University of Alaska Anchorage. I have no notes, transcript, or recording. The address of the University is 3211 Providence Drive, Anchorage, Alaska 99508.

February 21, 2006: "Protective Order Proceedings: A View from the Bench," panelist, Alaska Network on Domestic Violence and Sexual Assault. Video supplied.

November 3, 2005: Panelist at the Fall Judicial Conference on a presentation entitled "Allegations of Child Sexual Abuse in Domestic Relations Cases." I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

November 2, 2005: Welcome and Introduction; Roundtable discussion about domestic violence protective orders, search warrants, bail, and third party custodian issues, Newer Judges' Conference. I have no notes, transcript or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

Summer 2005: I spoke at the Alaska CASA/GAL conference on the judicial perspective. I have no notes, transcript, or recording. The address of CASA is Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

May 26, 2005: Swearing-In ceremony for New Members of the Alaska Bar Association. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

October 14, 2004: "Court Preparation – Superior Court Judge Sharon Gleason," speaker, Alaska Association of Paralegals CLE. Notes supplied.

May 19, 2004: Children in Alaska's Courts Public Forum, roundtable facilitator on Divorce/Custody, Alaska Court System. A report on the roundtable discussion and other similar events is supplied.

May 11, 2004: Indian Child Welfare Act Training – Advanced Course presented by the Tribal Law & Policy Institute. I spoke on a panel entitled, "From the Bench: What Judges Look for in ICWA Cases." I have no notes, transcript, or recording. The address of the Institute is 8235 Santa Monica Boulevard, Suite 211, West Hollywood, California 90046.

March 1, 2004: I was a presenter at the Alaska Statewide Conference on Law-Related Education, a conference co-sponsored by the Alaska Court System and the Alaska Bar Association through the Alaska Teaching Justice Network. I do not remember the topic on which I spoke. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

October 13, 2003: Anchorage Inn of Court, remarks on court administrative issues involving domestic relations cases and judicial views of common problems facing family law practitioners. I have no notes, transcript or recording, but Alaska Bar Association coverage is supplied.

June 5, 2003: "ADR: Update on Rules and Court-Connected Programs," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

June 2, 2003: "CINA Off the Record: Best Practices," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

May 16, 2003: Swearing-In ceremony for New Members of the Alaska Bar Association. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

May 2003: I presented a speech at Romig Middle School for Law Day regarding the right to counsel. I have no notes, transcript, or recording. The address of the school is 2500 Minnesota Drive, Anchorage, Alaska 99503.

February 2003: "CINA Off the Record: Best Practices," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

September 9, 2002: Presentation to CourtWatch, a volunteer group that observes and rates judges. I have no notes, transcript, or recording. I believe I may have given another presentation to them in Summer 2010, but I have no record of that event, and no notes, transcript, or recording. The address of CourtWatch is 308 G Street, Anchorage, Alaska 99501.

May 30, 2002: Writing Class to court system employees. Materials supplied.

November 27, 2001: Alaska Supreme Court community forum, panelist. I have no notes, transcript or recording, but press coverage is supplied.

October 19, 2001: Speaker at mediator graduation at Rogers Park Elementary School, Anchorage School District. Speech text supplied.

September 1, 2001: "The Impact of Domestic Violence on Your Law Practice," panelist, Alaska Bar Association. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

March 16, 2001: "Working with the Child Custody Investigator," panelist, Alaska Network on Domestic Violence and Sexual Assault. I have no notes, transcript,

or recording. The address of Alaska Network is 130 Seward Street, Suite 214, Juneau, Alaska 99801.

March 21, 2000: "Working with Child Custody Investigators," panelist, Alaska Network on Domestic Violence and Sexual Assault. I have no notes, transcript, or recording. The address of Alaska Network is 130 Seward Street, Suite 214, Juneau, Alaska 99801.

February 24, 2000: "New Civil Rules 90.6 and 90.7 on Child Custody Investigators and Guardians *ad litem*," panelist, Alaska Bar Association. Video and materials supplied.

July 1998: "Civil Rule 26.1," panelist, Alaska Bar Association. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

November 12, 1997: "Professional Help: Guidelines for Hiring and Working with Financial, Legal and Real-Estate Professionals," speaker, Women's Financial Information Program, Alaska Cooperative Extension. I have no notes, transcript, or recording. The address of the Alaska Cooperative Extension is 308 Tanana Loop, Room 101, P.O. Box 756180, Fairbanks, Alaska 99775.

May 1996: "Effective Family Law Practice in Alaska," panelist, National Business Institute. Materials supplied.

April 16, 1996: "Real Property & Security Issues in Divorce: Making the Property Division Work," panelist, Alaska Bar Association. Materials supplied.

March 27, 1996: "How Do You Get an AV Rating?," Alaska Joint State-Federal Courts Gender Equality Task Force fundraiser, panelist. I have no notes, transcript, or recording, but press coverage is supplied.

On several occasions, I have sworn in volunteers for the Anchorage Youth Court. I do not recall the dates of these events, and I have no notes, transcripts, or recordings. The address of Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99510.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Lisa Demer, *Long Security Lines Give Court-Goers the Blues*, Anchorage Daily News, May 12, 2009. Copy supplied.

April 2001: I responded to a survey by the American Academy of Adoption Attorneys about state laws related to payments to birth parents. A copy of the AAAA's report of the survey results is supplied.

Supreme Court Limits Children's Advocates, Associated Press, Nov. 2, 1999. Copy supplied.

Staff, *Metro News*, Anchorage Daily News, Dec. 4, 1998. Copy supplied.

Jerry Ackerman, *Georges Bank: A New Move*, Boston Globe, Mar. 20, 1980. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed to the Anchorage Superior Court in 2001 by Governor Tony Knowles. I was retained by the voters in 2004 and 2010. The Anchorage Superior Court is a court of general jurisdiction. Five of the fifteen judges on this court preside primarily over criminal cases; the other ten judges preside primarily over civil cases, including domestic relations cases and abuse and neglect proceedings. I am one of the judges assigned to a primarily civil caseload. I am also the presiding judge of the Third Judicial District, which comprises all of the trial courts in Southcentral Alaska. This position entails substantial administrative duties.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? 450

i. Of these, approximately what percent were:

jury trials:	8%
bench trials:	92%
civil proceedings:	98%
criminal proceedings:	2%

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

As a trial court judge in Alaska, all of my opinions are unpublished, and I do not believe there are citations to the opinions that I have written.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Exxon Mobil Corp. v. State of Alaska, Dep't of Natural Res.*; Case No. 3AN-06-13751 CI

This case is an appeal from a decision by the State of Alaska, Department of Natural Resources in which the State has sought to terminate the Point Thomson Unit. It is currently before the Alaska Supreme Court on a petition for review of a trial court decision that I issued in January 2010. January 11, 2010 Decision After Remand supplied.

For ExxonMobil Corp.:
Douglas Serdahely
601 West Fifth Avenue, Suite 700
Anchorage, Alaska 99501
(907) 263-6310

For BP:
Susan Orlansky
500 L Street, Fourth Floor
Anchorage, Alaska 99501
(907) 272-3538

George R. Lyle
510 L Street, Suite 700
Anchorage, Alaska 99501
(907) 793-2200

For Chevron USA:
Stephen Ellis
1007 West Third Avenue, Suite 400
Anchorage, Alaska 99501
(907) 279-3581

For ConocoPhillips Alaska:
Spencer Sneed
1031 West Fourth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

For Leede Operating Company:
David Ruskin
601 West Fifth Avenue, Suite 700
Anchorage, Alaska 99501
(907) 277-1711

For State of Alaska, Department of Natural Resources:
Mark Ashburn
1227 West Ninth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 276-4331

Danya Crosby
1227 West Ninth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 276-4331

Richard Todd, Senior Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, AK 99501
(907) 269-5100

2. *Moore v. State of Alaska*; Case No. 3AN-04-9756 CI

This case involves a challenge by several rural school districts and others against the State of Alaska and alleges that the State has violated the Education Clause of Alaska's Constitution. The case has had three separate evidentiary proceedings, and the parties are currently briefing an outstanding issue to this court. June 21, 2007 Decision and Order supplied.

For Plaintiffs:
Howard Trickey
3000 A Street, Suite 300
Anchorage, Alaska 99503
(907) 563-8844

Alex Bryner
500 L Street, Fourth Floor
Anchorage, Alaska 99501
(907) 272-3538

For the State:
Stephen Slotnick, Assistant Attorney General
Box 110300
Juneau, Alaska 99811
(907) 465-3600

Dean Guaneli
2124 Second Street
Douglas, Alaska 99824
(907) 364-2290

3. *BP Pipelines v. State of Alaska, Dep't of Revenue*; Case No. 3AN-06-8446 CI

This case involves the value of the Trans-Alaska Pipeline System for property taxation purposes. A decision regarding the pipeline's value as of January 2006 has been issued and is currently on appeal to the Alaska Supreme Court. Trial is currently scheduled for the fall of 2011 for tax years 2007 through 2009. October 26, 2010 Amended Decision Upon Reconsideration Following Trial de Novo supplied.

For the Pipeline Owners/Taxpayers:
James Seedorf
3900 C Street, Suite 1001
Anchorage, Alaska 99503
(907) 263-8225

F. Steven Mahoney
845 K Street
Anchorage, Alaska 99501
(907) 334-5600

Ralph Palumbo
315 Fifth Avenue South, Suite 1000
Seattle, Washington 98104
(206) 676-7000

Michael Garatoni
1777 Northeast Loop 410, Suite 850
San Antonio, Texas 78217
(210) 821-6789

For the State:
Kenneth Diemer, Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5255

Robert Johnson
900 West Fifth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-6401

For the Municipalities:
Robin Brena
810 N Street, Suite 100
Anchorage, Alaska 99501
(907) 258-2000

Mauri Long
1049 West Fifth Avenue, Suite 100
Anchorage, Alaska 99501
(907) 277-5400

Craig Richards
731 N Street, Suite 100
Anchorage, Alaska 99501
(907) 278-7000

4. *Osborne v. State of Alaska*; Case No. 3AN-97-00636 CI

This case involved a determination as to whether Mr. Osborne had a due process right pursuant to the Alaska Constitution to have more discriminating DNA testing performed on physical evidence from the crime scene. The same defendant later raised a similar issue in a § 1983 action in federal court; that case eventually was decided by the Supreme Court of the United States. *District Attorney's Office for the Third Judicial District v. Osborne*, 129 S. Ct. 2308 (2009). May 8, 2006 Findings on Remand supplied.

For Plaintiff:
Randall Cavanaugh
711 H Street, Suite 450
Anchorage, Alaska 99501
(907) 276-2135

For Defendant:
James Fayette, Assistant District Attorney
310 K Street, Suite 520
Anchorage, Alaska 99501
(907) 269-6300

5. *Alaska Inter-Tribal Council v. State of Alaska*; Case No. 3DI-99-00113 CI

The plaintiffs in this case sought declaratory and injunctive relief based on the State's alleged failure to provide minimally adequate police protection to off-road Native villages. The plaintiffs also alleged that the State had discriminated against them in the provision of state law enforcement services. I held that the State had complied with its constitutional obligations. My decision in this case was affirmed on appeal to the Alaska Supreme Court in *Alaska Inter-Tribal Council. v. State*, 110 P.3d 947 (Alaska 2005), *reh'g denied*. September 30, 2002 Decision and Order supplied.

For the Plaintiffs:
Lawrence Aschenbrenner
601 Vine Avenue
Anchorage, Alaska 99501
(907) 272-9376

For the State:
James Baldwin
227 Harris Street
Juneau, Alaska 99801
(907) 586-9988

Dean Guaneli
2124 Second Street
Douglas, Alaska 99824
(907) 364-2290

6. *Friends of Animals v. State of Alaska, Dep't of Fish and Game*; Case No. 3AN-03-13489

This case involved a challenge to an aerial wolf control program instituted by the State of Alaska. This court ultimately granted summary judgment to the plaintiffs based on a determination that the State Board of Game had not complied with its own regulations when it created the aerial wolf control program. Thereafter, the Board of Game changed the program and the case was not appealed. December 5, 2003 Decision and Order Denying Preliminary Injunction supplied.

For Plaintiffs:
Michael Grisham
1031 West Fourth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

For Defendant:
Kevin Saxby, Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5232

7. *Municipality of Anchorage v. State of Alaska and Michael Barton*; Case No. 3AN-05-8951 CI

This case concerned the validity of a state legislative enactment which sought to change the membership and selection of the transportation planning committee for the Municipality of Anchorage. In a decision issued on October 10, 2007, this court found that the state law constituted a violation of a federal regulation. That

decision was not appealed. March 7, 2007 Order on Motions for Summary Judgment supplied.

For the Municipality of Anchorage:
Thomas M. McDermott
Former Municipality of Anchorage Attorney

For the State:
Jeffrey Stark, Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5160

8. *A.J. v. State of Alaska, Dep't of Health and Soc. Servs.*; Case No. 3AN-04-04085 CI

In this case, the plaintiffs sued the State of Alaska for an alleged breach of the standard of care to be provided to foster children in state custody. The case settled during the second week of a jury trial. There was substantial pretrial motion practice focusing on immunity and duty issues. December 8, 2008 Order Denying Reconsideration supplied.

For Plaintiff:
Richard Friedman
600 University Street, Suite 2701
Seattle, Washington 98101
(206) 501-4446

Christine Schleuss
733 West Fourth Avenue, Suite 401
Anchorage, Alaska 99501
(907) 222-4635

For Defendant:
Rebecca Cain
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5190

9. *State v. Zuboff*; Case No. 3UN-01-00197 CR

This was a criminal case in which the jury found the defendant guilt of first-degree murder and evidence tampering. The convictions were affirmed on appeal by the Alaska Court of Appeals in an unpublished decision, 2006 WL 3114386.

For the State:
James Fayette, Assistant District Attorney
310 K Street, Suite 520
Anchorage, Alaska 99501
(907) 269-6300

For the Defendant:
David Weber
900 West Fifth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 334-4465

10. *Samaniego v. City of Kodiak*; Case No. 3KO-98-134 CI

This case was brought by a resident of the City of Kodiak, alleging that the police used excessive force against her. The case went to trial before a jury. The jury's verdict and this court's legal rulings – including the application of the exigent circumstances doctrine for police stops and the admissibility of expert testimony by a "use of force" expert – were affirmed on appeal. *See City of Kodiak v. Samaniego*, 83 P.3d 1077 (Alaska 2004). July 17, 2001 Order Regarding Testimony of Michael Brave supplied.

For Plaintiff:
Richard Friedman
600 University Street, Suite 2701
Seattle, Washington 98101
(206) 501-4446

For Defendant:
Frank Koziol Jr.
618 Christensen Drive
Anchorage, Alaska 99501
(907) 258-7706

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *BP Pipelines (Alaska) v. State of Alaska, Dep't of Revenue*, Case No. 3AN-06-8446 CI; Amended Decision Upon Reconsideration Following Trial De Novo, October 26, 2010. Opinion supplied in response to 13(c).

For the Pipeline Owners/Taxpayers:
James Seedorf
3900 C Street, Suite 1001
Anchorage, Alaska 99503
(907) 263-8225

F. Steven Mahoney
845 K Street
Anchorage, Alaska 99501
(907) 334-5600

Ralph Palumbo
315 Fifth Avenue South, Suite 1000
Seattle, Washington 98104
(206) 676-7000

Michael Garatoni
1777 Northeast Loop 410, Suite 850
San Antonio, Texas 78217
(210) 821-6789

For the State:
Kenneth Diemer, Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5255

Robert Johnson
900 West Fifth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-6401

For the Municipalities:
Robin Brena
810 N Street, Suite 100
Anchorage, Alaska 99501
(907) 258-2000

Mauri Long
1049 West Fifth Avenue, Suite 100
Anchorage, Alaska 99501
(907) 277-5400

Craig Richards
731 N Street, Suite 100
Anchorage, Alaska 99501
(907) 278-7000

2. *ExxonMobil v. State of Alaska, Dep't of Natural Res.*, Case No. 3AN-06-13751 CI, Decision on Appeal, December 26, 2007. Opinion supplied.

For Exxon Mobil Corp.:
Douglas Serdahely
601 West Fifth Avenue, Suite 700
Anchorage, Alaska 99501
(907) 263-6310

For BP:
Susan Orlansky
500 L Street, Fourth Floor
Anchorage, Alaska 99501
(907) 272-3538

George R. Lyle
510 L Street, Suite 700
Anchorage, Alaska 99501
(907) 793-2200

For Chevron USA:
Stephen Ellis
1007 West Third Avenue, Suite 400
Anchorage, Alaska 99501
(907) 279-3581

For ConocoPhillips Alaska:
Spencer Sneed
1031 West Fourth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

For Leede Operating Company:
David Ruskin
601 West Fifth Avenue, Suite 700
Anchorage, Alaska 99501
(907) 277-1711

For State of Alaska, Department of Natural Resources:
Mark Ashburn
1227 West Ninth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 276-4331

Danya Crosby
1227 West Ninth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 276-4331

Richard Todd, Senior Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5100

3. *Moore v. State of Alaska*, Case No. 3AN-04-9756 CI; Decision and Order, June 21, 2007. Opinion supplied in response to 13(c).

For Plaintiffs:
Howard Trickey
3000 A Street, Suite 300
Anchorage, Alaska 99503
(907) 563-8844

Alex Bryner
500 L Street, Fourth Floor
Anchorage, Alaska 99501
(907) 272-3538

For the State:
Stephen Slotnick, Assistant Attorney General
Box 110300
Juneau, Alaska 99811
(907) 465-3600

Dean Guaneli
2124 Second Street
Douglas, Alaska 99824
(907) 364-2290

4. *Friends of Animals v. State of Alaska, Dep't of Fish and Game*, Case No. 3AN-03-13489 CI; Order Denying Preliminary Injunction, February 2, 2005. Opinion supplied.

For Plaintiffs:
Michael Grisham
1031 West Fourth Avenue, Suite 600
Anchorage, Alaska 99501
(907) 276-4557

For Defendant:
Kevin Saxby, Assistant Attorney General
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5232

5. *Alaska Inter-Tribal Council v. State of Alaska*, Case No. 3DI-00113 CI; Decision and Order, September 30, 2002. Copy supplied in response to 13(c).

For the Plaintiffs:
Lawrence Aschenbrenner
601 Vine Avenue
Anchorage, Alaska 99501
(907) 272-9376

For the State:
James Baldwin
227 Harris Street
Juneau, Alaska 99801
(907) 586-9988

Dean Guaneli
2124 Second Street
Douglas, Alaska 99824
(907) 364-2290

6. *Osborne v. State of Alaska*, Case No. 3AN-97-00636 CI; Findings on Remand, May 8, 2006. Opinion supplied in response to 13(c).

For Plaintiff:
Randall Cavanaugh
711 H Street, Suite 450
Anchorage, Alaska 99501
(907) 276-2135

For Defendant:
James Fayette, Assistant District Attorney
310 K Street, Suite 520
Anchorage, Alaska 99501
(907) 269-6300

7. *Municipality of Anchorage v. State of Alaska and Michael Barton*, 3AN-05-8951 CI; Order Re All Pending Issues, March 5, 2007. Opinion supplied.

For Plaintiff:
Michael McDermott
Former Municipality of Anchorage attorney
EPRT Fallujah
APO, Armed Forces Europe
09387

For Defendant:
Jeffrey Stark
Attorney General's Office
1031 West Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5160

8. *Valley Residents for a Citizen Legislature v. State of Alaska, Div. of Elections*, Case No. 3AN-04-06827 CI; Order Regarding Pending Motions, August 24, 2004. Opinion supplied.

For plaintiff:
John M. Sedor
Wendlandt, Evans & Filippi, LLC
500 L Street, Suite 500
Anchorage, Alaska 99501
(907) 677-3600

For Defendant:
Thomas Amodio
Reeves Amodio LLC
500 L Street, Suite 300
Anchorage, Alaska 99501
(907) 222-7104

9. *Kalenka v. Municipality of Anchorage*, Case No. 3AN-01-6513 CI; Order Regarding Cross-Motions for Summary Judgment, December 23, 2003. Opinion supplied.

For Plaintiff:
Karen Bretz
610 C Street, Suite 2B
Anchorage, Alaska 99501
(907) 277-5847

For Defendant:
Municipality of Anchorage, Department of Law
632 West Sixth Avenue, Suite 730
Anchorage, Alaska 99501
(907) 343-4545

10. *Darling v. Trident Seafoods*, Case No. 3AN-99-12326; Findings of Fact and Conclusions of Law, March 14, 2003. Opinion supplied.

For Plaintiff:
Richard E. Vollertsen
420 L Street, Suite 500
Anchorage, Alaska 99501
(907) 276-1700

For Defendant:
Michael Barcott
999 Third Avenue, Suite 2600
Seattle, Washington 98104
(206) 292-8008

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

I am aware of no such cases.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Angleton v. Cox, 238 P.3d 610 (Alaska 2010). In this dispute among members of a fraternal organization, the Alaska Supreme Court held that the trial court had erred in precluding a party from seeking damages for breaches of a settlement agreement that had allegedly occurred during a two month period.

Yost v. State, Div. of Corps., Bus. and Prof'l Licensing, 234 P.3d 1264 (Alaska 2010). The Alaska Supreme Court held that the trial court properly found that the action was an administrative appeal, but that the trial court had abused its

discretion by not conducting a trial de novo on an outcome-determinative issue, so the case was remanded for further proceedings.

Partridge v. Partridge, 239 P.3d 680 (Alaska 2010). The Alaska Supreme Court affirmed the majority of the trial court's rulings, but held that the trial court erred by failing to credit the husband in a divorce action for payments he had made on marital debts during the parties' separation period. Affirmed in part, reversed in part, and remanded.

Dominic Wenzell, D.M.D. P.C. v. Ingrim, 228 P.3d 103 (Alaska 2010). The trial court's grant of a party's motion for summary judgment with respect to a covenant not to compete in a sale of a dental practice was vacated and the case was remanded for further proceedings. Thereafter, the parties settled.

Frost v. Spencer, 218 P.3d 678 (Alaska 2009). The parties both came to trial asserting that they had had a domestic partnership which they sought to dissolve. At the conclusion of the bench trial, the trial court determined that business partnership law applied. The Alaska Supreme Court reversed and remanded the trial court's decision not to allow a supplementary evidentiary hearing to address partnership law issues.

Bigley v. Alaska Psychiatric Inst., 208 P.3d 168 (Alaska 2009). The Alaska Supreme Court held that a patient in a forced psychiatric medication case had been denied due process when he was accorded insufficient notice of which medications the hospital proposed to administer to him and his attorney was not provided with his medical chart before the hearing on the hospital's medication petition. Declaratory relief was granted.

Adkins v. Stansel, 204 P.3d 1031 (Alaska 2009). The Alaska Supreme Court reversed and remanded the trial court's granting of a motion for summary judgment to the defendant prison official in a case brought by a prisoner for wrongful denial of visitation. The Supreme Court held that the facts read in the light most favorable to the plaintiff could reasonably support an inference that the defendant had intentionally denied visitation between the prisoner and family members.

Beegan v. State, Dep't of Transp. & Pub. Facilities, 195 P.3d 134 (Alaska 2008). The Alaska Supreme Court reversed and remanded the trial court's dismissal of a terminated state employee's claims, reasoning that collateral estoppel did not bar the former employee from pursuing his damages claims in state court where the Alaska State Commission for Human Rights had previously determined his related claims.

Parson v. State, Dep't of Revenue, Alaska Hous. Fin. Corp., 189 P.3d 1032 (Alaska 2008). The Alaska Supreme Court held that the trial court had erred in finding that plaintiff was collaterally estopped from raising employment-related

discrimination claims in state court after the Alaska State Commission for Human Rights had closed the plaintiff's administrative complaint because it found a lack of substantial evidence to support it. On remand, a jury found in favor of the defendant after trial.

Sidney v. Allstate Ins. Co., 187 P.3d 443 (Alaska 2008). In a case involving underinsured motorist benefits, the Alaska Supreme Court affirmed the trial court's determinations except with respect to components of the attorney's fee award.

Martin v. Coastal Villages Region Fund, 156 P.3d 1121 (Alaska 2007). The Alaska Supreme Court reversed and remanded this dispute over competing claims to a fund of money deposited with the court by a seafood processing company for consideration of the parties' equitable claims.

C.J. v. State, Dep't of Corrs., 151 P.3d 373 (Alaska 2006). A rape victim brought this action against the state, seeking damages arising from her rape by a parolee, and alleging negligent parole supervision. On a petition for review, the Alaska Supreme Court affirmed the trial court's denial of the state's motion for summary judgment based on duty, and vacated the trial court's rulings on immunity and causation with the directive that the trial court consider a newly released Supreme Court opinion on those topics. But in a divided opinion, the Alaska Supreme Court reversed the trial court ruling with respect to the statutory damages cap and held that each of the three types of penetration alleged constituted a separate injury for purposes of the statutory damages cap.

J&S Servs., Inc. v. Tomter, 139 P.3d 544 (Alaska 2006). In this case, an unsuccessful bidder sued both the state and the state employee that had managed a bidding process. The Alaska Supreme Court upheld this court's summary judgment determination in favor of the state, but reversed and remanded as to the state employee, holding that the employee would not be immune to a claim for intentional interference with prospective economic advantage.

Brannon v. Continental Cas. Co., 137 P.3d 280 (Alaska 2006). The Alaska Supreme Court reversed a summary judgment ruling that had dismissed the plaintiff's claims based on a statute of limitations defense. The Supreme Court held that the running of the statute was equitably tolled in the case, adopting a new rule of law for Alaska that followed California decisional law.

Fortson v. Fortson, 131 P.3d 451 (Alaska 2006). The Alaska Supreme Court affirmed all of this court's determinations in this multimillion dollar divorce case, except with respect to the trial court's treatment of the excess earnings generated by the wife's medical practice during the parties' separation.

Bartley v. State, Dep't of Admin., Teachers' Ret. Bd., 110 P.3d 1254 (Alaska 2005). This case involved the statutory interpretation of a retirement incentive

law. The Alaska Supreme Court upheld this court's determinations in all respects except as to one issue.

Goossen v. Still, 2002 WL 31716561 (Alaska 2002) (unpublished Memorandum Opinion and Judgment). This divorce case was first assigned to this judge after remand from a prior appeal from the Alaska Supreme Court and involved several issues related to the parties' property. The Supreme Court affirmed some of this court's determinations, but reversed and remanded as to others.

In two other appellate decisions, I am one of two or more trial judges that heard the case (due to consolidation or retirement). Although the Alaska Supreme Court reversed a portion of the trial court determinations in both of these cases, all of my rulings in the cases were affirmed on appeal. The two cases are *Teseniar v. Spicer*, 74 P.3d 910 (Alaska 2003) and *Cooper v. Cooper*, 144 P.3d 451 (Alaska 2006).

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

To the best of my knowledge, the decisions and opinions that I have issued are not published. They are public records that are on file at the Anchorage Superior Courthouse, and copies of the decisions may be obtained at the Clerk's Office at the Alaska State Court in Anchorage.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Moore v. State of Alaska, Case No. 3AN-04-9756 CI. Opinions supplied in response to 13(c).

ExxonMobil Corp. v. State of Alaska, Case No. 3AN-06-13751 CI. Opinions supplied in response to 13(c).

Osborne v. State of Alaska, Case No. 3AN-97-636 CI. Opinions supplied in response to 13(c).

Alaska Inter-Tribal Council v. State of Alaska, Case No. 3DI-99-00113 CI. Opinions supplied in response to 13(c).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have never sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

    a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

    b. a brief description of the asserted conflict of interest or other ground for recusal;

    c. the procedure you followed in determining whether or not to recuse yourself;

    d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Alaska's state court system permits each litigant to exercise one peremptory challenge of one judge within five days of that judge's assignment to the case. When exercised, the basis for the challenge need not be stated. Information regarding these challenges is included on the Alaska Judicial Council website in the evaluation materials there.

In addition, Canon 3 of the Alaska Code of Judicial Conduct and Alaska Statute 22.20.020 govern when a judge must disqualify himself or herself in a proceeding. While not an exclusive list, these provisions enumerate instances where a judge's impartiality might reasonably be questioned, including proceedings where the judge has a personal interest, bias or knowledge. The standard I employ in determining whether to recuse myself from a case is governed by the Code and the applicable state statute. There have been several cases where I have recused myself where I had previously represented one of the parties in a divorce proceeding or in other litigation. There have also been cases where I have had a relationship with a party, but those relationships would not affect my ability to be fair and impartial to all parties. An example is a business dispute in which my children's pediatrician's office was a party. In those cases, I have disclosed the nature of the relationship to all parties.

I recall only two instances in which my recusal was requested. In one case, I disclosed to the parties that I had provided some legal representation to one of the lawyers in the case about an unrelated matter some time in the past. After disclosure of this representation, the other party requested my recusal and the case was reassigned to another judge. In another case, I disclosed to the parties that in my capacity as presiding judge of the Third Judicial District, I had been provided copies of letters that one of the litigants had written to the Alaska Judicial Council complaining about my rulings in the case. Because the litigant clearly had not intended that I see those letters, I accorded to the litigant the

option of seeking a new judge, and when the litigant then requested that a new judge be assigned, the matter was reassigned.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public office other than the judicial office I currently hold. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not had any memberships or offices in a political party or election committee. I have not held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to Chief Justice Edmond Burke of the Alaska Supreme Court from 1983 to 1984.

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

I was a sole practitioner from 1995 until I was appointed to the Anchorage Superior Court in 2001. My practice was located at 510 L Street, Anchorage, AK 99501. I was in a space-sharing arrangement with several other attorneys throughout this time.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1984 – 1995
Rice, Volland, Gleason and Taylor (formerly known as Rice, Volland and Gleason, and prior to that, Reese, Rice and Volland)
211 H Street
Anchorage, Alaska 99501
Associate (1984 – 1989)
Partner (1989 – 1995)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

To the best of my recollection, I served as a mediator on a few occasions in domestic relations cases when I was an attorney in private practice. I no longer have access to those records, and thus am unable to provide a more specific description of those matters. I have served as a settlement judge on dozens of occasions since I became a judge in 2001.

b. Describe:

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

As an associate at Reese, Rice and Volland in the 1980's, I completed the legal tasks that were assigned to me by the partners, which encompassed a large variety of civil litigation. Over time, I began to specialize in family law, and by the late 1980's the majority of my caseload was in the area of family law. Most of the cases I handled were divorce cases which involved complex financial estates. I also represented clients in adoption cases and worked as an independent contractor for the State of Alaska as a hearing examiner. In addition, for several years in the late 1980's through early 1990's, I provided legal representation to an individual who brokered the sale of Limited Entry fishing permits and associated commercial fishing assets. When I became a sole practitioner in 1995, my practice continued to focus on domestic relations and adoption law, as well as hearing examiner contract work for the State of Alaska.

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

Throughout my legal career, my typical clients were individuals involved in family law matters.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The majority of my practice was domestic relations work. On these types of cases, I appeared in court occasionally. I also frequently appeared in court in probate cases (adoptions and minor conservatorships). I rarely appeared in federal court, including bankruptcy court. My practice with administrative agencies was as a hearing officer, and occurred occasionally, and with greater frequency toward the end of my years as a private practitioner.

i. Indicate the percentage of your practice in:
   1. federal courts: 1%
   2. state courts of record: 95%
   3. other courts: 1%
   4. administrative agencies: 3%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 99%
   2. criminal proceedings: 1%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I estimate that I have participated in approximately 30 trials or post-trial evidentiary hearings. I was sole counsel for my client in the vast majority of them.

i. What percentage of these trials were:
   1. jury: 5%
   2. non-jury: 95%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never appeared before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Wright v. Wright*, 904 P.2d 403 (Alaska 1995)

This was a divorce case in which the primary issue was the value of the husband's automobile transportation business. I represented the wife in the case, which was filed in the Anchorage Superior Court. After a multi-day trial, the court substantially accepted Ms. Wright's expert's valuation of the business. That determination, as well as the balance of the trial court's decision, was affirmed on appeal. I represented Ms. Wright from approximately 1991 through 1994 before both the trial court and the Alaska Supreme Court. Judge Elaine Andrews, now retired, was the trial court judge.

I was the sole attorney for Ms. Wright. Timothy Lynch was the principal counsel for Mr. Wright before the trial court, 425 G Street, Suite 420, Anchorage, Alaska 99501, (907) 276-3222.

2. *Adoption of L.E.K.M.*, 70 P.3d 1097 (Alaska 2003)

I worked on this case on a pro bono basis from July 1999 until I became a superior court judge in 2001. The case was a contested adoption proceeding filed in the Anchorage Superior Court and concerned an orphaned child. Two other attorneys took over the representation of my clients for trial and appeal after I was appointed to the Anchorage Superior Court. The dispute was between the child's paternal grandparents, her paternal aunt and uncle, and an unrelated couple, including a woman who had been the best friend of the child's mother and also the child's day care provider. I represented this unrelated couple during the pretrial stage of the proceedings. The case went to trial when I no longer represented the couple, as I had become a judge. The trial was held before Judge John Reese in April 2001. Judge Reese is now retired.

The paternal grandparents were represented by W. Grant Callow, 425 G Street, Suite 610, Anchorage, Alaska 99501, (907) 276-122.

3. *McQueary v. McQueary*, 902 P.2d 1326 (Alaska 1995)

I represented the husband in this divorce proceeding in the early 1990's in which the parties' primary asset was a horse stabling and riding business. The case was filed in the Anchorage Superior Court. The trial court judge, now-retired Judge Rene Gonzalez, had awarded the business to the wife, along with the business debt, but had not taken into account the interest-free nature of the long-term debt

when awarding it to the wife. On appeal, the husband prevailed in reversing this aspect of the trial court's ruling, and the case was remanded to the trial court to determine the net present value of the zero-interest long term debt.

I was sole counsel for Mr. McQueary. Ms. McQueary was represented by Susan Mack, 250 H Street, Anchorage, Alaska 99501, (907) 258-8864.

4. *Wainwright v. Wainwright*, 888 P.2d 762 (Alaska 1995)

I represented the wife in this divorce proceeding in the early 1990's, in which the parties' primary dispute related to the division of the husband's nonvested pension benefits. The case was filed in the Anchorage Superior Court and heard by the now-retired Judge Joan Woodward. The case involved pension valuation issues that were ultimately appealed to the Alaska Supreme Court. On appeal, I successfully argued that the trial court had improperly failed to take into account the effect of inflation on the husband's retirement benefits while discounting them at market rate. Accordingly, the Supreme Court reversed in part and remanded on that issue.

I was the principal counsel for Ms. Wainwright. Mr. Wainwright was represented by attorney William T. Ford, who is now deceased.

5. *Ramsey v. Ramsey*, 834 P.2d 807 (Alaska 1992)

I represented the wife in this divorce proceeding from approximately 1988 through 1992. The case was filed in the Anchorage Superior Court, and heard by the now-retired Judge Karl Johnstone. The case involved the legal interrelationship between interim spousal support payments and payments made to maintain marital assets during separation – issues which were appealed to the Alaska Supreme Court. The Supreme Court reversed and remanded on several issues, holding that the husband's earnings after the separation were his separate property, that he was entitled to credit for payments he made during separation to preserve marital property, and that the trial court's award of rehabilitative alimony to the wife appeared unwarranted. The trial court's award of attorney's fees to the wife was affirmed.

I was principal counsel for Ms. Ramsey. Mr. Ramsey was represented by Kathleen Weeks, 101 East Ninth Avenue, Suite 7A, Anchorage, Alaska 99501, (907) 276-4445.

6. *Catholic Social Services, Inc. v. C.A.A.*, 783 P.2d 1159 (Alaska 1989)

I represented the Alaska Native birth mother in this case in the late 1980's on a pro bono basis. The birthmother sought to set aside a relinquishment of her parental rights to her child that she had signed. The primary issue on appeal to the Alaska Supreme Court was whether under the Indian Child Welfare Act, 25

U.S.C.A. § 1901 et seq., the child's Indian tribe was entitled to notice of a proceeding for the voluntary termination of parental rights. The Alaska Supreme Court held that the tribe was not entitled to notice in a voluntary termination proceeding. The case was filed in the Anchorage Superior Court and heard by the now-retired Judge Victor Carlson.

I was primary counsel for the birthmother at the trial court level. On appeal, I was joined by attorneys from Alaska Legal Services Corporation.

The tribe was represented by Lloyd Miller, 900 West Fifth Avenue, Suite 700, Anchorage, Alaska 99501, (907) 258-6377.

Catholic Social Services was represented by Robert Flint, 745 West Fourth Avenue, Suite 200, Anchorage, Alaska 99501, (907) 771-8300.

The State of Alaska submitted an amicus brief from assistant attorney general D. Rebecca Snow, who is now retired.

The guardian ad litem was represented by an attorney formerly with the Office of Public Advocacy, Philip J. McCarthy, now with McCarthy Weston, 508 North Humphreys Street, Flagstaff, Arizona 86001, (928) 779-4252.

7. *Hayes v. Hayes*, 756 P.2d 298 (Alaska 1988)

I represented Ms. Hayes in this divorce proceeding in the mid-1980's. The case was filed in the Anchorage Superior Court, and heard by the now-retired Judge David Stewart. The case involved the valuation of a paving business owned by the husband, and on appeal the case focused in particular on the application of a minority discount for a partial interest in a business enterprise. The Alaska Supreme Court held that the trial court erred in valuing the paving business based upon the amount of life insurance purchased by each stockholder. It also held that a minority discount is appropriate in valuing a 50% interest in a closely held corporation in a divorce proceeding.

The primary counsel for Ms. Hayes was John Reese, who was a partner in the law firm with which I was then associated. Mr. Reese is now a retired judge/mediator, 6740 Our Own Lane, Anchorage, Alaska 99516, (907) 345-0275.

Mr. Hayes was represented by Sandra K. Saville, who is no longer residing or practicing law in the state of Alaska.

8. *Alaska State Comm'n for Human Rights v. State of Alaska, Dep't of Admin.*, Case No. D-79-0724188–E-E.

I was hired by the Human Rights Commission in 1985-1986 to assist the Commissioners in drafting their decision with respect to a comparable worth

claim brought by public health nurses employed by the State of Alaska. The Commission found the nurses entitled to back pay relief and salary realignment based upon its interpretation of the statutory phrase "work of comparable character." On appeal to the Alaska Supreme Court, the Commission's determination was reversed, as the Court held that the phrase "work of comparable character" means substantially equal work. *Alaska State Comm'n for Human Rights v. State*, 796 P. 2d 458 (Alaska 1990).

Counsel for the parties were Mark Ertischek, current address unknown, and Susan Cox, Chief Assistant Attorney General, Attorney General's Office, Box 110300, Juneau, Alaska 99811.

9. *Brooks v. Brooks*, 733 P.2d 1044 (Alaska 1987).

This was a divorce case in which one of the primary issues was the validity of the parties' prenuptial agreement. The case was filed in the Anchorage Superior Court and heard in June 1985 by the now-retired Judge Victor Carlson. Among other things, on appeal, the Alaska Supreme Court recognized the validity of prenuptial agreements in Alaska.

I was the primary attorney for Mr. Brooks. Ms. Brooks was represented by William T. Ford, who is now deceased.

10. *In the Matter of Guinn, Ph. D.*, Case Nos. 2900-90-6; 2900–91-5; 2900-92-2, 6 & 8.

This was a licensing action brought before the Board of Psychologists and Psychological Associate Examiners. I was the hearing examiner for the Board, which held a two-week hearing in the case in 1998. I then assisted the Board members in the drafting of their Final Decision.

The Division of Occupational Licensing was represented by Assistant Attorney General Maurice McClure, 310 K Street, Anchorage, Alaska 99501, (907) 269-0365.

Dr. Guinn was represented by Matthew Regan, 701 West Eighth Avenue, Anchorage, Alaska 99501, (907) 274-0666.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Throughout my legal career, I represented individuals, primarily in divorce actions or in adoption proceedings. On most occasions, once I became a partner in my law firm in 1989, I was the sole attorney for each of my clients. I did not perform any lobbying activities on behalf of any clients. I did some transactional work for an individual who operated a brokerage company for Limited Entry fishing permits and associated assets.

I also did work as a hearing examiner for the State of Alaska. A hearing examiner is a form of administrative law judge, who makes recommendations to a state agency in contested adjudications. In this capacity, I presided over hearings before agencies that included the Division of Insurance, the Alcoholic Beverage Control Board, and the Human Rights Commission.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I am a participant in the Alaska Judicial Retirement System and the State of Alaska Supplemental Benefits System and Deferred Compensation Program, through which I am entitled to benefits upon my separation from the State of Alaska. I have no other deferred income arrangements.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I intend to remain active in the Anchorage Symphony Orchestra as a clarinet player.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       Litigation in which a family member of mine is a party would clearly create a conflict of interest. I would also review my financial investments, consisting of stocks and mutual funds, to minimize the risk of conflicts. To the extent any conflict of interest might exist, I would consult 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States Courts.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       I would resolve any potential conflict of interest by following 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States Courts.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    When I was an attorney in private practice, I donated numerous hours each year to pro bono work. I represented many individuals who could not afford attorneys through the Alaska Pro Bono Program and the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA). I also served as a volunteer attorney for a hotline telephone service provided by the ANDVSA to Alaska residents.

    Since becoming a judge, I have donated many hours to law related activities in the community, including judging high school mock trial competitions, coaching "We the People" high school students, and speaking at Adoption Day activities and to students and adults at many other events. I have also played an active role in the development of the Alaska Court System's Family Law Self-Help Center, which provides free legal information about court procedures to self-represented litigants.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In response to a letter sent to the entire bar in Alaska from the Alaska Bar Association, I submitted a letter expressing my interest in the position in August 2010. The nineteen candidates that indicated an interest in the position were then surveyed by the entire bar in September 2010. I was interviewed by Senator Mark Begich in November 2010. In December 2010, Senator Begich informed me that my name was being forwarded to the White House for consideration. Since that time, I have been in contact with pre-nominations officials with the Department of Justice. On January 28, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On April 6, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Gleason, Sharon L.	United States District Court, Alaska	04/11/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Court Judge, Alaska	5a. Report Type (check appropriate type) ☑ Nomination, Date 04/06/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 03/31/2011
7. Chambers or Office Address 825 West Fourth Avenue Room 634 Anchorage, Alaska 99501	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Superior Court Judge	Alaska Court System
2.		
3.		
4.		
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	2001	State of Alaska, Judicial Retirement System, defined benefit plan payable upon retirement by age 60
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Gleason, Sharon L.	Date of Report 04/11/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	Alaska Court System- Judicial Salary	$168,300.00
2. 2010	Alaska Court System-Judical Salary	$173,000.00
3. 2011	Alaska Court System - Judicial Salary	$43,000.00
4. 2009	Anchorage Symphony - Musician Compensation	$1,237.00
5. 2010	Anchorage Symphony - Musician Compensation	$2,100.00
6. 2011	Anchorage Symphony - Musician Compensation	$1,000.00

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1		Exempt		
2.				
3.				
4.				
5				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Gleason, Sharon L.	Date of Report 04/11/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

SOURCE	DESCRIPTION	VALUE
1.	Exempt	
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable liabilities.)*

CREDITOR	DESCRIPTION	VALUE CODE
1.		
2.		
3.		
4.		
5		

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Gleason, Sharon L.	04/11/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Northrim Bank accounts	A	Interest	K	T	Exempt				
2. Alaska Permanent Fund Dividend	C	Dividend	J	T					
3. Alaska USA Federal Credit Union	A	Interest	L	T					
4. State of Alaska Deferred Compensation 457 Plan	A	Dividend	K	T					
5. - T. Rowe Price Small Cap Fund									
6. State of Alaska Supp. Benefit System-401(a) Plan	B	Dividend	M	T					
7. - Alaska Target Date Retirement 2020 Trust									
8. IRA #1	A	Dividend	K	T					
9. - Microsoft Corporation									
10. - Fidelity Value									
11. - Janus Growth and Income									
12. - Janus Research Core Fund									
13. IRA #2	D	Dividend	N	T					
14. - Baxter International									
15. - EBay Inc.									
16. - Edwards Lifesciences									
17. - Microsoft Inc.									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C3)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Gleason, Sharon L.	04/11/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - Fidelity International Discovery									
19. - Fidelity Growth and Discovery Fund									
20. - Fidelity GNMA Fund									
21. - Fidelity Balanced									
22. - Janus Growth and Income Class T									
23. - Janus Global Select Class T									
24. - Janus Research Core Fund Class T									
25. - Janus Overseas Fund Class T									
26. Trust	A	Dividend	K	T					
27. - Vanguard Star Fund									
28. - Neuberger Berman Equity Fund Investor Class									
29. 529 Fund	A	Dividend	K	T					
30. - Fidelity MA College Fund									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Gleason, Sharon L.	Date of Report 04/11/2011

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

I have no interest or involvement in the trust that is indicated in Part VII, but I have knowledge of that trust. The trustors are related to me; the beneficiaries of the trust include my children.

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Gleason, Sharon L.	Date of Report 04/11/2011

IX. CERTIFICATION.

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

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

Signature Sharon Gleason

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		133	500	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		357	377	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		280	000
Real estate owned – personal residence		540	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		40	000	Automobile loan		11	100
Cash value-life insurance							
Other assets itemize:							
Alaska Supplemental Benefits System		160	700				
Alaska Judicial Retirement System		500	000				
Alaska Deferred Compensation		20	900	Total liabilities		291	100
				Net Worth	1	461	377
Total Assets	1	752	477	Total liabilities and net worth	1	752	477
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	Yes		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Baxter International Inc. stock	$27,100
EBay Inc. stock	31,040
Edward Life Sciences Corp. stock	8,700
Microsoft Corp. stock	39,354
Fidelity Balanced Fund	25,891
Fidelity International Discovery Fund	38,186
Fidelity GNMA Fund	45,968
Fidelity Growth Discovery Fund	23,798
Fidelity Value Fund	12,237
Janus Global Select CL	52,379
Janus Overseas Fund	19,748
Janus Growth and Income Class T	32,976
Total Listed Securities	$357,377

AFFIDAVIT

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

3.28.11
(DATE)

Sharm Louise Gleason
(NAME)

V. LYNN AKERS NOTARY PUBLIC STATE OF ALASKA

V. Lyn Akers
(NOTARY)

My Commission expires 2/22/2014

Senator COONS. Thank you very much, Judge Gleason.

Judge Rogers.

STATEMENT OF YVONNE GONZALEZ ROGERS, NOMINEE TO BE DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

Judge GONZALEZ ROGERS. Thank you, Chairman. I would like to first thank Senator Hatch, Ranking Member Grassley, and Chairman Leahy for their leadership in holding these hearings.

My warm thanks to Senator Feinstein. Her enthusiastic support of my nomination has been incredible and really is deeply appreciated.

I also thank Senator Boxer for her support and the President for the confidence that he has shown in me by this nomination.

I am here with a number of family members. I will art with my husband of 23 years, Matt Rogers. As Senator Feinstein mentioned, we are here with our three children: Christopher, who is 16 and aspires to be an engineer; Maria, who is 12, she loves math and volleyball; and Joshua, who is 10. He wants to be a professional soccer player, was very happy with the women's win today, and a chef.

I am also here joined by my mother, Bertha Mayorga, who traveled from Texas, and my three sisters, who also traveled from Texas: Liza Reyes, Lora DeBord, and Cynthia Rhett, who is also here with her husband, Eric.

Unfortunately, my brother, Rene Gonzalez, could not be with us, nor could my late father, G.B. Gonzalez. I know he would have been proud to witness these hearings, and he certainly was an inspiration to me.

I do not have a formal statement. I do want to recognize and acknowledge the constitutional importance of these proceedings, and I look forward to answering any questions that you may have.

Thank you.

[The biographical information of Judge Gonzalez Rogers follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Yvonne Gonzalez Rogers
   Maria Yvonne Gonzalez (birth name and used for legal matters until I married in 1988)

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

   United States District Judge for the Northern District of California

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Superior Court of the State of California
   County of Alameda
   1221 Oak Street, Department 24
   Oakland, California 94612

   Residence: Piedmont, California

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

   1965; Houston, Texas

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1990 – 1991, University of California, Berkeley, Boalt Hall; no degree received
   1987 – 1988, 1989 – 1990, University of Texas, Austin, School of Law; J.D., 1991
   1983 – 1987, Princeton University; A.B. (*cum laude*), 1987

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2008 – present
Superior Court of California, County of Alameda
1221 Oak Street, Department 24
Oakland, California 94612
Judge

2007 – 2008
Superior Court of California, County of Alameda
1221 Oak Street, Department 24
Oakland, California 94612
Pro Tem Judge (uncompensated)

2005 – 2007
Grand Jury for Alameda County
Superior Court of California, County of Alameda
1401 Lakeside Drive, Suite 1104
Oakland, California 94612
Foreperson (2006 – 2007)
Chair of Education Committee (2005 – 2006)
(compensated at $15.00 per day)

Summer 1990, 1991 – 2003
Cooley Godward LLP (now Cooley LLP)
101 California, 5th Floor
San Francisco, California, 94111
Special Counsel (2002 – 2003)
Partner (equity) (1999 – 2001)
Associate (1991 – 1998)
Summer Associate (Summer 1990)

Fall 1988 – Spring 1989
Brenner, Saltzman,Wallman & Goldman (disbanded)
271 Whitney Avenue
New Haven, Connecticut 06511
Legal Researcher

Other Affiliations (uncompensated):

2001 – 2003
Wildwood Elementary School Parent Board
301 Wildwood Avenue
Piedmont, California 94611
President (2002 – 2003)
First Vice-President (2001 – 2002)

2001 – 2002
California La Raza Lawyers Association
P.O. Box 30
San Jose, California 95103
Board of Directors and Vice-President for Northern District of California

1992 – 1994
San Francisco La Raza Lawyers Association
P.O. Box 192241
San Francisco, California 94119
Board of Directors

1992 – 1994
Hispanic National Bar Association
1900 L Street N.W., Suite 700
Washington, D.C. 20036
Board of Directors, Regional President

Mid-1990s
La Raza Centro Legal
474 Valencia Street, #295
San Francisco, California 94103
Board of Directors

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I was not required to register for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Judge of the Year Award, San Francisco La Raza Lawyers Association (2010)

   Outstanding Service Award, Piedmont Unified School District (2005)

   Outstanding Service Award, Hispanic National Bar Association (1993)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   Alameda County Bar Association

Alameda County Superior Court
- Civil Committee (2011)
- Rules and Forms Committee (2011)
- Alternative Dispute Resolution Committee (2011)
- Criminal Committee (2008 – 2010)
- Access to Justice Committee (2010)
- Information Technology Committee (2010)

American Bar Association
American Constitution Society
American Judges Association
American Law Institute, Elected Member
- Elected Member, Council (2011 – present)
- Membership Committee, Chair (May 2011 – present)
- Committee on Outreach (2009 – 2011)
- Committee on Institute Size (2001 – 2008)
- Consultative Groups for the (i) Restatement of Law Third, Restitution and Unjust Enrichment (2001 – 2010), (ii) Restatement of Law Third, Employment Law (2001 – present), (iii) Model Penal Code (2009 – present), and (iv) Principles of Election Law: Resolution of Election Disputes (2011 – present)

Asian American Bar Association of the Greater Bay Area
California Judges Association
California La Raza Lawyers Association
- Board of Directors & Vice-President for Northern District (2001 – 2002)

California Latino Judges Association
California Women Lawyers
Centro Legal de La Raza (Oakland, California)
- Advisory Board for Youth Law Academy (2005 – present)

Charles Houston Bar Association
East Bay La Raza Lawyers
Hispanic National Bar Association, Lifetime Member
- Regional President (California & Hawaii) (1992 – 1994)
- National Supreme Court Committee (1992 – 1993)
- Chair, Northern California Judiciary Committee (1994 – 1998)

La Raza Centro Legal (San Francisco, California)
- Board of Directors (Mid-1990s)

San Francisco Bar Association
- Judiciary Committee (1998 – 2001; 2001 – 2003)
- Blue Ribbon Committee, *1999 Interim Report: Goals and Timetables for Minority Hiring and Advancement* (March 2000)

San Francisco La Raza Lawyers Association
- Board of Directors (1992 – 1994)
- Chair, Judiciary Committee (1994 – 1998)

Women Lawyers of Alameda County

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

California, 1991

There were no lapses in membership from the date of my admission to the date I was appointed as a judge of the State of California in and for the County of Alameda. Under California law, a person serving as a judge of a court of record is not considered to be a member of the State Bar while in office.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Ninth Circuit, 1991
United States District Court for the Northern District of California, 1991
United States District Court for the Central District of California, 1992
State of California, 1991

There were no lapses in membership from the date of my admission to the date I was appointed as a judge of the State of California in and for the County of Alameda. Under California law, a person serving as a judge of a court of record is not considered to be a member of the State Bar while in office.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Citizens for Piedmont Schools
    Co-Chair, Campaign to Renew/Increase School Parcel Tax Measures (2004 – 2005)
Club at the Claremont Hotel (1998 – 2007)
Lahontan Golf Club, Social Member (2008 – present)
League of Women Voters of Piedmont (2003 – present)
    Education Update and Program Committee (2003 – 2005)
Local High School Parent Club (2009 – present)
Local Middle School Parent Board (2006 – 2008)

Piedmont Unified School District, Proposition 39 Oversight Committee (2007 – 2008)
Chair (2008)
Wildwood Elementary School Parent Board (2001 – 2008)
President (2002 – 2003)
First Vice-President (2001 – 2002)
Co-Chair of Annual Fund Campaign (2003 – 2004)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Letters to the Editor: Volunteers Say Thank You to Voters, Contra Costa Times, June 17, 2005 (co-written with Ray Gadbois). Copy supplied.

Note, *Reapportionment and Latino Political Power in California in the Wake of the 1990 Census*, 5 La Raza Law Journal 28-64 (1992). Copy supplied.

Eleanor M. Fox & Michael Traynor, *Biotechnology for Human Life and Health – The Special Case for a Negligence-Only Rule to Promote Critical Innovation*, 6 High Technology Law Journal 1-26 (1991). I provided research assistance and editing of the article. Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

2006-2007 Alameda County Civil Grand Jury Final Report. Copy supplied.

2005-2006 Alameda County Civil Grand Jury Final Report. Copy supplied.

League of Women Voters of Piedmont, Education Update Report, 2003-2005. Copy supplied.

San Francisco Bar Association, Blue Ribbon Committee, *1999 Interim Report: Goals and Timetables for Minority Hiring and Advancement*, March 2000. A copy of the report is supplied.

From 1994 to 1998, I chaired the Northern California Judiciary Committee for the Hispanic National Bar Association and the San Francisco La Raza Lawyers Association. In that capacity, I investigated candidates for the judiciary and recommended endorsement where appropriate. When the relevant Boards voted to endorse the candidate, I would write letters in support of their appointment and/or nomination. I have been unable to obtain copies of these letters.

In addition, I am an elected member of the American Law Institute, and I have served on the Consultative Groups for the (i) Restatement of Law Third, Restitution and Unjust Enrichment (2001 – 2010), (ii) Restatement of Law Third, Employment Law (2001 – present), (iii) Model Penal Code (2009 – present), and (iv) Principles of Election Law: Resolution of Election Disputes (2011 – present). I did not have any role in drafting these documents, but I did offer commentary and otherwise participate in their development.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have spoken on a number of occasions before the Piedmont Unified School District Board of Education. I have listed the appearances I could identify or recall below:

June 25, 2008: I spoke about the Every Day Math textbook that the district was considering for use in elementary classrooms. Meeting minutes supplied.

May 14, 2008: I spoke about assessing student success and district curriculum. Meeting minutes supplied.

April 9, 2008: I spoke on Measure E bond spending proposals. Meeting minutes supplied.

March 12, 2008: I spoke about the district's Comprehensive School Safety Plan. Meeting minutes supplied.

November 14, 2007: I asked several questions about the proposed bond program to retrofit Wildwood Elementary School for earthquake safety. Meeting minutes supplied.

January 26, 2005: I co-presented a plan to renew and increase a parcel tax to support the school district's budget. My two sets of presentation slides and press coverage are supplied.

In 2004, I signed a League of Women Voters open letter to LWV President Kay Maxwell that supported retracting the League's opposition to a Voter Verified Paper Audit Trail. Copies of the letter and list of signatories are supplied.

June 11, 2003: As a member of the Budget Advisory Committee, I co-presented the committee's recommendations for the coming fiscal year's budget. I have no notes, transcript or recording, but press coverage is supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

October 14, 2010: League of Women Voters, Oakland, California. The League hosted a Russian delegation that was learning about democracy in America. The delegation visited my courtroom to observe proceedings. I spoke for a few minutes afterwards explaining the proceedings and answering very basic questions about due process for defendants. I have no notes, transcript or recording. The address of the organization is 80 Florada Avenue, Piedmont, California 94610.

June 14, 2010: Annual Scholarship Ceremony, Berkeley, California. I was the keynote speaker at an awards ceremony for academically talented and resilient Berkeley High School students who had been awarded scholarships and mentoring support for college. My remarks focused on congratulating them for their efforts and encouraging them to pursue excellence in their college and career pursuits. Notes supplied.

April 16, 2010; April 6, 2009; September 12, 2007; April 4, 2005; and April 5, 2004: I have served as a guest lecturer at Stanford Law School teaching litigation

skills during their annual Trial Advocacy Workshop. I have also conducted oral argument for the law and motion component of a Federal Litigation Course. I have no notes, transcript or recording. The address of Stanford Law School is 559 Nathan Abbott Way, Stanford, California 94305.

November 18, 2009: La Raza Law Students, Informal Luncheon, Berkeley, California. I was the guest speaker at a question-and-answer lunch to discuss the process of becoming a judge, practice options in a tight legal market, and tips for interviewing. I have no notes, transcript or recording. The address of the organization is 387 Simon Hall, Berkeley, California 94720.

October 23, 2009: Minority Bar Coalition's Unity Conference, San Francisco, California. I was one of one of three panelists who spoke on the topic of Diversity in the Judiciary. I spoke about the process of being appointed by Governor Arnold Schwarzenegger and offered to assist young lawyers with their applications. I have no notes, transcript or recording. The address of the organization is 301 Battery Street, Third Floor, San Francisco, California 94111.

May 15, 2009: Princeton Club of Northern California, Oakland, California. I was the Keynote Speaker at an awards ceremony for high school students who were awarded the Princeton Prize in Race Relations for outstanding work in their schools and community to advance the cause of race relations. My remarks focused on congratulating them for their efforts and encouraging them to pursue excellence in their college and career pursuits. I have no notes, transcript or recording, but Princeton Club coverage is supplied. The address of the organization is 666 30th Avenue, San Francisco, California 94121.

November 2, 2008: I hosted a meeting for younger members of the American Law Institute at my home. I gave brief introductory remarks. I have no notes, transcript or recording. The address of the ALI is 4025 Chestnut Street, Philadelphia, Pennsylvania 19104.

October 14, 2008: Investiture ceremony, Oakland, California. I took the Oath of Office and gave brief remarks. Transcript supplied.

June 2008: I co-hosted a meeting in my home for Piedmont Unified School District parents to meet with educators about the Every Day Math textbook that the district had proposed to use. I gave brief remarks to introduce the principal as the meeting's guest speaker. I have no notes, transcript or recording. The address of the PUSD is 760 Magnolia Avenue, Piedmont, California 94611.

May 16, 2007: League of Women Voters, Grand Jury Process. I was the guest speaker at a question-and-answer session of a local League of Women Voters luncheon to discuss the grand jury process generally. I have no notes, transcript or recording, but press coverage is supplied. The address of the League is 80 Florada Avenue, Piedmont, California 94610.

March 31, 2006: I spoke at Think College Now Elementary School to encourage students to work hard in school, accomplish their goals, and make a difference in the community. I have no notes, transcript or recording. The address of the school is 2825 International Boulevard, Oakland, California 94601.

March 2005: Citizens' Advisory Committee. I gave a presentation to the Piedmont League of Women Voters about the proposed parcel tax renewal. Presentation slides supplied.

March 2005: Citizens' Advisory Committee. I gave a presentation to groups that supported the proposed parcel tax renewal. Presentation slides supplied.

February 16, 2005: Citizens' Advisory Committee. I gave a communications strategy presentation during a message development meeting of the Citizens' Advisory Committee for the proposed parcel tax renewal. Presentation slides supplied.

February 3, 2005: Citizens' Advisory Committee. I gave a presentation about the campaign for the proposed parcel tax renewal. Presentation slides supplied.

December 13, 2004: Citizens' Advisory Committee. I spoke with Ray Gadbois, my co-chair of Citizens for Piedmont Schools, to a group of residents about the proposed parcel tax renewal and increase, which would fund the Piedmont Unified School District. Presentation slides and press coverage is supplied.

November 17, 2004: League of Women Voters of Piedmont, Education Update Study. I co-presented the League's Education Update report. My outline and notes are supplied.

June 14, 2000: Bar Association of San Francisco Summit on Minority Advancement in the Legal Profession, San Francisco, California. I sat on a panel about issues facing minority attorneys. I have no notes, transcript or recording. The address of the Bar Association is 301 Battery Street, Third Floor, San Francisco, California 94111.

1999: Bar Association of San Francisco, Blue Ribbon Committee, *Goals '99 Report: Goals and Timetables for Minority Hiring and Advancement.* I participated in several panel discussions about the report after its release in 1999. I have no notes, transcript or recording. The address for the Bar Association is 301 Battery Street, Third Floor, San Francisco, California 94111.

1990s: Cooley Godward LLP, San Francisco, California. As both an associate and partner, I organized and hosted a dinner sponsored by the law firm for first year law students of Latino backgrounds who attended the local Bay Area law schools. Latino partners and attorneys from the major San Francisco law firms

and major non-profit organizations were invited and participated. The topics included tips for success during the first year of law school and tips for interviewing and being a successful associate. I have no notes, transcript or recording. The address of the organization is 101 California, 5th Floor, San Francisco, California, 94111.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Mike McKee, *Ex-Cooley Lawyer Shows Mentoring Side on Bench*, The Recorder, July 28, 2009. Copy supplied.

Judge Yvonne Gonzalez Rogers, The Daily Journal, Summer 2009. Copy supplied.

Linda Davis, *Gonzalez Rogers Named to Superior Court Bench*, Contra Costa Times, July 24, 2008. Copy supplied.

Linda Davis, *School Board Approves $29 Million Budget*, Contra Costa Times, June 26, 2008. Copy supplied.

Lisa Coffey Mahoney, *Schools Win Big at Polls*, Contra Costa Times, June 10, 2005. Copy supplied.

Lisa Coffey Mahoney, *School Backers Call Ballot Measure 'Critical'*, Contra Costa Times, June 3, 2005. Copy supplied.

Valerie Corvin, *Measures B and C on Ballot*, Contra Costa Times, May 27, 2005. Copy supplied.

Valerie Corvin, *Measures B, C Close Gaps in State Funding*, Contra Costa Times, May 20, 2005. Copy supplied.

Valerie Corvin, *Piedmont District Forced to Make Cuts*, Contra Costa Times, May 6, 2005. Copy supplied.

Lisa Coffey Mahoney, *School Tax Measures on Ballot*, Contra Costa Times, Mar. 11, 2005. Copy supplied.

Kevin Livingston and Mike McKee, *New Justice to be Unveiled in L.A. Today*, The Recorder, Sept. 26, 2001. Copy supplied.

Brenda Sandburg, *A Helping Hand for Latino Attorneys*, The Recorder, Feb. 7, 2000. Copy supplied.

Sara Hazelwood, *Flexibility Counts for Working Moms*, San Jose Business Journal, Nov. 30, 1998. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Since 2008, I have been a Superior Court Judge for the State of California in and for the County of Alameda. Governor Arnold Schwarzenegger appointed me on July 25, 2008. I was then re-elected without opposition in November 2010. My current term of office expires December 31, 2017. I sit in a state trial court of general jurisdiction.

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

As of the date of this application, I have presided over approximately 40 cases that have gone to verdict or judgment following a jury or bench trial.

i. Of these, approximately what percent were:

jury trials:	80%
bench trials:	20%
civil proceedings:	30%
criminal proceedings:	70%

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

As a state trial court judge, I have not written any published opinions. Further, most of my trials have involved juries where written opinions are not required and where many decisions are made orally on the record. I recently moved to a civil assignment which has involved more written statements of decisions or ruling on motions, including dispositive motions. In this capacity, I issue approximately 25-40 case management orders every week and 10-20 law and motion orders. All of these orders are filed in the Record of Action for each individual case and are accessible through the Court's website.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Dayton Superior Corp. v. United States Gypsum Co.*, Case No. RG08-378152 (Cal. Super. Ct. 2008). Opinion supplied.

Dayton Superior Corporation ("Dayton") brought a products liability case against United States Gypsum Company arising out of the use of a concrete road patch where Dayton used the patch to create a new product and the latter product failed when applied to an earthquake retrofit on a building at the University of California, Berkeley. After a bench trial, I found in favor of defendant. Judgment was entered on February 15, 2011. A copy of my Statement of Decision is supplied.

Counsel for plaintiff:	Daniel J. Smith and Parris H. Schmidt Bowman and Brooke LLP 1741 Technology Drive, Suite 200 San Jose, California 95110 (408) 279-5393
Counsel for defendant:	Peter A. Lindh and Michael J. Cummins Gibson Robb & Lindh LLP 100 First Street, 27th Floor San Francisco, California 94105 (415) 348-6000

2. *Morris v. Nat'l Security Techs., LLC*, Case No. RG08-423444 (Cal. Super. Ct. 2008).

Plaintiff Morris brought a wrongful termination suit against National Security Technologies, LLC based upon a theory of retaliation against public policy. The parties tried the case to a jury, which returned a verdict in favor of the defendant. Judgment was entered on January 26, 2011.

Counsel for plaintiff:	Peter N. Lamberto Lamberto & Kreger 160 West Santa Clara, Suite 1050 San Jose, California 95113 (408) 999-0300
Counsel for defendant:	Gregory Iskander Littler Mendelson 1255 Treat Boulevard #600 Walnut Creek, California 94597 (925) 932-2468

3. *Hanson v. Cable*, Case No. RG10-499908 (Cal. Super. Ct. 2010). Opinion supplied.

This case arises out of claims that on or about August 5, 2009, defendant Cable attacked plaintiff Hanson during Spring Training and thereafter the Oakland Raiders ("the Raiders") improperly demoted Hanson to a lower level position in the Raiders personnel department. The defendants brought a motion to compel contractual arbitration. The plaintiff opposed on the grounds that the Commissioner of the National Football League ("NFL") was biased because the NFL had conducted an investigation and did not find a violation of its rules. I granted the motion on December 10, 2010. A copy of the Order is supplied.

Counsel for plaintiff: John A. McGuinn
McGuinn, Hillsman & Palefsky
535 Pacific Avenue
San Francisco, California 94133
(415) 421-9292

Counsel for defendants: Ivan W. Golde
508 16th Street, Suite 1100
Oakland, California 94612
(510) 530-3294

Mark D. Petersen
Farella Braun & Martel LLP
235 Montgomery Street, 17th Floor
San Francisco 94104
(415) 954-4400

4. *Ramos v. Oppelt*, Case No. RG08-370620 (Cal. Super. Ct. 2008). Opinion supplied.

This case arises out of the death and injury of high school students at a party. Plaintiffs, including the parents of the deceased, sued the high school senior who hosted the party, her parents who owned the house where the incident occurred, and the person who injured the students. On December 7, 2010, I granted summary judgment in favor of the student-host and the parent-homeowners on the grounds that the injury/criminal activity was not reasonably foreseeable. A copy of the Order is supplied.

Counsel for plaintiff: Robert C. Cheasty
1604 Solano Avenue
P. O. Box 8357
Berkeley, California 94707
(510) 525-1000

Counsel for defendant: Elisa D. Rhein
Phillips, Spallas & Angstadt LLP
Three Embarcadero Center, Suite 550
San Francisco, California 94111
(415) 278-9400

5. *Fitzsimons v. Cal. Emergency Physicians Med. Grp.*, Case No. RG06-268579 (Cal. Super. Ct. 2006).

This case arose out of plaintiff's claim of wrongful termination arising from retaliation in violation of public policy. The case was bifurcated for purposes of trial. On February 1, 2011, the jury found that the plaintiff was not an employee, but a partner. Having held that the plaintiff must prove that she was an employee as part of her cause of action, I entered judgment on behalf of the defendant.

Counsel for plaintiff: Richard C. Raines
Gagen, McCoy, McMahon, Koss, Markowitz & Raines
279 Front Street
P.O. Box 218
Danville, California 94526
(925) 838-5985

Counsel for defendant: Sarah E. Robertson
Fitzgerald Abbott & Beardsley LLP
1221 Broadway, 21st Floor
Oakland, California 94612
(510) 451-3300

6. *Hutson v. Raffle, M.D.*, Case No. RG08-426918 (Cal. Super. Ct. 2008).

Plaintiff Hutson brought a professional malpractice case against Dr. Raffle, a psychiatrist, alleging breaches of the standard of care and fraud stemming from thirty years of treatment. Defendant denied the allegations. On April 27, 2011, after a three-week trial, the jury found in favor of the plaintiff on the cause of action for professional negligence awarding modest damages, and in favor of the defendant on the remaining causes of action.

Counsel for plaintiff: Bari S. Robinson
Law Offices of Bari S. Robinson
The Atrium Building
449 15th Street, Suite 201
Oakland, California 94612
(510) 625-1507

Counsel for defendant: Ronald P. Goldman
Dane T. Jones
The Goldman Law Firm
Merchant Bank Building
55 Main Street
Tiburon, California 94920
(415) 435-5500

7. *Brunwasser v. Leachman*, Case No. RG09-451597 (Cal. Super. Ct. 2009).

Plaintiff Brunwasser brought an action to collect over $300,000 in attorney's fees and costs incurred during an underlying divorce and custody battle where he represented defendant Leachman. The defendant denied owing any amounts beyond what had already been paid. On May 10, 2011, after a two-week trial, the jury awarded plaintiff $163,502.

Counsel for plaintiff: G. Scott Emblidge
Rachel J. Sater
Moscone Emblidge & Sater LLP
220 Montgomery Street, Suite 2100
San Francisco, California 94104
(415) 362-3599

Counsel for defendant: William Gwire
Bruce M. Glassner
Gwire Law Offices
455 Market Street, Suite 2220
San Francisco, California 94105
(415) 296-8880

8. *People v. Terrazas*, Case No. 160820 (Cal. Super. Ct. 2010).

The People of the State of California charged the defendant with felony driving under the influence, an enhancement of causing injury to more than one individual, and another enhancement of causing great bodily injury. In June 2010, a jury found the defendant guilty of the felony plus one enhancement. During sentencing, substantial evidence was presented of mental health problems. The defendant was sentenced to 3 years of state prison with an additional year for the enhancement. I stayed the execution of sentence upon completion of one year of county jail plus completion of a three-year residential mental health program, and an additional five years of court probation.

Prosecution: Robert M. Graff
Alameda County District Attorney Office
1220 Fallon Street, Suite 900
Oakland, California 94612
(510) 272-6222

Defense attorneys: Norma Garcia
Office of Public Defender, Alameda County
1401 Lakeside Drive, 4th Floor
Oakland, California 94612
(510) 272-6600

Shannan Dugan
655 Montgomery Street, Suite 1200
San Francisco, California 94111
(415) 291-9260

9. *People v. Vigay*, Case No. 544869A and B (Cal. Super. Ct. 2010).

The People of the State of California charged 24 counts of armed robbery against the two defendants arising out of a series of robberies which occurred close to the campus of the University of California, Berkeley. The preliminary hearing in this matter involved almost a dozen witnesses and hours of video interrogation. Having heard the evidence presented, I held the defendants to answer for all counts except that I reduced one count to grand larceny.

Prosecution: Matthew D. Foley
Alameda County District Attorney Office
1220 Fallon Street, Suite 900
Oakland, California 94612
(510) 272-6222

Defense attorneys: William DuBois
1611 Telegraph Avenue, Suite 1100
Oakland, California 94611
(510) 835-8005

Demetrius Michael Costy
1 Kaiser Plaza, Suite 2300
Oakland, California 94612
(510) 836-0100

10. *People v. Washington*, Case No. 560021 (Cal. Super. Ct. 2008).

The People of the State of California charged the defendant with sexual battery arising out of his conduct on public transport against a young woman. Conviction

of this count would have required life time registration as a sex offender. Significant proceedings were held in advance of trial to deal with the mental health issues at the heart of the case. The case was still pending when I was transferred to a different department.

Prosecution:	Timothy Burr Alameda County District Attorney Office 1220 Fallon Street, Suite 900 Oakland, California 94612 (510) 272-6222
Defense attorneys:	Penny Trieu and Brian Bloom Office of Public Defender, Alameda County 1401 Lakeside Drive, 4th Floor Oakland, California 94612 (510) 272-6600

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Dayton Superior Corp. v. United States Gypsum Co.*, Case No. RG08-378152 (Cal. Super. Ct. 2008). Copy supplied in response to 13(c).

Counsel for plaintiff:	Daniel J. Smith and Parris H. Schmidt Bowman and Brooke LLP 1741 Technology Drive, Suite 200 San Jose, California 95110 (408) 279-5393
Counsel for defendant:	Peter A. Lindh and Michael J. Cummins Gibson Robb & Lindh LLP 100 First Street, 27th Floor San Francisco, California 94105 (415) 348-6000

2. *Hanson v. Cable*, Case No. RG10-499908 (Cal. Super. Ct. 2010). Copy supplied in response to 13(c).

Counsel for plaintiff:	John A. McGuinn McGuinn, Hillsman & Palefsky 535 Pacific Avenue San Francisco, California 94133 (415) 421-9292

Counsel for defendants: Ivan W. Golde
508 16th Street, Suite 1100
Oakland, California 94612
(510) 530-3294

Mark D. Petersen
Farella Braun & Martel LLP
235 Montgomery Street, 17th Floor
San Francisco 94104
(415) 954-4400

3. *Ramos v. Oppelt*, Case No. RG08-370620 (Cal. Super. Ct. 2008). Copy supplied in response to 13(c).

Counsel for plaintiff: Robert C. Cheasty
1604 Solano Avenue
P. O. Box 8357
Berkeley, California 94707
(510) 525-1000

Counsel for defendant: Elisa D. Rhein
Phillips, Spallas & Angstadt LLP
Three Embarcadero Center, Suite 550
San Francisco, California 94111
(415) 278-9400

4. *Lin v. City of Pleasanton*, Case No. RG10-519153 (Cal. Super. Ct. 2010). Opinion supplied.

Counsel for plaintiff: Andrew B. Sabey
Cox Castle & Nicholson
555 California Street, 10th Floor
San Francisco, California 94111
(415) 262-5103

Counsel for defendant: Amrit S. Kulkarni
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, California 94607
(510) 808-2000

Arthur F. Coon
Miller Starr & Regalia
1331 North California Boulevard, 5th Floor
Post Office Box 8177
Walnut Creek, California 94596
(925) 935-9400

5. *People of the State of California v. Hope*, Case No. 545446, (Cal. Super. Ct. 2009). Opinion supplied.

Prosecution:

Venus Johnson
Alameda County District Attorney Office
1220 Fallon Street, Suite 900
Oakland, California 94612
(510) 272-6222

Defense attorney:

Karen Katz
Office of Public Defender, Alameda County
1401 Lakeside Drive, 4th Floor
Oakland, California 94612
(510) 272-6600

6. *State of California v. Sabek Transp.*, Case No. RG08-389033 (Cal. Super. Ct. 2008). Opinion supplied.

Counsel for plaintiff:

Ronald W. Beals
David Gossage
Lora D. Curtis
595 Market Street, Suite 1700
San Francisco, California 94105
(415) 904-5700

Counsel for defendants:

Jeffrey G. Bairey
Alison Yew
Lewis Brisbois Bisgaard & Smith LLP
One Sansome Street, Suite 1400
San Francisco, California 94104
(415) 362-2580

Dennis F. Moriarty
Andrew S. Werner
Cesari, Werner and Moriarty
360 Post Street, Fifth Floor
San Francisco, California 94108

7. *Rutchena v. HK Systems, Inc.*, Case No. RG09-474337 (Cal. Super. Ct. 2009). Opinion supplied.

Counsel for plaintiff:	John E. Hill 8105 Edgewater Drive, Suite 100 Oakland, California 94612 (916) 588-1000
Counsel for defendants:	Norman La Force Narayan & Hudson 101 Second Street, 16th Floor San Francisco, California 94105 (415) 227-2300
	Michael C. Douglass Steven J. Joffe Wilson, Elser, Moskowitz, Edelman & Dicker LLP 525 Market Street, 17th Floor San Francisco, California 94105 (415) 433-0990

8. *Lazemizadeh v. City of Albany*, Case No. BG10-504926 (Cal. Super. Ct. 2010). Opinion supplied.

Counsel for plaintiff:	Yasha Rahimzadeh 980 Ninth Street, 16th Floor Sacramento, California 95814 (916) 337-8066
Counsel for defendant:	Ann M. Asiano Jordan M. Green Bradley, Curley, Asiano, Barrabee, Abel & Kowalski, P.C. 1100 Larkspur Landing Circle, Suite 200 Larkspur, California 94939 (415) 464-8888

9. *Mathews as Trustee of the Peter Greene Mathews and Leslie Ann Davis Mathews Revocable Inter Vivos Trust Agreement v. Sterling Bank and Trust, FSB*, Case No. RG09-483698 (Cal. Super. Ct. 2009). Opinion supplied.

Counsel for plaintiff:	James E. Toothman Joel F. Donahoe James E. Toothman & Associates 266 Los Gatos-Saratoga Road Los Gatos, California 95030 (408) 395-6021
Counsel for defendant:	Darrell C. Martin Alborg, Veiluva & Martin LLP 2121 North California Boulevard, Suite 1010 Walnut Creek, California 94596 (925) 939-9880

10. *California State Auto. Ass'n v. Schroeder*, Case No. RG10-509184 (Cal. Super. Ct. 2010). Opinion supplied.

Counsel for plaintiff:	William R. Morton Karen D. Marcus Morton, Lulofs & Wood, LLP 180 Grand Avenue, Suite 1500 Oakland, California 94612 (510) 444-5521
Counsel for defendant:	Douglas S. Saeltzer Sara M. Peters Walkup, Melodia, Kelly & Schoenberger, P.C. 650 California Street, 26th Floor San Francisco, California 94108 (415) 981-7210

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

I have had no cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have had no cases which have been reversed or criticized by a reviewing court.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a state trial court judge, I have not written any published opinions. However, I currently preside in a direct civil calendar department. My current case load is approximately 550 cases. In this capacity, I issue approximately 25-40 case management orders every week and 10-15 law and motion orders. All of these orders are filed in the Record of Action for each individual case and are accessible through the Court's website.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not authored significant opinions on federal or state constitutional issues.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on any federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

California Code of Civil Procedure section 170.6 allows each party in a case to exercise one preemptory challenge to any sitting judge without the need to show cause. The motions are fairly routine in the Superior Court. In Alameda County we have an

automatic system that processes these requests as a matter of course. We do not keep any data on these requests or store them in any way.

Since my assignment to a civil department in September 2010, I have received notice via email that two such challenges have been filed. I do not recall the names of the cases nor did I recognize any of the names of the parties or attorneys when I received the email. During my prior criminal assignment, I was advised that one private defense attorney did make a motion under Section 170.6. As set forth above, he was not required to provide a reason.

California Code of Civil Procedure section 170.1 sets forth the procedure to challenge a judge for cause. Under this section, the party must file a written motion stating the grounds for the recusal. The judge must respond within 10 days in writing or the recusal must be granted. A judge outside of the county decides the motion. Only one such motion has been filed against me, in *Lazuka v. Blackhawk Network Holdings, Inc.*, Case No. RG10-519501. The motion was filed on May 4, 2011. I filed a verified answer on May 13, 2011, and a decision is pending.

In *Briggs v. County of Alameda*, Case No. RG09-490339, I recused myself *sua sponte* on January 4, 2011. This action arises out of a claim for payment for attorneys fees incurred by an attorney appointed to represent a defendant in a criminal case. The defendant is the Superior Court on which I sit. As a member of the defendant court, I did not believe that it was appropriate for me to preside over the case. After I recused myself, the Presiding Judge made arrangements to transfer the case to another county.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

2007 – 2008. The School Board for the Piedmont Unified School District appointed me as a member, then chair, of the Proposition 39 Oversight Committee. The Committee was charged with overseeing the use of public bond funds issued for earthquake repairs for the Piedmont Unified School District.

Other than for judicial office, I have not been a candidate for any public office or an unsuccessful nominee for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

2004 – 2005. I co-chaired a campaign to renew and increase a local parcel tax to fund public schools. Despite the need to increase the tax by 38 percent (the largest school parcel tax in California), we engaged the entire community in a collaborative fashion and worked through various areas of concern. We passed Measures B and C with 88 and 83 percent of the vote, respectively.

Other than monetary contributions to political campaigns, I have not held any positions or offices in any other political campaign. However, in 2010, I endorsed John Creighton to be a Superior Court Judge in Alameda County.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

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

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

I have never practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1991 – 2003
Cooley Godward LLP (now Cooley LLP)
101 California, 5th Floor
San Francisco, California, 94111
Special Counsel (2002 – 2003)
Partner (equity) (1999 – 2001)
Associate (1991 – 1998)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

Other than serving as a settlement conference judge, I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

During my tenure at Cooley LLP, I was a member of the General Business Litigation practice and the Real Estate Litigation practice. I focused on large complex, civil litigation matters, especially real estate and technology-related litigation. The majority of these cases were filed in state courts. Because of the business focus, clients were both plaintiffs and defendants. My role varied. Some cases I handled alone. Others involved teams of attorneys where tasks were divided. I frequently drafted and argued motions and negotiated with opposing counsel, led discovery efforts, managed teams of associates, and prepared case strategy. I also assisted in a number of appeals and litigated a limited number of federal cases. At Cooley, I also took on firm roles (e.g., taking a leadership role in the recruiting committee). In 2001, I increased the amount of litigation counseling which involved more negotiations to avoid filing of suit.

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

During my tenure at Cooley LLP, I was a member of the General Business Litigation practice and the Real Estate Litigation practice. Clients included businesses with technology products and/or services, businesses that used technology products and/or services, businesses with real property concerns, and real estate partnerships and developers. My practice also included appellate work. The main cases in which I was involved focused on real estate and contract issues.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

During my tenure with Cooley LLP, my practice reflected the following characteristics: I spent my entire career in the litigation department. My appearances in court were not frequent as most of the litigation was conducted without court intervention. In 1999, I spent 3 months in the Alameda County District Attorney's Office trying criminal cases. During that period, I was in court every day.

i. Indicate the percentage of your practice in:

1. federal courts: 5%
2. state courts of record: 95%
3. other courts: 0%
4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
1. civil proceedings: 99%
2. criminal proceedings: 1%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried four civil cases to verdict, two as sole counsel and two as associate counsel. I have also tried four criminal cases to verdict, all as sole counsel.

i. What percentage of these trials were:
1. jury: 62%
2. non-jury: 38%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *America West Airlines, Inc. v. Informix Software, Inc.*, Superior Court of Arizona, County of Maricopa, CV 98-14921

This case arose out of a breach of contract claim due to Informix Software Inc.'s failed installation of a software reservation system for America West Airlines. We represented the latter. I managed the case on a day-to-day basis but was not the most senior attorney. I successfully defended against four of five motions for

summary adjudication. The case settled the day before trial in 2000. While this case was tried in Arizona State Court, we employed the federal rules of civil procedure (renumbered). The Hon. Edward O. Burke (retired) presided.

Lead Counsel:
William G. Gaede (formerly of Cooley LLP)
McDermott Will & Emery
3150 Porter Drive
Palo Alto, California 94304
(650) 813-5000

Local Counsel:
Robert McKirgan
Lewis & Roca
40 North Central Avenue
Phoenix, Arizona 85004
(602) 262-5747

Opposing Counsel:
Dan Quigley
Cohen Kennedy Dowd & Quigley, PC
The Camelback Esplanade One
2425 East Camelback Road, Suite 1100
Phoenix, Arizona 85016
(602) 252-8400

Linda Mitchell (former General Counsel, America West)
Lewis & Roca (now)
40 North Central Avenue
Phoenix, Arizona 85004
(602) 262-5747

2. *Olive v. Phillips*, United States District Court, Northern District of California, C89-4331 MHP

This case arose out of a class derivative action against some real estate investment trusts based in Texas. We became involved in 1996 when settlement counsel requested that the federal court exercise retained jurisdiction over alleged breaches to a previously-executed settlement agreement. We represented one set of defendants and conducted an eleven-day mini-trial before the Hon. Marilyn Hall Patel. At the time, I was the lead associate. The mini-trial did not conclude and the parties settled in 1997 during the recess.

Lead Defense Counsel:
Joseph P. Russoniello
999 Green Street, No. 1004
San Francisco, California 94133
(415) 244-4097

Separate Defense Counsel:
Doug Young
Farella, Braun & Martel
235 Montgomery Street
San Francisco, California 94104
(415) 954-4400

Separate Defense Counsel:
Jessica S. Pers
Orrick, Herrington & Sutcliffe LLP
The Orrick Building
405 Howard Street
San Francisco, California 94105
(415) 773-4295

Settlement Counsel:
George Donaldson
2298 Durant Avenue
Berkeley, California 94704
(510) 548-7474

3. *Citizens for Covenant Compliance v. Anderson*, Supreme Court of California, S043578, 12 Cal. 4th 345, 906 P.2d 1314 (1995); Court of Appeal, First Appellate District, A062032; Superior Court, San Mateo County, 373349

We represented Mr. Anderson in a suit filed by his neighbor/lawyer who was trying to enforce Covenants, Conditions and Restrictions ("CC&Rs") and prohibit his efforts to produce a small amount of wine at his home in Woodside, California and to raise llamas. Contrary to popular belief, CC&Rs were not enforceable unless referenced in the actual deeds which transferred property between owners. We successfully prevailed on a motion for summary judgment, which the Court of Appeal upheld. In 1995, the California Supreme Court ultimately reversed, adopting a new rule of law and applying that law retroactively. The case was remanded but never tried.

Lead Counsel:
Ken Adelson
Cooley LLP
101 California, 5th Floor
San Francisco, California 94111
(415) 693-2037

Opposing Counsel:
Debra S. Summers
Wilson, Sonsini, Goodrich & Rosati
650 Page Mill Road
Palo Alto, California 94304
(415) 493-9300

4. *In the Matter of the Trust Estate of Dwight*, Case No. 17950, 909 P.2d 561 (Haw. 1995).

This appeal arose out of a dispute among two sets of grandchildren regarding the proper distribution of trust proceeds left by their grandfather. On behalf of local counsel in Hawaii, I drafted the Supreme Court brief arguing that the language of the trust documents required that the Supreme Court affirm the Circuit Court's ruling and distribute the trust proceeds per stirpes, that is, equal shares to each of the two lines of descendents. The appellants argued for a per capita distribution, that is, for equal shares to each of the grandchildren. The Supreme Court of Hawaii affirmed our position holding that the trustee should distribute fifty percent to the Dwight family with three descendants and fifty percent to the Ellis family with six descendants.

Local Contact on the issue:
Myron Sugarman
Cooley LLP
101 California, 5th Floor
San Francisco, California 94111
(415) 693-2040

Attorney for Respondents-Appellees:
James H. Wright
745 Fort Street, 20th Floor
Honolulu, Hawaii 96813
(808) 521-6326

5. *Luwa Lepco, Inc. v. Sitek, Inc.*, Superior Court, Alameda County, CA 02-05741

This case involved complaints and cross-complaints for breach of contract and warranties arising out of the construction of a multi-million dollar clean room facility. I was lead counsel representing defendants/cross-complainants Sitek,

Inc. and OpticNet, Inc. We successfully settled the case in 2003. The Hon. Bonnie Lewman Sabraw (retired) presided over case management issues.

Counsel for Primary Litigant Luwa Lepco:
John Warnlof
2033 North Main Street, Suite 750
Walnut Creek, California 94596
(925) 937-9200

Counsel for Secondary Litigant McQuay:
Nicole G. Ayaz
4119 Leland Street
Chevy Chase, Maryland 20815

Counsel for Secondary Litigant W2 Systems:
Patrick Talbot Hall
1005 Terra Nova Boulevard, Suite 5
Pacifica, California 94044
(650) 359-2996

Counsel for Secondary Litigant Expert Drywall:
Judy Love
266 Nancy Lane
Pleasant Hill, California 94523
(925) 708-2503

Hon. Bonnie Sabraw (retired)
ADR Services, Inc.
50 Fremont Street, Suite 2110
San Francisco, California 94107
(415) 772-0900

6. *Raytheon Co. v. Litton Systems, Inc.*, American Arbitration Ass'n, San Francisco Office, 74 Y 181 00730 96

In this case, we represented Raytheon Company in a suit against Litton Systems arising over the latter's purchase of a division of Raytheon. The dispute centered on a disagreement over which of the various assets fell within the purview of the agreement. I took the lead in developing the case which ultimately settled in 1997 through mediation.

Opposing Counsel:
Anna Rossi
582 Market Street, Suite 301
San Francisco, California 94104
(415) 362-6516

7. *PCL Constr. Servs., Inc. v. Monahan*, Superior Court, Marin County, CV 990654

This was a consolidated case of multiple civil actions arising out of the construction of an office building. The parties filed actions including counts for foreclosure of mechanic's liens, money damages, and indemnity. I was lead counsel representing defendant/cross-complainant Oasis Healthcare, Inc., the tenant. This case was mediated before Thomas Castle, Special Master, and settled in 2000.

Opposing Counsel:
Howard G. Curtis
230 Aguirre Way
Cotati, California 94931
(707) 793-0167

Brett McKague
McKague & Tong LLP
641 Fulton Avenue, Suite 130
Sacramento, California 95825
(916) 974-3000

Thomas O. Haran
1630 Bay Street
San Francisco, California 94123
(415) 776-1391

Daniel Brown
160 Bovet Road, Suite 404
San Mateo, California 94402
(650) 349-7900

William McInerney Jr.
McInerney & Dillon, PC
1999 Harrison Street, Suite 1700
Oakland, California 94612
(510) 465-7100

Thomas Castle, Special Master
Griffiths & Castle
2000 Crow Canyon Place, Suite 190
San Ramon, California 94583
(925) 904-0111

8. *Warren v. Meris Laboratories, Inc.*, United States District Court, Northern District of California, C95 20133-JW

This case was brought by a former officer who alleged securities violations. We represented the defendants and disputed all of the allegations. My role focused on objecting to the class certification and to initial discovery. The case ultimately settled.

Lead Counsel:
William G. Gaede (formerly of Cooley LLP)
McDermott Will & Emery
3150 Porter Drive
Palo Alto, California 94304
(650) 813-5000

Opposing Counsel:
Bruce H. Munro (inactive)
3487 Washington Street
San Francisco, California 94118

9. *Buchanan v. Spectrum Foods, Inc.*, Superior Court, City and County of San Francisco, 966854

In this case, the plaintiff-landlord sued to recover $900,000 expended to seismically retrofit her building. We represented a commercial tenant who operated MacArthur Park Restaurant on the premises. I managed the case and successfully filed a critical motion for summary adjudication. The Honorable David A. Garcia presided. The case settled shortly thereafter and was dismissed in 1996.

Opposing Counsel:
Raymond Glickman
Zief, Diment & Glickman
109 Geary Street
San Francisco, California 94108
(415) 362-5133

10. *Irvine v. Central YMCA of San Francisco*, Superior Court, City and County of San Francisco, 968202

In this 1995 case, I was primary counsel for the YMCA and successfully defended against a motion for preliminary injunction where a guest wanted to create a tenancy in the YMCA's hotel facility. I then successfully prevailed on a motion for summary judgment. The Honorable David A. Garcia presided.

Opposing Counsel:
J. Scott Weaver
582 Market Street, Suite 1800
San Francisco, California 94104
(415) 693-0504

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    I have chaired the Judiciary Committee for the Northern California Hispanic National Bar Association and the San Francisco La Raza Lawyers Association. In that capacity, I investigated candidates for the judiciary and recommended endorsement where appropriate. When the relevant Boards voted to endorse the candidate, I would write letters in support of their appointment and/or nomination.

    In addition, I currently sit on the Council of the American Law Institute ("ALI"). The ALI's mission is to produce "scholarly work to clarify, modernize, and otherwise improve the law" by producing Restatements of the Law, model statutes and principles of the law. Membership consists of a combination of 3000 lawyers, judges, and law professors nationwide. The Council membership may not exceed 65. I was elected in May 2011 to serve as Chair of the Membership Committee. I have been affiliated with four specific projects: (i) Restatement of Law Third, Restitution and Unjust Enrichment, (ii) Restatement of Law Third, Employment Law, (iii) Model Penal Code, and (iv) a new project on the Principles of Election Law: Resolution of Election Disputes. The second and third are works in progress. The latter is just beginning.

    I have not performed any lobbying activities.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no plans, commitments or agreements to pursue outside employment, with or without compensation.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       As a former partner at Cooley LLP, I do have some investments in two Venture Capital Investment Funds. If confirmed, and given that there is no "de minimus" exception for recusal based on financial interest, I anticipate that I would need to divest myself of those interests even though I have no role in the management of the funds or any involvement with the companies. I do not anticipate any other likely financial conflicts.

       My husband is a senior partner with McKinsey & Company. Matters relating to McKinsey and, more broadly, to my husband's primary clients would also likely require recusal. In addition, he served as the Senior Advisor to Secretary Chu in the Department of Energy from February 2009 through September 2010. In that capacity he oversaw the Department of Energy's $32.7 billion in grant and contract authority and $136 billion in loan guarantees. Any cases regarding the granting of those funds and/or guarantees would also likely require recusal.

My husband and I support several charities. Those interests would necessarily be disclosed, if matters involving those organizations would arise and could result in recusal.

Finally, there are fewer than five attorneys in the Bay Area who are so close to our family that I would likely recuse myself from presiding over their cases if ever assigned.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

The rules under 28 U.S.C. Sections 144 and 455a and the Judicial Code of Conduct regarding judicial conflicts are very clear and explicit regarding both substantive fairness and the appearance of conflicts. In that context, and having worked through these issues over the last year, I believe my conflicts would be minimal and manageable.

If confirmed, I will follow the statutes and codes referenced above. I will also consult with the Code of Conduct Committee of the Judicial Conference. I will also immediately review any initial case load assigned to determine whether a conflict exists and thereafter review cases as assigned.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

While actively engaged as a litigator in San Francisco, I participated in the Bar Association of San Francisco's pro bono program both by serving clients directly and supervising associates. Also, during my year at Boalt Hall at the University of California, Berkeley, I worked in the Berkeley Community Law Center providing services primarily in the landlord-tenant context, and I volunteered at MALDEF (Mexican-American Legal Defense and Education Fund) to assist on its briefing of reapportionment issues.

For many years I also served on the Board of Directors for La Raza Centro Legal, a San Francisco-based legal services clinic.

Beginning in the summer of 2005 through the summer of 2007, I served on the Grand Jury of Alameda County investigating complaints about local, county government. The county Civil Grand Jury is an active, investigative division of the courts, examining complaints about the administration of county government. The Civil Grand Jury (unlike the Criminal Grand Jury) conducts the investigations which required both review of county records and interviews of officials working in the county and witnesses to administrative problems. During the 2006-07 term, the then-Presiding Judge, Hon.

George Hernandez, appointed me foreperson and I oversaw all of the Grand Jury investigations for the year. The two most important matters in front of the Grand Jury during my tenure were reviews of the county hospital system and the county office of education, especially its administration of education in the juvenile justice system. As a litigator, I took a more active role than is traditionally assumed by the foreperson. While much of the Grand Jury's work is confidential, our public findings and reports can be accessed online at www.acgov.org/grandjury/reports.htm.

Additionally, I have spoken at an elementary school in the Fruitvale Area of Oakland (Think College Now Elementary School) to encourage students to work hard in school to accomplish their goals. I also serve on the Advisory Committee for the Law Academy. This is an after-school program geared at high school students in Oakland which teaches them study skills and encourages them to pursue a career in the law. I formally mentor a student at the University of California, Berkeley who comes from a disadvantaged Hispanic background. I informally mentor and make myself available to minority law students and attorneys.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In Fall 2010, I provided Sen. Feinstein's Advisory Committee for the Northern District of California with a written application and writing sample. The Advisory Committee personally interviewed me on November 8, 2010. I understand that the Advisory Committee contacted attorneys listed on my questionnaire and others who had appeared before me but were not listed, as well as some of my judicial colleagues. I personally interviewed with David S. Casey, Jr., the chair of Sen. Feinstein's statewide committee, on November 17, 2010. On Friday, January 28, 2011, I personally interviewed with Sen. Feinstein.

Since February 4, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 7, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 4, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Rogers, Yvonne G.	United States District Court, Northern District of Californi	05/04/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Nomination for Article III District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 05/04/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 04/29/2011
7. Chambers or Office Address Superior Court for the State of California 1221 Oak Street, Administration Building Department 24 Oakland, California 94612	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

***IMPORTANT NOTES:** The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Trustee	Trust No. 1
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Rogers, Yvonne G.	Date of Report 05/04/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	State of California - Salary	$108,749.00
2. 2010	State of California - Salary	$111,078.00
3. 2011	State of California - Salary	$56,990.00
4. 2009	County of Alameda, California - Salary	$8,715.00
5. 2010	County of Alameda, California - Salary	$9,516.00
6. 2011	County of Alameda, California - Salary	54,568.00

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

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

DATE	SOURCE AND TYPE
1. 2010	United States Department of Energy - Salary
2. 2010	McKinsey & Company - Salary
3. 2011	McKinsey & Company - Salary
4.	

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

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Rogers, Yvonne G.	Date of Report 05/04/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Rogers, Yvonne G.	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Citibank Checking and Money Market Accounts		None	M	T					
2. Comerica Checking		None	K	T					
3. Bank of America Checking		None	J	T					
4. Nationwide Inv. Destinations Moderately Aggressive Fun		None	M	T					
5. Wolver Hill Asset Management - Japan Hedge Fund (no control)	D	Int./Div.	M	T					
6. Trust No. 1									
7. -Vanguard Total International Stock Index	D	Dividend	O	T					
8. -Vanguard 500 Index Fund	D	Dividend	O	T					
9. -Vanguard Extended Market Index	D	Dividend	O	T					
10. -GC&H Investments, LLC (no control)		None	K	T					
11. -GC&H Investments (no control)	D	Distribution	K	T					
12. -Vanguard IRA: Inflation Protect See Adm		None	M	T					
13. -Vanguard IRA: Total Bond Market Index		None	M	T					
14. -Vanguard 500 Index Fund (retirement)		None	J	T					
15. -Vanguard 529 - Moderate Growth Port - Age-Based 15		None	M	T					
16. -Vanguard 529 - Aggressive Growth Port - Age-Based 12		None	M	T					
17. -Vanguard 529 - Aggressive Growth Port - Age-Based 10		None	M	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Rogers, Yvonne G.	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. -Vanguard Money Market Account	A	Dividend	J	T					
19. -Wells Fargo Money Market Account	A	Interest	L	T					
20. -Rental Property, San Antonio, Texas (assessment Jan 2010)	D	Rent	L	S					
21. McKinsey & Company Special Situations Aggressive Long-Term		None	P1	T					
22. McKinsey & Company Supp. Retirement		None	N	S					
23. Judicial Retirement System II		None	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Rogers, Yvonne G.	Date of Report 05/04/2011

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

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Rogers, Yvonne G.	Date of Report 05/04/2011

IX. CERTIFICATION.

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

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

Signature Yvonne Gonzalez Rogers

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		368	598	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	2	998	381	Notes payable to relatives			
Unlisted securities – see schedule	2	088	796	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule	2	461	505
Real estate owned – see schedule	3	349	400	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		200	000				
Cash value-life insurance							
Other assets itemize:							
Judicial Retirement Systems II		30	080				
				Total liabilities	2	461	505
				Net Worth	6	573	750
Total Assets	9	035	255	Total liabilities and net worth	9	035	255
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Vanguard 500 Index Fund –	$622,689
Vanguard Extended Market Index--VEXAX	624,624
Vanguard Total International Stock Index --VGTSX	845,327
Internap Network Services Corp. stock	356
Retirement Holdings	
Nationwide Inv. Destinations Moderately Aggressive Fund	$131,784
Vanguard 500 Index Fund –VFINX	3,174
Vanguard Inflation-Protected Securities--VAIPX	224,592
Vanguard Total Bond Market Index--VVA	160,944
529 Education Plans	
Vanguard Moderate Growth Port. – Age-Based 15	$138,066
Vanguard Aggressive Growth Port. – Age-Based 12	126,497
Vanguard Aggressive Growth Port. –Age-Based 9	120,328
Total Listed Securities	$2,998,381

Unlisted Securities	
McKinsey Special Situations Aggressive Long-Term Growth	$1,387,074
McKinsey Supplemental Retirement Annuity	398,620
GC&H Private Venture Capital Funds	81,508
Wolver Hill Asset Mgmt-Japan Hedge Fund	221,594
Total Unlisted Securities	$2,088,796

Real Estate Owned	
Primary residence	$1,500,000
Second residence	1,750,000
Investment property	99,400
Total Real Estate Owned	$3,349,400

Real Estate Mortgages Payable	
Primary residence mortgage	$1,238,011
Second residence mortgage	1,223,494
Total Real Estate Mortgages Payable	$2,461,505

AFFIDAVIT

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

2nd May 2011
(DATE)

Yvonne Gonzalez Rogers
(NAME)

(NOTARY)

Jurat

State of California

County of Alameda

Subscribed and sworn to (or affirmed) before me on this 2 day of May,

20 11 by Yvonne Hongulay Rogers,

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

D Walker
Signature

(Notary seal)

D. WALKER
Comm. #1906638
Notary Public - California
Alameda County
Comm. Expires Oct 3, 2014

D. WALKER
Comm. #1906638
Notary Public - California
Alameda County
Comm. Expires Oct 3, 2014

OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Affidavit
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 1 Document Date 5/2/11

(Additional information)

INSTRUCTIONS FOR COMPLETING THIS FORM

Any Jurat completed in California must contain verbiage that indicates the notary public either personally knew the document signer (affiant) or that the identity was satisfactorily proven to the notary with acceptable identification in accordance with California notary law. Any jurat completed in California which does not have such verbiage must have add the wording either with a jurat stamp or with a jurat form which does include proper wording. There are no exceptions to this law for any jurat performed in California. In addition, the notary must require an oath or affirmation from the document signer regarding the truthfulness of the contents of the document. The document must be signed AFTER the oath or affirmation. If the document was previously signed, it must be re-signed in front of the notary public during the jurat process.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the jurat process is completed.
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Signature of the notary public must match the signature on file with the office of the county clerk.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different jurat form.
  - Additional information is not required but could help to ensure this jurat is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
- Securely attach this document to the signed document

Senator COONS. Thank you, Judge Rogers.

Mr. Andrews.

STATEMENT OF RICHARD G. ANDREWS, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF DELAWARE

Mr. ANDREWS. Thank you, Senator, and Mr. Chairman.

First, I do want to thank you and Senator Hatch and Senator Franken for being here for these hearings and for holding them. I very much want to thank Senator Carper and, again, Mr. Chairman, you for your kind remarks. I am very honored that the President nominated me for this position, and I want to thank him.

As has been mentioned by Senator Carper, my wife, Cathy Lanctot, is here, to whom I have been married 23 years—it seems like a lucky number here—and my children, Peter Andrews and Amy Andrews.

I want to acknowledge my father, Peter Andrews, who is watching by webcast in Wilmington, Delaware; and Cathy's mother, who is very special to me, Claire Lanctot, who is watching by webcast in Woonsocket, Rhode Island.

I want to mention my sister, Patricia Andrews, and her husband, Michael Gray, who is from Minneapolis, and I wish Senator Franken was still here because, believe it or not, they are actually on an airplane to Bemidji, Minnesota, and I want to thank them.

I also want to acknowledge two friends of mine, Adam Safwat and Rudy Contreras, who are present, and I thank them for their support.

I look forward to answering whatever questions the Committee has.

[The biographical information of Mr. Andrews follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Richard Gibson Andrews

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

   United States District Judge for the District of Delaware

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Delaware Department of Justice
   820 North French Street
   Wilmington, Delaware 19801

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

   1955; Manchester, England

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1978 – 1981, University of California at Berkeley Boalt Hall School of Law; J.D., 1981

   1973 – 1977, Haverford College; B.A., 1977

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   2007 – Present
   Delaware Department of Justice
   820 North French Street
   Wilmington, Delaware 19801
   State Prosecutor

1983 – 2007
United States Attorney's Office
1105 North Orange Street
Wilmington, Delaware 19899
First Assistant United States Attorney (1987 – 1993; 1999 – 2001; 2001 – 2007)
United States Attorney (1993 – 1994; 1998 – 1999; 2001)
Chief, Criminal Division (1994 – 1998)
Assistant United States Attorney (1983 – 1987)
Federal Law Clerk (1983)

1981 – 1982
Honorable Collins J. Seitz
Chief Judge
United States Court of Appeals for the Third Circuit
844 King Street
Wilmington, Delaware 19801
Law Clerk

Summer 1981
Mayer Brown & Platt
1999 K Street, N.W.
Washington, D.C. 20006
Summer Associate

Summer 1980
Wald Harkrader & Ross (no longer in existence)
Washington, D.C.
Summer Associate

Summer 1979
Professors John E. Coons, Stephen D. Sugarman and Robert Mnookin
University of California at Berkeley
School of Law, Boalt Hall
Berkeley, California 94720
Summer Research Assistant

1977 – 1978
Educational Policy Research Center for Higher Education and Society
Joseph Froomkin, Inc. (no longer in existence)
1730 K Street, N.W.
Washington, D.C. 20006
Research Assistant

1977
Haverford College
370 Lancaster Avenue
Haverford, Pennsylvania 19041
Security Dispatcher

Other Affiliations (uncompensated):

1996 – 1998
Bellevue Manor Maintenance Corporation
1445 Brandywine Boulevard
Wilmington, Delaware 19809
Director

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I did not serve in the U.S. Military. I registered as required for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Fellow, American College of Trial Lawyers (elected 2005)

   "Director's Award for Executive Achievement," United States Department of Justice (2003)

   "AV," Martindale-Hubbell (2003)

   One of Delaware's "Top 175 Lawyers," Delaware Today (2001)

   Recognition of Richard G. Andrews, Senator Joseph R. Biden, Jr., 145 Cong. Record (106th Congress), S2431, March 8, 1999

   California Law Review, Note and Comment Editor (1980 – 1981)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   American College of Trial Lawyers (2005 – present)

   Criminal Justice Statistical Review Committee, Member (2011 – present)

Delaware Attorney General's Ad Hoc Drug Law Revisions Committee, Chair (2009 – 2011)

Delaware Attorney General's representative to Delaware's Sentencing Accountability Commission (SENTAC) (2009 – present)

Delaware State Bar Association (1983 – present)
Professional Ethics Committee (2005 – 2007)

Delaware Board of Bar Examiners (2006 – present)

Delaware Criminal Justice Council, Member (1993 – 1994, 1998 – 1999, 2001)
Chairperson of the Victims Advisory Committee (1993 – 1994)
Member, Citizen Capias and Warrants Committee (2007 – present)
The Delaware Attorney General's representative to the Council (2008 – present)
Member, Executive Committee (2008 – present)
Member, Drug and Violent Crime Advisory Committee (2007 – present)
Member, Legislation Committee (2010 – present)

District of Delaware
Committee to Draft Local Rules of Criminal Practice and Procedure (1993 – 1994)
Criminal Justice Act Committee (1994 – 1995)
Lawyer Advisory Committee (2009 – 2011)
Model Criminal Jury Instructions Committee (1992 – 1993)

Superior Court Criminal Rules Advisory Committee, Chair (2007 – present)

Supreme Court Racial Justice Improvement Project Task Force (2010 – present)

Third Circuit Appellate Chiefs' Working Group (1999 – 2001)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Delaware, 1983.

District of Columbia, 1983. At some point, probably in the 1990s, I went from an "active" member to an "inactive" member.

There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Third Circuit, 1983.
United States District Court for the District of Delaware, 1984.

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Bellevue Manor Maintenance Corporation
Director (1996 – 1998)

Concord Soccer Association (1997 – 2008); "President's Award" (2008)

River Road Swim Club (2003 – present (dues paid for annual privileges))

United States Chess Federation (1981 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

Bellevue Manor Maintenance Corporation, which was formed in about 1934 – 1935, did have a discriminatory deed restriction, but the discriminatory restriction was not renewed in 1964, 1984, and 2004, when the other deed restrictions were renewed. The documents are on file in the New Castle County Recorder of Deeds Office in Wilmington. See Deed Book Volume 74-G, p. 669 (1964), Deed Book Volume 188, p. 138 (1984), and Instrument ID 200412140135331 (2004).

To the best of my knowledge, none of the other organizations listed in response to 11a above currently discriminates or formerly discriminated on the basis of race,

sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Richard Andrews, "Lack of Resources Must Be Addressed," Delaware News Journal, September 13, 2010. Copy supplied.

Richard G. Andrews, "Criminal Justice System Under Stress," Widener Law, 2010. Copy supplied.

Richard G. Andrews, "Judge Collins J. Seitz: In Chambers with the Great, Groundbreaking Judge Seitz," 27 Del. Law. 18 (Spring 2009). Copy supplied.

Note, "*Fletcher v. Security Pacific National Bank*: Unfair Bank Practices and Consumer Class Actions," 68 Calif. L. Rev. 862 (1980). Copy supplied.

Joseph Froomkin, "Middle Income Students and the Cost of Postsecondary Education," Report prepared for the United States Department of Health, Education, and Welfare (February 1978). I provided research assistance for this report, but did not draft the text. Copy supplied.

Richard Andrews, "The Cost of Compliance with Section 504 of the Rehabilitation Act of 1973 for Institutions of Higher Education," Report prepared for the United States Department of Health, Education, and Welfare (December 1977). Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In 2010, as a member of the Drug Law Revisions Committee, I helped draft HB 443, which was a comprehensive revision to state drug laws, and one of several proposed amendments to the bill. HB 443 did not pass before the legislative session ended. I helped draft minor changes to HB 443, and the slightly revised bill was introduced in 2011 as HB 19. I also helped draft Senate Amendment 1 to HB 19. A copy of the final bill, which was signed into law on April 20, 2011, is supplied.

Also as a member of the Drug Law Revisions Committee, I helped draft the Commentary to Proposed Revisions to Delaware's Drug Laws (HB 443), June 9, 2010. Copy supplied.

On December 1, 2009, I submitted a report to Governor Jack Markell that was entitled, "Analysis of Current Victim Rights' Statutes and Available Services for Victims of Trafficking of Persons and Involuntary Servitude." The report was mandated by Delaware statute and written by members of the Attorney General's Office and Department of Health & Social Services. I did not play a role in writing or substantively editing the report, but a copy is supplied.

Delaware State Bar Association Committee on Professional Ethics, 2005 – 2007. As a member, I contributed to creating ethics opinions in response to individual inquiries. Copies of the three opinions issued during my tenure are supplied.

In 2001 to 2002, I participated in meetings about a research project sponsored by the Metropolitan Wilmington Urban League and initiated by U.S. Attorney Carl Schnee. The project eventually became the report, "Handgun Violence in Delaware: A Picture of the State." While I did not contribute to the writing of this report, a copy is supplied.

District of Delaware Model Criminal Jury Instructions, 1992 – 1993. I do not have a copy of the final product, which was a set of model criminal jury instructions with commentary as to why particular jury instructions were suggested. Copies of letters dated January 6, 1993, January 22, 1993, March 17, 1993, and April 14, 1993, which evidence contributions to the final product, are supplied.

I was a member of the Lawyer Advisory Committee of the U.S. District Court for the District of Delaware, which formed a subcommittee to produce the 2010 amendments to the Local Rules of Civil Practice & Procedure. Although I and the other members of the Lawyer Advisory Committee are acknowledged in that document, I did not play a role in writing or reviewing these rules.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Delaware House Judiciary Committee, January 26, 2011 (Remarks in connection with House Bill ("HB") 19). Outline for presentation and press coverage supplied.

Delaware House Judiciary Committee, Question and Answer on HB 6 (Gang Amendment Bill), January 26, 2011. I have no notes, transcript or recording.

Delaware Senate Judiciary Committee, November 17, 2010 (Remarks in connection with HB 443). Committee Minutes summarizing discussion and press coverage supplied.

Delaware House, June 15, 2010, Question and Answers on HB 443. Audio recording supplied.

Delaware House Judiciary Committee, June 9, 2010 (Remarks in connection with HB 443). Outline for presentation and press coverage supplied.

Delaware Senate, Questions and Answers on HB 304, May 11, 2010. Audio recording supplied.

Delaware Senate Judiciary Committee, Questions and Answers on HB 304 (Sex Crimes Bill), May 4, 2010. I have no notes, transcript or recording.

Delaware Senate Judiciary Committee, Questions and Answers on HB 226 (Carrying a Concealed Deadly Weapon bill), March 17, 2010. I have no notes, transcript or recording.

Delaware Senate Judiciary Committee, Questions and Answers on HB 175 (Department of Justice fee bill), March 17, 2010. I have no notes, transcript or recording, but press coverage is supplied.

Delaware House, April 3, 2007 (Remarks in connection with HB 71). Audio recording supplied (two discs).

Delaware House Judiciary Committee, February 27, 2007 (Remarks in connection with HB 71). Outline for presentation and press coverage supplied.

Delaware House Judiciary Committee, January 23, 2007 (Remarks in connection with HB 32). I have no notes, transcript or recording, but press coverage is supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

October 7, 2010: Member of Panel on "Prosecutor's Brady/Discovery Obligations for Production of Documents," Wilmington, Delaware. This was a nearly two-hour CLE presentation at Widener Law School, moderated by Professor Bruce Green. The discussion was extemporaneous. Recording supplied.

August 31, 2009: Delaware State Police Promotion Ceremony, Dover, Delaware. I made congratulatory remarks to Delaware State Police officers. I have no notes, transcript or recording. The address of the Delaware State Police is 1441 North DuPont Highway, P.O. Box 430, Dover, Delaware 19903.

November 2008: Memorial Service, Smyrna, Delaware. I made remarks at a service for police officers who died in the line of duty. I have no notes, transcript or recording. The address of the Delaware State Police is 1441 North DuPont Highway, P.O. Box 430, Dover, Delaware 19903.

September 23, 2008: "New help for crime victims," Dover, Delaware. I made remarks about a new victim notification system. I have no notes, transcript or recording. I do not know who sponsored the event, but it took place at the Delaware State Police Museum, 1425 North DuPont Highway, P.O. Box 430, Dover, Delaware 19903.

May 16, 2008: Ninth Annual Officer Recognition Breakfast, Dover, Delaware. I made remarks about drunk driving to a group consisting mostly of police officers. Outline of remarks supplied.

April 11, 2008: "DOJ: Approach to Capital Cases," Adjudication of Capital Cases in Delaware Seminar, Wilmington, Delaware. This was a Continuing Legal Education program for lawyers. Draft of speech supplied.

January 5, 2007: Roundtable Discussion on the changes in the practice of law over the past 25 years, Delaware State Bar Association. Transcript supplied.

May 23, 2006: Anti-Counterfeiting Seminar, New Castle, Delaware. I talked to a group of law enforcement officers about federal anti-counterfeiting laws. E-mail summarizing topics supplied.

September 27, 2005: Roles in the Criminal Justice System, Academy of Lifelong Learning, Wilmington, Delaware. I participated in a panel presentation to senior citizens. Notes for remarks supplied.

November 12, 1998: Remarks, "Candlelight vigil for victims of hate crimes," Wilmington, Delaware. I have no notes, transcript or recording.

November 4, 1998: Presentation about Firearms Laws at a Domestic Violence Seminar for Police, Newark, Delaware. Outline for presentation supplied.

June 24, 1996: Lecture to Criminal Justice class at Wilmington College, Wilmington, Delaware. The subject matter was the interaction of police and prosecutors. Handwritten notes supplied.

October 25, 1995: Panel participant, "The role of the accountant in a tax fraud investigation," Wilmington, Delaware. I believe the audience was accountants, and I believe my topic was tax prosecution. I have no notes, transcript or recording. The seminar was organized by the Wilmington office of the law firm of Duane Morris & Heckscher, 1201 Market Street, Suite 1500, Wilmington, Delaware 19899.

December 13, 1993: Pre-Admission Conference Panel Presentation, Wilmington, Delaware. The subject matter was orientation on federal court practice for new admittees to bar. I most likely used the same outline supplied below for the December 11, 1992, presentation on the same topic.

March 11, 1993: "Sentencing under the Sentencing Guidelines," presentation at Blue Ribbon Panel Seminar, Wilmington, Delaware. The subject matter was effective advocacy under the Sentencing Guidelines. Handwritten notes supplied.

December 11, 1992: Pre-Admission Conference Panel Presentation, Wilmington, Delaware. The subject matter was orientation on federal court practice for new admittees to bar. Outline of presentation supplied.

January 22, 1992: Seminar on New Delaware Superior Court Criminal Rules, Dover, Delaware. I believe I spoke as part of a panel at this seminar, which was sponsored by the Criminal Law Section of the Delaware State Bar Association, and believe I would have been talking about the contrast between the Delaware rules and the Federal rules. I have no notes, transcript or recording. The address of the DSBA is 301 North Market Street, Wilmington, Delaware 19801.

November 1, 1991: Seminar on Federal Appellate Practice, Presentation on "Preserving the Record on Appeal," Wilmington, Delaware. Outline of speech supplied.

November 1, 1991: Seminar on Federal Appellate Practice, Presentation on "Dispositive Motions," Wilmington, Delaware. Outline of speech supplied.

December 7, 1990: Panel presentation on "Criminal Practice in State and Federal Courts of Delaware," Wilmington, Delaware. This was a presentation to newly-admitted lawyers. Notes for presentation supplied.

September 24, 1990: Presentation to Professor Phyllis Bookspan's Advanced Criminal Procedure Class on the topic of "practice before the grand jury," Widener Law School, Wilmington, Delaware. Notes for presentation supplied.

June 20, 1990: "Plea Bargaining under the Federal Sentencing Guidelines," Criminal Justice Act Attorneys Training Program, Wilmington, Delaware. Outline of speech supplied.

December 4, 1989: Panel presentation on "Criminal Practice in State and Federal Courts of Delaware," Wilmington, Delaware. This was a presentation to newly-admitted lawyers. Handwritten notes for presentation supplied.

November 15, 1988: Presentation on "Federal Statutes" at the Delaware State Police "Drug Interdiction Training Seminar," Dover, Delaware. I have no notes, transcript or recording. The address of the Delaware State Police is 1441 North DuPont Highway, P.O. Box 430, Dover, Delaware 19903.

October 21, 1988: "New Federal Sentencing Guidelines," a presentation at the Sentencing Guidelines Seminar, Wilmington, Delaware, sponsored by the Delaware State Bar Association. I have no notes, transcript or recording. The address of the DSBA is 301 North Market Street, Wilmington, Delaware 19801.

June 15, 1988: Presentation, Integrity Awareness Seminar for IRS employees, Wilmington, Delaware. This seminar was organized by the IRS. I believe I gave one or more sample opening statements relating to the prosecution of IRS employees. I have no notes, transcript or recording. The address of the IRS is 844 King Street, Wilmington, Delaware 19801.

May 11, 1988: Lecture on Evidence to a class at the Attorney General's Advocacy Institute, Washington, D.C. Draft transcription supplied. The handwriting on it is my unfinished attempt to edit the transcript soon after it was prepared.

September 16, 1987: Opening Remarks and Presentation on "Forfeitures" at Federal/State Seminar, Rehoboth, Delaware. The IRS organized the seminar. I have no notes, transcript or recording. The address of the IRS is 844 King Street, Wilmington, Delaware 19801.

May 5 or 6, 1987: Presentation at "Drug Investigation and Information Seminar," to about 62 police officers, somewhere in Delaware. This seminar was organized by the Delaware State Police. I have no notes, transcript or recording. The address of the Delaware State Police is 1441 North DuPont Highway, P.O. Box 430, Dover, Delaware 19903.

November 19, 1986: Presentation to IRS Regional Seminar, Harrisburg, Pennsylvania. The audience was mostly IRS agents, and the topic was prosecutive guidelines on bribery and assaults. I have no notes, transcript or recording. The address of the IRS is 844 King Street, Wilmington, Delaware 19801.

November 22, 1985: Panelist, "Court Procedures Seminar," Wilmington, Delaware, a presentation to new admittees to the Delaware Bar, sponsored by New Lawyers Committee of the Delaware State Bar Association. I have no notes, transcript or recording. The address of the DSBA is 301 North Market Street, Wilmington, Delaware 19801.

December 7, 1984: Panelist, "Court Procedures Seminar," Wilmington, Delaware, a presentation to a majority of the new admittees to the Delaware Bar, sponsored by the New Lawyers Committee of the Delaware State Bar Association. I have no notes, transcript or recording. The address of the DSBA is 301 North Market Street, Wilmington, Delaware 19801.

Since 2008, I have participated in the annual Delaware High School Mock Trial competition as a judge. I believe I also participated as a judge in 2006. I have no notes, transcripts or recordings. The address of the Delaware Law Related Education Center, Inc. is 301 North Market Street, Wilmington, Delaware 19801.

In 2008, I also participated in the annual National High School Mock Trial competition, held in Delaware, as a judge. I have no notes, transcript or recording. The Delaware Law Related Education Center, Inc. is the state representative for National High School Mock Trial, and is located at 301 North Market Street, Wilmington, Delaware 19801.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have spoken to the press on a regular basis since 1983, mostly about cases I handled. Most of the contact was with print media, and I have pretty good, but not perfect, documentation of what was printed. I have virtually no documentation of interviews with radio and television, Based on my files, I have compiled the following list of interviews.

Maureen Milford, "Delaware Attorney Richard Andrews Tapped for Federal Bench," Delaware News Journal, May 12, 2011. Copy supplied.

Sean O'Sullivan, "Supporters to Try Again for Del. Drug Law Reform," Delaware News Journal, Nov. 26, 2010. Copy supplied.

Esteban Parra, "Intricacy of 'Hate' Makes Many Crimes Hard to Classify," Delaware News Journal, Aug. 24, 2010. Copy supplied.

Ginger Gibson, "Officers Cleared after Bar Fight," Delaware News Journal, Feb. 27, 2010. Copy supplied.

Sean O'Sullivan, "Dropped Cases Put Biden's Approach under Scrutiny," Delaware News Journal, Feb. 14, 2010. Copy supplied.

Julie Scharper, "Plea Deals, Legal Breaks Mark Trail of Sex Offender," Baltimore Sun, Feb. 14, 2010. Copy supplied.

Cris Barrish and Sean O'Sullivan, "Delays in DNA Testing Plague Delaware Courts," Delaware News Journal, Oct. 18, 2009. Copy supplied.

Sean O'Sullivan and Adam Taylor, "Single-Game Betting Goes On, As Always," Delaware News Journal, Sept. 13, 2009. Copy supplied.

Press release, "New Law Enhances Legal Penalties for Defendants Who Violate Pre-Trial Restrictions," Delaware Department of Justice, July 8, 2009. Copy supplied.

Esteban Parra, "Law Would Deny More Criminals Bail," Delaware News Journal, July 7, 2009. Copy supplied.

Press release, "Attorney General's Office Applauds New Tool to Encourage Witness Testimony," Delaware Department of Justice, June 18, 2009. Copy supplied.

Esteban Parra and Rachel Kipp, "No Fight Coming Over Case Dismissal," Delaware News Journal, May 29, 2009. Copy supplied.

Sean O'Sullivan, "Police Urge Those Avoiding the Law to Give Up Safely," Delaware News Journal, Apr. 6, 2009. Copy supplied.

Press release, "Office of the Attorney General to Host Community Meetings on Neighborhood Crime," Delaware Department of Justice, Apr. 1, 2009. Copy supplied.

Press release, "Andre Blake Sentenced to Life Behind Bars for 2007 Dover Homicide," Delaware Department of Justice, Mar. 26, 2009. Copy supplied.

Sean O'Sullivan, "'I Enjoyed Wearing the White Hat'," Delaware News Journal, Jan. 12, 2009. Copy supplied.

Sean O'Sullivan, "Before Slayings, Defendants Were No Strangers to Police," Delaware News Journal, Nov. 23, 2008. Copy supplied.

Press release, "Scammer Gets 4 ½ Years for Bilking a Senior," Delaware Department of Justice, Oct. 17, 2008. Copy supplied.

August 21, 2008: Press conference held by Councilman Michael A. Brown Sr. on bail for juvenile felons. Related press coverage is listed below:

> "Tougher Laws Sought on Young Offenders," Delaware News Journal, August 22, 2008. Copy supplied.

Lee Williams, "Ex-DPC Aide Admits Having Sex at Center," Delaware News Journal, November 28, 2007. Copy supplied.

Randall Chase, "Endangering Child Classed as Nonviolent Crime in Del.," Delaware News Journal, May 14, 2007. Copy supplied.

J.L. Miller, "Sentencing Bill to Give Judges More Freedom Faces Stiff Battle," Delaware New Journal, Jan. 24, 2007. Copy supplied.

Staff, "Beau Biden Picks New State Prosecutor," Delaware News Journal, Dec. 14, 2006. Copy supplied.

Drew Volturo, "Biden Fills State Prosecutor Post," Delaware State News, Dec. 14, 2006. Copy supplied.

"Disbarred Lawyer Charged With $76,200 Tax Evasion," Delaware News Journal, Nov. 21, 2006. Copy supplied.

Terri Sanginiti and Lee Williams, "Police Withhold Shooting Details," Delaware News Journal, Nov. 8, 2006. Copy supplied.

Sean O'Sullivan, "Ex-Accountant Guilty in Check Fraud," Delaware News Journal, Oct. 19, 2006. Copy supplied.

Kate House-Layton, "Misprinted Currency Surfaces in Dover Del," Knight-Ridder Tribune Business News, June 8, 2006. Copy supplied.

"Fraud Nets 6 Years," The Aegis, Mar. 17, 2006. Copy supplied.

Sean O'Sullivan, "Con Man Sentenced to 6 ½ Years," Delaware News Journal, Mar. 14, 2006. Copy supplied.

"Ex-Postal Union Official Admits Embezzling," Delaware News Journal, Sept. 1, 2005. Copy supplied.

Sean O'Sullivan, "Pair Convicted in Home Loan Scam Sentenced to Five Years in Prison," Delaware News Journal, Apr. 23, 2005. Copy supplied.

Staff, "Harkins Asks for Closer Prison," Delaware News Journal, Apr. 15, 2005. Copy supplied.

Randall Chase, "Judge Recommends Prison Close to Home for Harkins," Associated Press, Apr. 14, 2005. Copy supplied.

Sean O'Sullivan and Cris Barrish, "Disgraced DRBA Chief Harkins Gets 14 Months," Delaware News Journal, Mar. 19, 2005. Copy supplied.

Randall Chase, "Federal Judge Fines Motiva $10 Million for Fatal Tank Collapse and Explosion," Associated Press, Mar. 17, 2005. Copy supplied.

Press release, "Federal Court Sentences Motiva Enterprises to $10 Million Criminal Fine," U.S. Department of Justice, Mar. 17, 2005. Copy supplied.

Randall Chase, "Senators Ask Federal Prosecutor for Information on Minner Cabinet Picks," Associated Press, Jan. 19, 2005. Copy supplied.

Sean O'Sullivan, "Wife Pleads Guilty in 2003 Robbery Spree," Delaware News Journal, Jan. 11, 2005. Copy supplied.

Mary Allen, "Man Pleads Guilty to Holdups," Delaware News Journal, Dec. 9, 2004. Copy supplied.

Richard Degener, "Ex-DRBA Chief's Sentencing Delayed by Guidelines Dispute," The Press of Atlantic City, Oct. 14, 2004. Copy supplied.

Mary Allen, "Restaurant Owners Face Arson Charges," Delaware News Journal, Aug. 14, 2004. Copy supplied.

Celia Cohen, "Will Harkins Get a Lucky Break?," Delaware Grapevine, Aug. 5, 2004. Copy supplied.

Jennifer Lin, "Coast Guard Remains on Board Turkish Vessel," Philadelphia Inquirer, July 24, 2004. Copy supplied.

March 22, 2004: Press Conference on United States v. Michael Harkins. Related press coverage is listed below:

> "DRBA Ex-Boss Harkins Admits Ripoffs in Guilty Plea," Tollroadsnews, Mar. 23, 2004. Copy supplied.
>
> Cris Barrish, "Former Director of DRBA Pleads Guilty to Fraud," Delaware News Journal, Mar. 23, 2004. Copy supplied.
>
> Randall Chase, "Ex-DRBA Chief Pleads Guilty to Fraud, Tax Charges," Associated Press, Mar. 22, 2004. Copy supplied.

Press release, "Former DRBA Executive Pleads Guilty to Fraud," U.S. Department of Justice, Mar. 22, 2004. Copy supplied.

Mary Allen, "Pair Convicted in Loan Scams Agree to Turn Over $500,000," Delaware News Journal, Oct. 9, 2003. Copy supplied.

Mary Allen, "Two Convicted in Home-Loan Fraud Conspiracy," Delaware News Journal, Oct. 8, 2003. Copy supplied.

Cris Barrish, "Veteran Prosecutor is Leaving State Post," Delaware News Journal, Aug. 12, 2003. Copy supplied.

Terri Sanginiti, "Rise in Bank Robberies Defies Trend, Logic," Delaware News Journal, July 14, 2003. Copy supplied.

June 20, 2003: Press conference on AstraZeneca's guilty plea. Related press coverage is listed below:

> Melody Petersen, "AstraZeneca Pleads Guilty in Cancer Medicine Scheme," New York Times, June 21, 2003. Copy supplied.
>
> Randall Chase, "AstraZeneca to Pay $355 Million to Settle Zoladex Marketing Allegations," Associated Press, June 20, 2003. Copy supplied.
>
> Bob Jamieson, "Astrazeneca Pharmaceutical Company Fraud," ABC World News Tonight with Peter Jennings, June 20, 2003. Copy supplied.

Mary Allen, "Roberts Restates Case on Timing," Delaware News Journal, May 3, 2003. Copy supplied.

Sean O'Sullivan, "Ex-National Guard Major Sentenced," Delaware News Journal, Feb. 25, 2003. Copy supplied.

Cris Barrish, "Audit Alleges Financial Abuse," Delaware News Journal, Dec. 7, 2002. Copy supplied.

Terri Sanginiti, "Sewer Tampering Case Ends in Guilty Plea," Delaware News Journal, Nov. 6, 2002. Copy supplied.

Staff, "Financial Planner Pleads Guilty," Delaware News Journal, Nov. 1, 2002. Copy supplied.

Richard A. Serrano, "A Year After," Los Angeles Times, Sept. 10, 2002. Copy supplied.

Steven Church, "Two Indicted in Illegal Real Estate Loan Scam," Delaware News Journal, July 2, 2002. Copy supplied.

Adam Taylor, "Minister Guilty of Misusing Tax Dollars," Delaware News Journal, Apr. 25, 2002. Copy supplied.

Randall Chase, "Minister Found Guilty on All Counts in Street Fund Trial," Associated Press, Apr. 24, 2002. Copy supplied.

Celia Cohen, "Disciplinary Office Hires Financial Sleuth," Delaware Law Weekly, Apr. 20, 2002. Copy supplied.

Cris Barrish, "Suspended Attorney Sentenced for Bank Fraud," Delaware News Journal, Mar. 5, 2002. Copy supplied.

Randall Chase, "Post-Attack Investigation Leads to Indictment by Federal Grand Jury," Associated Press, Jan. 25, 2002. Copy supplied.

Richard A. Serrano, "Detainee Caught in Backwash of Sept. 11," Los Angeles Times, Nov. 19, 2001. Copy supplied.

Celia Cohen, "First Day on the Job," Delaware Law Weekly, approx. Sept. 5, 2001. Copy supplied.

Celia Cohen, "Childerston Pleads Guilty to Fraud," Delaware Law Weekly, Aug. 21, 2001. Copy supplied.

Dennis Thompson, Jr., "Couple to Pay for Tax Crime," Delaware News Journal, June 8, 2001. Copy supplied.

Celia Cohen, "Andrews – Who Else? – Steps in as U.S. Attorney," Delaware Law Weekly, approx. May 6, 2001. Copy supplied.

Steven Church, "Couple Plead Guilty to Tax Evasion," Delaware News Journal, Mar. 10, 2001. Copy supplied.

Steven Church, "No Prison Time for Embezzler," Delaware News Journal, Dec. 5, 2000. Copy supplied.

Steven Church, "Hair Salon Owner Convicted of Drug Smuggling," Delaware News Journal, Oct. 28, 2000. Copy supplied.

Steven Church, "Fugitive Lewes Man Pleads Guilty to Tax Evasion," Delaware News Journal, Aug. 31, 2000. Copy supplied.

Steven Church, "3rd Person Guilty of Credit Fraud," Delaware News Journal, May 13, 2000. Copy supplied.

Staff, "Former Milton Man Arrested in Miami," Delaware News Journal, April 1, 2000. Copy supplied.

Steven Church, "Career Criminal, Age 21, is Sentenced," Delaware News Journal, Feb. 1, 2000. Copy supplied.

Carl Weiser, "FBI Probed Backgrounds of Jurors Hearing Redding Case," Delaware News Journal, Dec. 19, 1999. Copy supplied.

Staff, "Man Charged In Bank, Credit Card Fraud," Delaware News Journal, October 27, 1999. Copy supplied.

Steven Church, "Three Found Guilty in Del. Cocaine Ring," Delaware News Journal, Oct. 9, 1999. Copy supplied.

Cris Barrish and Dennis Thompson, Sr., "Federal Agents Subpoena Councilman's Records," Delaware News Journal, July 9, 1999. Copy supplied.

Steven Church, "Man Charged with Bilking Banks of at Least $900,000," Delaware News Journal, June 24, 1999. Copy supplied.

Cris Barrish, "Capanos' Sentence: Probation," Delaware News Journal, June 9, 1999. Copy supplied.

Kristin Davis, "The Bonnie & Clyde of Credit Card Fraud," Reader's Digest, May 1999. Copy supplied.

Steven Church, "Ex-Banker Signs Guilty Plea to Theft," Delaware News Journal, Apr. 8, 1999. Copy supplied.

Terry Spencer, "Colm Connolly Quits Assistant U.S. Attorney Post," Delaware News Journal, Mar. 31, 1999. Copy supplied.

Steven Church, "Targeting Doctor's Assets is a 1st in Del.," Delaware News Journal, Feb. 26, 1999. Copy supplied.

Steven Church, "2 Indicted in Del. Drug Ring," Delaware News Journal, Feb. 13, 1999. Copy supplied.

Tom Eldred, "Father, Son Sentenced for Fraud," Delaware State News, Feb. 13, 1999. Copy supplied.

V. Dion Hayes, "With Stolen Identities, Criminals Cashing In," Chicago Tribune, Feb. 11, 1999. Copy supplied.

Carl Weiser, "Clinton Nominates Carl Schnee for U.S. Attorney," Delaware News Journal, Feb. 9, 1999. Copy supplied.

Steven Church, "Sleet Often Sought for Leadership," Delaware News Journal, Sept. 29, 1998. Copy supplied.

Helen M. Richards, "In Chambers," 16 Del. Law 14 (Fall 1998). Copy supplied.

Kristin Davis, "The Bonnie and Clyde of Credit Card Fraud," Kiplinger's Personal Finance Magazine, July 1998. Copy supplied.

Jerry Hager, "Baltimore Man Gets Jail for Fraud," Delaware News Journal, June 24, 1998. Copy supplied.

"Man Gets 11 Years for Possession of Crack," Delaware News Journal, May 14, 1998. Copy supplied.

"Music Dealer Admits Bootlegging," Delaware News Journal, Mar. 25, 1998. Copy supplied.

"Jeweler Gets Prison for Failing to File Taxes," Delaware News Journal, Mar. 24, 1998. Copy supplied.

Tom Feeney, "Armed With Just a Name, Pair Stole Thousands," Delaware News Journal, Nov. 30, 1997. Copy supplied.

"Husband, Wife Plead Guilty to Store Fraud," Delaware News Journal, approx. Oct. 1997. Copy supplied.

Celia Cohen, "Lightning Strikes Questioned in Scam Case," Delaware News Journal, Aug. 28, 1997. Copy supplied.

Tom Eldred, "Jury Calls It Attempted Extortion," Delaware News Journal, Apr. 25, 1997. Copy supplied.

Sandy Shore, "Dual Anniversary Calls for Tighter Security," Delaware News Journal, Apr. 19, 1997. Copy supplied.

Jerry Hager, "Prison Certain for Del. Tax Cheats," Delaware News Journal, 1997. Copy supplied.

Chris Donahue, "Firms are Indicted in Fraud Case," Delaware News Journal, Dec. 11, 1996. Copy supplied.

Jerry Hager, "Career Criminal Grateful for Long Prison Sentence," Delaware News Journal, Nov. 8, 1996. Copy supplied.

Diane Keenan, "Ex-Chch Businessman Jailed in US for Fraud," The Press, June 29, 1996. Copy supplied.

Tom Hyde, "Opportunist, Whipping Boy... Poet?," Metro (a New Zealand magazine), Apr. 1, 1996. Copy supplied.

Meg Schneider, "Dover Man Pleads Guilty to Bank Robbery," Delaware State News, Feb. 9, 1996. Copy supplied.

Jerry Hager, "Boaman Guilty of Fraud," Delaware News Journal, Jan. 13, 1996. Copy supplied.

Teresa Ann Boeckel, "Former Councilman Convicted of Fraud," Delaware State News, probably Jan. 13, 1996. Copy supplied.

Carlos Holmes, "Boaman's Fraud Trial Enters Fourth Week in Federal Court," Delaware State News, Jan. 3, 1996. Copy supplied.

E. Martin Hulse, "Robbery Suspect to Stay Behind Bars," Delaware State News, July 22, 1995. Copy supplied.

Butch Kennedy, "Ex-Dover Politician Boaman Indicted," Delaware State News, Mar. 22, 1995. Copy supplied.

Jerry Hager, "Three Are Charged with Fraud," Delaware News Journal, Mar. 22, 1995. Copy supplied.

Nan Clements, "$400,000 Mail Fraud Admitted," Delaware News Journal, 1995. Copy supplied.

"Bar Involved in Drug Scene Brings $240,000," Delaware News Journal, Mar. 4, 1994. Copy supplied.

Jerry Hager and Celia Cohen, "Slawik Guilty of Bribery," Delaware News Journal, Dec. 18, 1993. Copy supplied.

"Four Indicted in Illegal Gambling," Delaware News Journal, July 1993. Copy supplied.

Jerry Hager, "Banana Heist Suspect Has Given FBI the Slip," Delaware News Journal, 1993. Copy supplied.

"Threats to Judge Yields Indictment," Delaware News Journal, approx. 1993. Copy supplied.

"Admitted Bank Robber Struck Twice in Del.," Delaware News Journal, May 9, 1992. Copy supplied.

Ted Caddell, "Del. Fugitive Beats Extradition from Britain," Delaware News Journal, Feb. 14, 1992. Copy supplied.

Mark R. Nardone, "Ex-Car Dealer Horwitz Pleads Guilty to Fraud," Delaware State News, Dec. 4, 1991. Copy supplied.

Ted Caddell and Jerry Hager, "Trucking School Owner Indicted," Delaware News Journal, Dec. 4, 1991. Copy supplied.

Jerry Hager, "Drug Dealer's Sentence Shortened," Delaware News Journal, Nov. 1, 1991. Copy supplied.

Ted Caddell, "Former Del. Con Man Facing Fraud Charges," Delaware News Journal, Feb. 17, 1991. Copy supplied.

"Woman Convicted in Credit Card Fraud," Delaware State News, Oct. 4, 1990. Copy supplied.

Jerry Hager, "Woman, 52, Convicted in 'Boiler-Room' Scam," Delaware News Journal, Oct. 3, 1990. Copy supplied.

"Former Shipping Chief Indicted," Delaware News Journal, Aug. 17, 1990. Copy supplied.

Jerry Hager, "Fla. Man Charged in WSFS Fraud," Delaware News Journal, July 18, 1990. Copy supplied.

Jane Brooks, "Sisters Face Fraud, Theft Charges in Del.," Delaware News Journal, July 17, 1990. Copy supplied.

Jerry Hager, "Man Indicted as Bilker of Banks, Mortgage Firms," Delaware News Journal, July 11, 1990. Copy supplied.

"Racehorse Owner Pleads Guilty," Delaware News Journal, June 29, 1990. Copy supplied.

"Middletown Man Pleads Guilty to Fraud," Delaware News Journal, June 26, 1990. Copy supplied.

"Florist Charged with Tax Fraud," Delaware News Journal, May 4, 1990. Copy supplied.

Jerry Hager, "Tag Seller Finds IRS Has His Number," Delaware News Journal, May 1990. Copy supplied.

Tom Greer, "Lewes Woman Charged with Defrauding Bank," Delaware News Journal, Apr. 26, 1990. Copy supplied.

Paul Hughes, "Lewes Banker is Charged with Fraudulent Loans," unknown Delaware paper, Apr. 25, 1990. Copy supplied.

"Ex-Delawarean Pleads Guilty to Bank Fraud," Delaware News Journal, Apr. 11, 1990. Copy supplied.

"Ex-Stockbroker Pleads Guilty to Bilking Seven of $350,000," Delaware News Journal, Jan. 24, 1990. Copy supplied.

"Three Men Arrested in Del. After Drugs, Cash Found in Car," Philadelphia Inquirer, Nov. 14, 1989. Copy supplied.

Jerry Hager, "Banker's Tip Nets Drug Dealer's Plea," Delaware News Journal, Oct. 18, 1989. Copy supplied.

Jerry Hager, "Former Wilmington Couple Indicted in Stock Scheme," Delaware News Journal, Oct. 14, 1989. Copy supplied.

Ted Caddell, "Fugitive Living Well in Britain, Fighting Extradition," Delaware News Journal, Apr. 30, 1989. Copy supplied.

Jerry Hager, "Newark Landlord Scolded, Fined for Abusing Loan," Delaware News Journal, Mar. 11, 1989. Copy supplied.

Michael Jackson, "Dividing the Spoils of Drug Busts," Delaware News Journal, Feb. 12, 1989. Copy supplied.

Andy McCormick, "Landlord Guilty of Bank Fraud," Delaware News Journal, Jan. 27, 1989. Copy supplied.

Robert Engler III, "Accused Drug Dealer Kept Customer Diary," Delaware News Journal, approx. 1989. Copy supplied.

"Former Indy Racer Wants $1.3 Million Back," Associated Press, Nov. 18, 1988. Copy supplied.

Jerry Hager, "Gold Sellers Raced Porsches, Spent Freely," Delaware News Journal, Nov. 12, 1988. Copy supplied.

Don Manley, "IRS Seizes Gold, Drugs in Wilmington," Delaware State News, Nov. 11, 1988. Copy supplied.

"Md. Man Charged Over Bank Deposits," Delaware News Journal, Sept. 24, 1988. Copy supplied.

Mack Reed, "2 Accused of Smuggling via Yacht," Philadelphia Inquirer, Aug. 30, 1988. Copy supplied.

Ralph S. Moyed, "When Will We Clean Things Up?," Delaware News Journal, Aug. 7, 1988. Copy supplied.

Ted Caddell, "Ex-Newark Man, a Fugitive 10 Years, Located in London," Delaware News Journal, June 3, 1988. Copy supplied.

Tom Greer, "New Jersey Firm Fined on Fraud Charges," Delaware News Journal, Mar. 10, 1988. Copy supplied.

Cyndi Wyss, "Haitian Drug Arrests Continue in Sussex," Delaware News Journal, Feb. 4, 1988. Copy supplied.

"Loan Falsification Arraignments Delayed," unknown Delaware paper, Jan. 22, 1988. Copy supplied.

"Charges Stem from Statements to FmHA," unknown Delaware paper, Jan. 21, 1988. Copy supplied.

Jerry Hager, "Haitian Woman Convicted on Drug Charges," Delaware News Journal, Nov. 14, 1987. Copy supplied.

Jerry Hager, "Enterprising Immigrant Becomes New Police Weapon in Seaford Drug Battle," Delaware News Journal, Nov. 3, 1987. Copy supplied.

"Harrington Union Man Charged as Embezzler," unknown Delaware paper, Oct. 3, 1987. Copy supplied.

Jerry Hager, "Grocer Guilty in Illegal Food-Stamp Sale," Delaware News Journal, May 28, 1987. Copy supplied.

"Crack Dealer Gets 15 Years," Delaware News Journal, May 22, 1987. Copy supplied.

Tom Greer, "$400,000 Lottery Winner Fined $1,000," Delaware News Journal, Apr. 9, 1987. Copy supplied.

Jerry Hager, "'Crack' Charge Draws Jail," Delaware News Journal, Feb. 27, 1987. Copy supplied.

"Man Gets Probation in Counterfeit Scheme," Delaware State News, Feb. 27, 1987. Copy supplied.

"Rape Suspect Indicted over Deportation," Delaware News Journal, Jan. 29, 1987. Copy supplied.

Tom Greer, "Three Plead Guilty in Counterfeiting Case," Delaware News Journal, Jan. 8, 1987. Copy supplied.

Carolyn Lewis, "A Family's Horror at Being Caught Up in a 'Crack' Raid," Delaware News Journal, approx. 1987. Copy supplied.

Jerry Hager, "Pipe Company Fined in Mail-Fraud Case," Delaware News Journal, Dec. 19, 1986. Copy supplied.

"Ex-Sussex Banker Charged in Fraud," Delaware News Journal, Nov. 17, 1986. Copy supplied.

"Jury Hands Down More Drug Charges," Delaware State News, Nov. 14, 1986. Copy supplied.

"Milton Banker Indicted for Bank Fraud," Delaware State News, Nov. 14, 1986. Copy supplied.

Jerry Hager, "Seven Indicted in Counterfeiting," Delaware News Journal, Nov. 14, 1986. Copy supplied.

Ken Brown, "Dover Man Sentenced in Banking Fraud," Delaware State News, November 1986. Copy supplied.

Jerry Hager, "Ex-City Contractor Indicted in Fraud Case," Delaware News Journal, Oct. 21, 1986. Copy supplied.

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Jerry Hager, "Jail 'Probable,' Judge Warns Defendant," Delaware News Journal, Oct. 19, 1986. Copy supplied.

Ken Brown, "Four Indicted in Sussex Drug Bust," Delaware State News, Oct. 1986. Copy supplied.

"Illegal Alien Arrested in Laurel Drug Raid," Delaware State News, approx. Oct. 1986. Copy supplied.

"Two Face Cocaine Charges," Delaware News Journal, Sept. 24, 1986. Copy supplied.

Ken Brown, "Banker Pleads Guilty to Millsboro Fraud," Delaware State News, Sept. 18, 1986. Copy supplied.

Stephanie Whyche, "Law Suits," Delaware News Journal, Aug. 24, 1986. Copy supplied.

Jerry Hager, "'Ashamed' Businessman Faces Fine, Jail," Delaware News Journal, May 13, 1986. Copy supplied.

Jerry Hager, "Two Suspects Licked at Stamp Machine," Delaware News Journal, May 1, 1986. Copy supplied.

"Ex-IRS Employee is Found Guilty of Keeping Tax Money," Philadelphia Inquirer, Apr. 9, 1986. Copy supplied.

Tom Greer, "Two Men Sentenced to Prison on Cocaine-Distribution Counts," Delaware News Journal, Mar. 13, 1986. Copy supplied.

Stephen Hedges, "Judge Finds Plane Dealer in Contempt," Miami Herald, Feb. 14, 1986. Copy supplied.

Laurie Hays, "Drug Case Proves Costly for Pennsylvania Man," Delaware News Journal, Jan. 29, 1986. Copy supplied.

Dean Barber, "Bessemer Exec Facing Sentence in Delaware," Birmingham Morning News, Jan. 14, 1986. Copy supplied.

Jerry Hager, "Banker Charged on 23 Counts; Accused of Stealing $29,000," Delaware News Journal, approx. 1986. Copy supplied.

Barbara Whitaker, "Ex-IRS Agent Charged with Keeping Payments," Philadelphia Inquirer, Nov. 27, 1985. Copy supplied.

"N.J. Man Fined $5,000 in Kickback Case," Delaware News Journal, Oct. 17, 1985. Copy supplied.

Tom Greer. "Firm Owner Fined $5,000 in Kickback," Delaware News Journal, Sept. 12, 1985. Copy supplied.

Tom Greer, "U.S. Seeking Couple's $15,000 Bail," Delaware News Journal, July 31, 1985. Copy supplied.

Tom Greer, "Mother, Sister Identify Gunman," Delaware News Journal, July 25, 1985. Copy supplied.

"Indictments Set on Payments by Pipefitters," American Metal Market, July 15, 1985. Copy supplied.

Laurie Hays, "2 Businessmen Accused of Bilking B.F. Shaw," Delaware News Journal, July 10, 1985. Copy supplied.

Celia Cohen, "McBrides Cleared in Probe," Delaware News Journal, June 12, 1985. Copy supplied.

Barbara Whitaker, "Pagan Can't Rescind His Guilty Plea," Philadelphia Inquirer, approx. Mar. 15, 1985. Copy supplied.

Tom Greer, "German Indicted in Casino Scam," Delaware News Journal, Mar. 14, 1985. Copy supplied.

"How Much Mob Activity?," Delaware Today, Feb. 1985. Copy supplied.

Amy Rosenberg, "Charges Expected in Dover Bombing," Delaware State News, Jan. 29, 1985. Copy supplied.

Barbara Whitaker, "Pagans Leader Pleads Guilty Before Drug Trial," Philadelphia Inquirer, Jan. 29, 1985. Copy supplied.

Cecilia Friend, "Trott Says He Was 'Kingpin,'" Delaware News Journal, Jan. 29, 1985. Copy supplied.

Tom Greer, "Bank Robber Gets 10-Year Sentence," Delaware News Journal, 1985. Copy supplied.

Tom Greer, "Federal Prisoner Charged in Escape Try," Delaware News Journal, 1985. Copy supplied.

Tom Greer, "Newark Pair Indicted On Drug Counts," Delaware News Journal, Sept. 26, 1984. Copy supplied.

Cecilia Friend, "U.S. Appeals Dismissal of Capanos' Indictment," Delaware News Journal, Sept. 22, 1984. Copy supplied.

Cecilia Friend, "2 Charged in Phone Service Scheme," Delaware News Journal, Sept. 7, 1984. Copy supplied.

Cecilia Friend, "Judge Dismisses Charges of Fraud against Capanos," Delaware News Journal, Aug. 24, 1984. Copy supplied.

Tom Greer, "3 Indicted in 'Phony' Credit Pleas," Delaware News Journal, May 23, 1984. Copy supplied.

Barbara Whitaker, "Guilty Plea Entered in Aliens Case," Philadelphia Inquirer, May 4, 1984. Copy supplied.

David Holmberg, "Police Find 38 Refugees in Trailer Search on 1-95," Philadelphia Daily News, Feb. 29, 1984. Copy supplied.

"Del. Inmate Charged with Threatening to Harm Reagan," Delaware News Journal, Feb. 16, 1984. Copy supplied.

Tom Greer, "Kent Farmer is Indicted," Delaware News Journal, 1984. Copy supplied.

Cecilia Friend, "Reputed Pagans Jailed for Drugs," Delaware News Journal, June 29, 1983. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not served as a judge.

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

i. Of these, approximately what percent were:

jury trials:	___%
bench trials:	___% [total 100%]
civil proceedings:	___%
criminal proceedings:	___% [total 100%]

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name

and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

State Prosecutor, Delaware Department of Justice, appointed by Delaware Attorney General Joseph R. Biden, III, effective January 21, 2007. I am presently serving in this position.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the Honorable Collins J. Seitz, Chief Judge, United States Court of Appeals for the Third Circuit, from September 1981 to August 1982.

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

I have not practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1981
Mayer Brown & Platt
1999 K Street, N.W.
Washington, D.C. 20006
Summer Associate

1983 – 2007
United States Attorney's Office
1105 North Orange Street
Wilmington, Delaware 19899
Federal Law Clerk (1983)
Assistant United States Attorney (1983 – 1987)
First Assistant United States Attorney (1987 – 1993; 1999 – 2001; 2001 – 2007)
United States Attorney (1993 – 1994; 1998 – 1999; 2001)
Chief, Criminal Division (1994 – 1998)

2007 – Present
Delaware Department of Justice
820 North French Street
Wilmington, Delaware 19801
State Prosecutor

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator.

b. Describe:

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

Since 1983, I have been a trial lawyer and supervisor of trial lawyers. From 1983 to 2007, I was an Assistant U.S. Attorney. In the mid-1980s, I handled a mix of criminal and civil cases in the United States District Court for the District of Delaware. In 1987, after I was made a supervisor, I continued to spend most of my time handling my own caseload, which became predominantly a criminal caseload, but I also began to spend a portion of my time supervising other Assistant U.S. Attorneys prosecuting criminal cases. My practice continued in this manner until early 2007, when I became State Prosecutor. My primary responsibility since 2007 has been supervising and managing the approximately 185 employees of the Delaware Department of Justice's Criminal Division.

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

From 1983 to 2007, my client was the United States. From 2007 to the present, my client has been the State of Delaware. While I had a general trial practice at the beginning of my career, by the mid-1980s I specialized in federal criminal law, and continued to do so until 2007. Since 2007, I have specialized in Delaware criminal law.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

While I was an Assistant U.S. Attorney, from 1983 to 2007, my practice was close to 100% litigation, whether personally-handled or supervised. I appeared in court frequently during the entire time. While I have been State Prosecutor, from 2007 to the present, my practice has been about 20% litigation, mostly supervising others, and my court appearances have been infrequent from 2007 to the present.

i. Indicate the percentage of your practice in:
   1. federal courts: 85 %
   2. state courts of record: 15 %
   3. other courts: 0 %
   4. administrative agencies: 0 %

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 5%
   2. criminal proceedings: 95 %

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried 59 cases in courts of record to a verdict. In 32 of these I was sole counsel. In 13 of the 27 cases I tried with one or more other lawyers, I was "first chair" – which I equate with being "chief counsel." In 12 of the 27 cases I tried with one or more other lawyers, I was "second chair," and in one of the 27 cases I was "third chair," both of which I equate with "associate counsel." In one of the 27 cases, I split the work evenly with another lawyer of similar experience, and I can no longer recall which of us sat "first chair."

i. What percentage of these trials were:
   1. jury: 93 %
   2. non-jury: 7 %

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Trott*, 604 F. Supp. 1045 (D. Del.), *aff'd*, 779 F.2d 912 (3d Cir. 1985); Honorable Joseph J. Longobardi; 1983 – 1985.

I represented the United States. This was a "Continuing Criminal Enterprise" prosecution against the national vice-president of the Pagan Motorcycle Club, based on the substantial profits he was making from drug sales conducted by him and others lower in the Pagan Motorcycle Club hierarchy. I handled the case from before indictment to the affirmance on appeal. The United States had about five witnesses in the Witness Protection Program. Some time after the original indictment, another Assistant United States Attorney was also assigned to the case, and on the morning of trial, we were prepared to try the case. The Defendant pled guilty to the charge of "Continuing Criminal Enterprise" that morning, and later that day wanted to withdraw the guilty plea. We opposed the request to withdraw the guilty plea, and I conducted the hearing on the motion to withdraw the guilty plea. The District Court denied the motion, and, on appeal, I wrote the Government's Brief. The Court of Appeals affirmed the District Court's denial of the motion to withdraw the guilty plea.

Co-counsel: Assistant United States Attorney Edmond Falgowski, 1105 North Orange Street, Wilmington, DE 19801, 302-573-6277

Counsel for Trott: (through the morning of trial) Daniel Durkin, Esquire, 410 Brentwood Drive, Wilmington, DE 19803 (retired); (motion to withdraw guilty

plea and appeal) John M. Willard, Esquire, 224 Plymouth Road, Wilmington, DE 19803, 302-656-3825

2. *United States v. Coleman*, 805 F.2d 474 (3d Cir. 1986); United States District Court for the District of Delaware; Honorable Jane R. Roth; 1984 – 1986.

I represented the United States. This was a corruption prosecution of a recently-retired IRS Revenue Officer for theft, perjury, obstruction of justice, and conflict of interest. I worked with the IRS during the investigation, which included the use of a cooperating witness who wore a recording device, and an expert whose specialty was examining a writing that had been crossed out to determine what the writing had originally said. Near the end of the investigation, I examined the Defendant before the federal grand jury. The trial lasted about two weeks, with the jury returning a guilty verdict on most, if not all, of the counts. The Court of Appeals affirmed.

Co-counsel: none

Counsel for Coleman: Victor F. Battaglia, Sr., Esquire, Biggs & Battaglia, 921 North Orange Street, Wilmington, DE 19899, 302-655-9677

3. *United States v. Short,* Crim. Act. No. 86-10-LON (D. Del.); Honorable Murray M. Schwartz; 1984 – approx. 1986.

I represented the United States. This was a mail fraud and tax evasion prosecution. Short was a purchasing agent for a pipe company, and took kickbacks from about ten vendors. I worked closely with an FBI agent and an IRS agent to investigate the case. Many of the vendors initially lied about why they had made payments to Short, and I tried two of the vendors in separate trials for obstruction of justice and/or perjury. Short, who was the main defendant, pled guilty.

Co-counsel: none

Counsel for Short: Carl Schnee, Esquire, YMCA of Delaware, 100 West 10th Street, Wilmington, DE 19801, 302-571-6903

4. *United States v. Murillo*, 933 F.2d 195 (3d Cir. 1991); United States District Court for the District of Delaware; Honorable Jane R. Roth; 1988 – 1991.

I represented the United States. In September 1988, the Delaware State Police arrested a significant cocaine dealer, who agreed to cooperate and provided information about Murillo. The informant then fled to Canada. (Much later, I believe, I handled the extradition of the informant, who then entered a guilty plea.) There followed a four month period when I was constantly working with the Delaware State Police, DEA and the IRS to develop a case against Murillo, an investigation that was made difficult since the only witness had fled to Canada. The investigation developed probable cause to use "clone pagers" to monitor the relationships between Murillo and his associates. It

became clear that Murillo was bringing drugs to Delaware from Texas/New Mexico/Arizona. We applied for a wiretap, but the application was denied. We gathered more evidence, and again applied for a wiretap, which was granted. Murillo recognized increased police surveillance within 24 hours of the wiretap starting, but, due to the wiretap, the investigators knew that Murillo had recognized the increased surveillance. The investigators executed search warrants and seized substantial amounts of cocaine and cash. Murillo pled guilty. I requested a sentencing enhancement under the Sentencing Guidelines. I noted for the District Court that two courts of appeals had ruled against the enhancement I was seeking, but argued that they were wrong. The District Court granted the enhancement. By the time of the appeal, at least five courts of appeals had decided the issue, all but one of them against the Government's position. The only one that ruled in the Government's favor was the Fourth Circuit. The Third Circuit followed the majority, and reversed Murillo's sentencing enhancement. Shortly thereafter, the Sentencing Commission amended the guidelines to clarify that the position I had argued for was what the Sentencing Commission had intended.

Co-counsel: none

Counsel for Murillo: (on appeal) Kevin O'Connell, Esquire, Office of the Public Defender, 820 North French Street, Wilmington, DE 19801, 302-577-5144

5. *United States v. Teeven*, Criminal Action No. 91-95-MMS (D. Del.); Honorable Murray M. Schwartz; 1989 – 1992.

I represented the United States. This case was the product of a lengthy investigation. Teeven was the Chairman of a company that ran a correspondence school for truck drivers. The company generated huge profits. The investigation produced a number of cooperating witnesses. The prosecution theory was that Teeven had skimmed substantial amounts of cash from the company. The proffered defense was that Teeven reported large amounts of income on his tax returns – why would he skim a few hundred thousand dollars? Teeven's bank records showed that he never withdrew any cash from his bank accounts. Teeven had multiple lawyers, all of the highest quality. They actively litigated the case, filing motions for the return of property, motions to dismiss, and other motions. Shortly before trial, Teeven entered a guilty plea to a tax felony. The District Court imposed a prison sentence.

Co-counsel: Honorable Kent A. Jordan, United States Court of Appeals for the Third Circuit, 844 King Street, Lock Box 10, Wilmington, DE 19801, 302-573-6001

Counsel for Teeven: James Neal, Esquire, Nashville, TE (deceased)

6. *United States v. Slawik*, Criminal Action No. 92-93-SLR (D. Del.); Honorable Sue L. Robinson; approx. 1989 – 1994.

I represented the United States. Concerns about corruption in relation to rezoning in New Castle County led to an undercover FBI investigation. Assistant United States Attorney Robert J. Prettyman and I were assigned from the beginning, and worked closely with the FBI to develop cases that could be proved. When the investigation became public in February 1992, the potential cases were divided between the prosecutors. I reviewed the voluminous tapes and transcripts relating to the activities of Defendants Slawik and Roberts, and the grand jury charged them with bribery and conspiracy. The theory was that Slawik was a middle man to Roberts, whose son, who was not charged, was a New Castle County Councilman who voted on rezonings. Roberts died shortly after indictment, but Slawik went to trial. After two weeks of trial, the jury convicted Slawik of one count of bribery and one count of conspiracy.

Co-counsel: none

Counsel for Slawik: Joseph A. Hurley, Esquire, 1215 King Street, Wilmington, DE 19801, 302-658-8980

Counsel for Roberts: Edmund D. Lyons, Jr., Esquire, 1526 Gilpin Avenue, Wilmington, DE 19806, 302-777-5698

7. *United States v. Henry*, Criminal Action No. 95-17-LON (D. Del.); Honorable Joseph J. Longobardi; approx. 1991 – 1996.

I represented the United States. The Defendants ran Madison & Co., which offered investments in the "Madison Investment Club," investments that were represented to involve "no risk." There were other financial offerings, and after a short time in existence, Madison & Co. ran out of money, and all investments were lost. The investigation presented difficult problems in terms of trying to determine who knew what, and when. Defendant Henry was CEO. Defendant Boaman invested a significant amount of his own money in the venture. Defendant Becker came into the operation after it was up and running. There were 40 boxes of evidence seized in a search warrant, all of which I had to review. Shortly before trial, I brought in another Assistant United States Attorney to help try the case. The trial lasted five weeks, from December 1995 into January1996. The jury eventually convicted all three defendants of the majority of charges against them.

Co-counsel: Assistant United States Attorney Patricia C. Hannigan, 1105 North Orange Street, Wilmington, DE 19801, 302-573-6277

Counsel for Henry: Kathleen Jennings, Esquire, Phillips, Goldman & Spence, P.A., 1200 North Broom Street, Wilmington, DE 19806, 302-655-4200

Counsel for Boaman: James E. Liguori, Esquire, Liguori & Morris, 46 The Green, Dover, DE 19901, 302-678-9900

Counsel for Becker: Assistant Federal Public Defender Penny F. Marshall, Esquire, current location unknown

8. *United States v. Wright*, 206 F. Supp. 2d 609 (D. Del. 2002), *aff'd*, 363 F.3d 237 (3d Cir. 2004); Honorable Roderick R. McKelvie; approx. 2001 – 2004.

I represented the United States. The Defendant was a minister, who obtained about $150,000 in "street funds" through the office of a particular State Representative. Investigation showed that none of the money was spent on what it was supposed to be spent on, and strongly suggested that a lot of the money had been gambled away by the Defendant. After a six-day trial, the jury convicted the Defendant of various charges of fraud and money laundering. One of the issues that was heavily litigated, and which the Court of Appeals eventually sustained, was the Government's position that the Defendant could be convicted for causing a check to move in interstate transportation when the check was drawn on a Delaware bank, deposited into a different Delaware bank, but was "cleared" through the Federal Reserve Bank of Philadelphia.

Co-counsel: April M. Byrd, Esquire, Dechert LLP, 2929 Arch Street, Philadelphia, PA 19104, 215-994-5048

Counsel for Wright: Stephen Potter, Esquire, Potter Carmine & Associates, P.A., 840 North Union Street, P.O. Box 30409, Wilmington, DE 19899, 302-658-8940

9. *United States v. Harkins*, Criminal Action No. 04-16-KAJ (D. Del.); Honorable Kent A. Jordan; 2002 – 2004.

I represented the United States. Harkins was the Executive Director of the Delaware River and Bay Authority. Concerns were raised about his use of Authority funds to pay for non-Authority business. Because the Delaware River and Bay Authority is the product of an interstate compact between Delaware and New Jersey, there were four prosecutorial authorities with an interest in the investigation – the United States Attorneys for Delaware and New Jersey, and the Attorneys General for Delaware and New Jersey. We all agreed that the District of Delaware was the best jurisdiction in which to conduct the investigation. An Assistant United States Attorney from New Jersey was cross-designated as an Assistant United States Attorney for Delaware, and the two of us in collaboration with multiple investigators conducted a lengthy grand jury investigation, sorting out the provable allegations from the unprovable allegations. Near the end of the investigation, the Defendant acknowledged wrongdoing and entered a guilty plea to two felonies.

Co-counsel: Honorable Renee M. Bumb, United States District Judge, U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101, 856-757-5020

Counsel for Harkins: Victor F. Battaglia, Sr., Esquire, Biggs & Battaglia, 921 North Orange Street, Wilmington, DE 19899, 302-655-9677

10. *United States v. Kossak,* Criminal Action No. 02-64-GMS (D. Del.); Honorable Gregory M. Sleet; approx. 2001 – 2004.

I represented the United States. The Defendants ran Infinity Mortgage. In excess of fifty people obtained fraudulent loans through Infinity, defrauding various mortgage lenders. Most of the borrowers were not sophisticated, and were themselves defrauded by Infinity. The Government's theory was that Defendant Kossak was the brains behind the operation, and that Defendant Panaro was the front man. During a two-week trial, the Government called about 60 witnesses and introduced hundreds of documents to prove various counts of fraud, and to show Kossak's less-than-obvious culpability. The jury convicted both defendants of all counts.

Co-counsel: Douglas E. McCann, Esquire, Fish & Richardson P.C., 222 Delaware Avenue, 17th Floor, P.O. Box 1114, Wilmington, DE 19899, 302-778-8437

Counsel for Kossak: Mark Greenberg, Esquire, 1429 Walnut Street, Suite 1301, Philadelphia, PA 19102, 877-297-6972

Counsel for Panaro: Raymond M. Raduski, Esquire, 1225 North King Street, Suite 301, Wilmington, DE 19801, 302-658-9388

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As an Assistant United States Attorney, I was involved in a significant number of sensitive and important investigations. Many of them resulted in charges being filed, but some did not. These investigations often involved the use of the federal grand jury and/or the use of cooperating witnesses. The strategies and witnesses to be called, or the methods to be pursued by the cooperating witnesses, were usually determined by an investigative team consisting of at least one federal agent and me. In a number of these cases, the most important decision in the case was whether to file charges at all.

As a supervisor, particularly in the United States Attorney's Office, where there were usually no more than five newer prosecutors at a time, I mentored the newer prosecutors. I would discuss their cases with them, have them second-chair cases with me, second-chair cases with them, and be available when issues arose. I had an "open-door" policy with the newer lawyers. Many of these lawyers have been very successful, both in the United States Attorney's Office and in subsequent positions.

Most criminal prosecutions are resolved without a trial. Currently, in the State of Delaware Superior Court, about two percent of the cases are tried. In the United States District Court, the historical percentage was somewhat higher, but not significantly so. When I was an Assistant United States Attorney, most of my charged defendants had their cases resolved by a plea agreement. There might be some motions practice and pretrial hearings, or sentencing hearings, but there usually was not a trial. I prosecuted many cases which involved defendants committing serious felonies, such as drug selling, robbing banks, or taking significant amounts of money by fraud. Most of these cases I prosecuted from start to finish, including the appeals. I wrote the briefs in about 80 cases in the United States Court of Appeals for the Third Circuit.

My role as State Prosecutor, from 2007 to the present, has been different from what I did in the United States Attorney's Office. In the United States Attorney's Office, I was usually the direct supervisor of the other prosecutors. In the Delaware Department of Justice, there are two layers of management between the State Prosecutor and the non-supervisory Deputies Attorney General in the Criminal Division. My most significant responsibilities as State Prosecutor are to set office policy, interact on behalf of the Department of Justice with the rest of the criminal justice system, and to supervise our most sensitive prosecutions such as murder cases.

At the request of the Department of Justice's Chief Deputy Attorney General, in 2009, I convened and chaired a group, later called the (Ad Hoc) Drug Law Revisions Committee, to propose a comprehensive overhaul of Delaware's criminal drug laws. The Committee met fourteen times in 2009-2010, about two hours each, and proposed a piece of legislation (HB 443 in Delaware's 145th General Assembly; slightly modified as HB 19 in the Delaware's 146th General Assembly). While the ideas are the product of the Committee's work, I led the Committee's discussion, and I primarily drafted the proposed legislation and commentary to it.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    Criminal Trial Advocacy, Attorney General's Advocacy Institute, Washington, D.C. I taught one week of this course three times, once each year from 1986-1988. During the course, the students would have lectures on the various stages of a criminal trial, and would perform mock openings and closings, direct and cross-examinations, etc. My role in the first two years was primarily to critique student performance on an individual basis. My role the third year was to lead a ten-person section through the various exercises. I do not have the syllabus.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business

relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    No.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    Please see attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    Please see attached Statement of Net Worth.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       The two main conflicts would be related to my present and past employment. I would expect to recuse myself for a year from all cases in which the State of Delaware was a party. I would expect to recuse myself from any case in which the United States is a party that either was filed, or relates to something that was filed, before January 12, 2007 (the end of my employment with the United States Attorney's Office). In addition, in litigation in which the United States is a party, the date of filing is not always a good indicator of when it was in the United States Attorney's Office, since there is often a file a long time before a charge or a lawsuit is filed. I believe it would be necessary in any case involving the United States that alleges events occurring before I left the United States Attorney's Office to ensure that the United States Attorney's Office was not involved while I worked there.

My sister is an executive with Incyte, a Delaware-located corporation. I believe I would have a conflict in any case in which Incyte was a party, and would recuse myself in such a case.

My wife is on the Board of Directors of the Delaware Theatre Co., and, if the Delaware Theatre Co. were involved in a case, I would recuse myself.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I expect the Court has a procedure to identify conflicts based on financial holdings and family relationships, and I would participate in that. I am familiar with 28 U.S.C. § 455. I would resolve any potential conflict of interest by applying § 455 and the Code of Conduct for United States Judges.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have devoted my career to public service. As a matter of policy, however, Assistant United States Attorneys are generally precluded from engaging in traditional pro bono work. I have, nevertheless, engaged in service to the Bar as a member of the Board of Bar Examiners, which from 2006 to 2009 involved, in part, writing four bar exam questions and grading about 1,000 answers. Since 2008 I have participated annually as a judge in the Delaware High School Mock Trial competition, and in 2008 I participated as a judge in the National High School Mock Trial competition.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

There is no selection commission in Delaware.

Pursuant to notice on Senator Thomas R. Carper's website, I submitted a letter in May 2010 requesting consideration for an expected vacancy in the United States District Court for the District of Delaware. I met with Ed Freel of Senator

Carper's staff on June 2, 2010 for an interview. On July 9, 2010, I met with Senator Carper for an interview. I was advised by Mr. Freel in late July 2010 that Senator Carper had sent my name, and two others, to the White House for further consideration.

Since February 17, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 16, 2011, I interviewed with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. The President submitted my nomination to the Senate on May 11, 2011.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Andrews, Richard G.	2. Court or Organization District of Delaware	3. Date of Report 05/11/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 05/11/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 1/1/2010 to 05/05/2011
7. Chambers or Office Address Department of Justice 820 N. French Street Wilmington, Delaware 19801	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

***IMPORTANT NOTES:** The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

POSITION	NAME OF ORGANIZATION/ENTITY
1. Trustee	Trust #1
2. Trustee	Trust #2
3. Custodian	UGMA #1
4. Custodian	UGMA #2
5. Trustee	529 Plan

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

☑ NONE *(No reportable agreements.)*

DATE	PARTIES AND TERMS
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT Page 2 of 10	Name of Person Reporting Andrews, Richard G.	Date of Report 05/11/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2011	State of Delaware, salary	$37,900.00
2. 2010	State of Delaware, salary	$116,600.00
3. 2009	State of Delaware, salary	$116,900.00
4.		

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

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

DATE	SOURCE AND TYPE
1. 2011	Villanova University School of Law, salary
2. 2010	Villanova University School of Law, salary
3. Feb. 2011	Northern Illinois University School of Law, honorarium, $200
4.	

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

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 10	Name of Person Reporting Andrews, Richard G.	Date of Report 05/11/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 10

Name of Person Reporting	Date of Report
Andrews, Richard G.	05/11/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. CBS common	A	Dividend	J	T	Exempt				
2. Metalife Financial common	A	Dividend	J	T					
3. Sun Life Financial common	C	Dividend	L	T					
4. Viacom B common	A	Dividend	J	T					
5. Children's Bonus Bonds	A	Interest	J	T					
6. CREF Growth Stock		None	L	T					
7. CREF Stock		None	M	T					
8. Fidelity Blue Chip Value Fund	A	Dividend	L	T					
9. Fidelity Delaware Portfolio 2012 (Index) (529 Plan)		None	M	T					
10. Fidelity Freedom 2020		None	J	T					
11. Fidelity MSIFT Growth Portfolio	A	Dividend	L	T					
12. John Hancock Cash Management IRA		None	J	T					
13. TIAA Traditional	D	Interest	M	T					
14. T. Rowe Price Blue Chip Growth (UGMA #2)	A	Dividend	M	T					
15. T. Rowe Price Growth & Income IRA	A	Dividend	K	T					
16. T. Rowe Price Health Sciences	A	Dividend	L	T					
17. T. Rowe Price New Income Fund IRA	B	Dividend	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000 J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000 K =$15,001 - $50,000 O =$500,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000 L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000 M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	E =$15,001 - $50,000
2. Value Codes: (See Columns C1 and D3)					
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 5 of 10

Name of Person Reporting	Date of Report
Andrews, Richard G.	05/11/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. T. Rowe Price Prime Reserve #1	A	Dividend	J	T					
19. T. Rowe Price Prime Reserve #2 (UGMA #2)	A	Dividend	L	T					
20. T. Rowe Price Summit GNMA	D	Dividend	M	T					
21. Invesco Van Kampen Capital Growth Fund		None	K	T					
22. Vanguard Capital Value Fund	A	Dividend	K	T					
23. Vanguard Emerging Markets Admiral	A	Dividend	L	T					
24. Vanguard High Yield Corporate Fund Inv.	C	Dividend	K	T					
25. Vanguard High Yield Tax Exempt Fund	C	Dividend	K	T					
26. Vanguard Intermediate Term Bond Index Admiral	C	Dividend	L	T					
27. Vanguard Intermediate Term Tax Exempt Bond	B	Dividend	K	T					
28. Vanguard Limited Term Tax Exempt Bond	C	Dividend	M	T					
29. Vanguard Long-Term Investment Grade Inv.	B	Dividend	K	T					
30. Vanguard Long-Term Tax Exempt Fund Admiral	C	Dividend	L	T					
31. Vanguard Long-Term Treasury Inv.	B	Dividend	K	T					
32. Vanguard Mid-Cap Growth	A	Dividend	L	T					
33. Vanguard Pacific Stock Index	B	Dividend	K	T					
34. Vanguard Prime Money Market #1	A	Dividend	M	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 6 of 10	Name of Person Reporting Andrews, Richard G.	Date of Report 05/11/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. Vanguard Prime Money Market #2	A	Dividend	L	T					
36. Vanguard Prime Money Market #3 (UGMA #1)	A	Dividend	K	T					
37. Vanguard REIT Index Fund	B	Dividend	L	T					
38. Vanguard Small-Cap Growth	A	Dividend	L	T					
39. Vanguard Stock Market Index	A	Dividend	K	T					
40. Vanguard Target 2020 Fund IRA	A	Dividend	K	T					
41. Vanguard Tax-Managed Capital Appreciation Fund	B	Dividend	L	T					
42. Vanguard Tax-Managed Capital Appreciation P Ad (UGMA #1)	B	Dividend	M	T					
43. Vanguard Tax-Managed International Fund	B	Dividend	L	T					
44. Vanguard Tax-Managed Small Cap Fund #1	A	Dividend	L	T					
45. Vanguard Tax-Managed Small Cap Fund #2 (UGMA #1)	A	Dividend	L	T					
46. Vanguard U.S. Growth IRA	A	Dividend	J	T					
47. Vanguard Wellington Admiral #1	C	Dividend	M	T					
48. Vanguard Wellington Admiral #2 (UGMA #1)	B	Dividend	L	T					
49. Vanguard Windsor II	C	Dividend	M	T					
50. Wilmington Trust Co. Accounts	A	Interest	L	T					
51. John Hancock whole life ins. #1	D	Dividend	M	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 7 of 10

Name of Person Reporting	Date of Report
Andrews, Richard G.	05/11/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. John Hancock whole life ins. #2	D	Dividend	L	T					
53. Sun Life whole life ins. #1	A	Int./Div.	J	T					
54. Sun Life whole life ins. #2	C	Dividend	L	T					
55. Trust #1									
56. - Exxon common	B	Dividend	L	T					
57. - American Century Equity Income	A	Dividend	K	T					
58. - American Century Income & Growth	A	Dividend	K	T					
59. - DWS Strategic High Yield Tax Free Fund	B	Dividend	K	T					
60. - DWS Intermediate Tax/AMT Free Fund	B	Dividend	K	T					
61. - DWS Managed Municipal Bond Fund	A	Dividend	K	T					
62. - Franklin Templeton Class Z	D	Dividend	M	T					
63. - Hennessy Select Large Value FD Orig	A	Dividend	K	T					
64. - RBC Enterprise Fund Class S		None	M	T					
65. Trust #2									
66. - T. Rowe Price High Yield	A	Dividend							
67. - T. Rowe Price Summit GNMA #2	B	Dividend							
68. - T. Rowe Price Corporate Income	A	Dividend							

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 8 of 10

Name of Person Reporting	Date of Report
Andrews, Richard G.	05/11/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
69. ING Direct Account	A	Interest	J	T					
70. Bank of America Account		None	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less B =$1,001 - $2,500 C =$2,501 - $5,000 D =$5,001 - $15,000 E =$15,001 - $50,000 F =$50,001 - $100,000 G =$100,001 - $1,000,000 H1 =$1,000,001 - $5,000,000 H2 =More than $5,000,000				
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less K =$15,001 - $50,000 L =$50,001 - $100,000 M =$100,001 - $250,000 N =$250,001 - $500,000 O =$500,001 - $1,000,000 P1 =$1,000,001 - $5,000,000 P2 =$5,000,001 - $25,000,000 P3 =$25,000,001 - $50,000,000 P4 =More than $50,000,000				
3. Value Method Codes (See Column C2)	Q =Appraisal R =Cost (Real Estate Only) S =Assessment T =Cash Market U =Book Value V =Other W =Estimated				

FINANCIAL DISCLOSURE REPORT Page 9 of 10	Name of Person Reporting Andrews, Richard G.	Date of Report 05/11/2011

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

None.

FINANCIAL DISCLOSURE REPORT Page 10 of 10	Name of Person Reporting Andrews, Richard G.	Date of Report 05/11/2011

IX. CERTIFICATION.

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

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

Signature Richard G Andrews

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		458	139	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	3	581	273	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule			
Real estate owned – see schedule		414	750	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		44	410				
Cash value-life insurance		310	448				
Other assets itemize:							
				Total liabilities			0
				Net Worth	4	809	020
Total Assets	4	809	020	Total liabilities and net worth	4	809	020
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor on leases or contracts				Are any assets pledged?	No		
Legal Claims				Are you defendant in any suits or legal actions?	No		
Provision for Federal Income Tax				Have you ever taken bankruptcy?	No		
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
CBS common stock	$2,896
Exxon common stock	71,555
Manulife Financial common stock	11,654
Sun Life Financial common stock	81,886
Viacom B common stock	6,360
American Century Equity Income	22,308
American Century Income & Growth	28,923
Thrift Savings Program C Fund	126,414
Children's Bonus Bonds (U.K.)	5,413
CREF Growth Stock	70,117
CREF Stock	128,838
Delaware Pension (cash contributions)	14,101
DWS Strategic High Yield Tax Free Fund	24,372
DWS Intermediate Tax/AMT Free Fund	19,295
DWS Managed Municipal Bond Fund	21,143
Fidelity Blue Chip Value	52,051
Fidelity Delaware Portfolio 2012 (Index)	188,862
Fidelity Freedom 2020	268
Fidelity MSIFT Growth Portfolio	63,731
Franklin Templeton Class Z	216,936
Hennessy Select Large Value Fund Orig	22,667
John Hancock Cash Management	9,482
RBC Enterprise Fund Class S	102,967
TIAA Traditional	194,882
T. Rowe Price Blue Chip Growth Fund	104,775
T. Rowe Price Growth & Income Fund	16,752
T. Rowe Price Health Sciences Fund	62,205
T. Rowe Price New Income Fund	41,719
T. Rowe Price Summit GNMA	233,443
Invesco Van Kampen Capital Growth Fund	27,516
Vanguard Capital Value Fund	36,578
Vanguard Emerging Markets Fund	53,437
Vanguard High Yield Corporate Fund	28,931
Vanguard High Yield Tax-Exempt Fund	43,545
Vanguard Intermediate Term Bond Index Fund	65,749
Vanguard Intermediate Term Tax Exempt Fund	23,784
Vanguard Limited Term Tax Exempt Bond Fund	129,502
Vanguard Long-Term Tax Exempt Fund	53,391
Vanguard Long-Term Investment Grade Fund	27,621
Vanguard Long-Term Treasury Fund	27,123
Vanguard Mid-Cap Growth Fund	56,561
Vanguard Pacific Stock Index Fund	46,403

Vanguard REIT Index Fund	54,660
Vanguard Small-Cap Growth Fund	59,072
Vanguard Stock Market Index Fund	48,424
Vanguard Target 2020 Fund	43,180
Vanguard Tax-Managed Capital Appreciation F.	195,813
Vanguard Tax-Managed International Fund	87,751
Vanguard Tax-Managed Small-Cap Fund	149,387
Vanguard U.S. Growth Fund	12,969
Vanguard Wellington Fund	203,263
Vanguard Windsor II Fund	160,598
Total Listed Securities	$3,581,273

Real Estate Owned	
Personal residence	$307,500
Undeveloped lot	107,250
Total Real Estate Owned	$414,750

AFFIDAVIT

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

May 9, 2011
(DATE)

Richard G. Andrews
(NAME)

Alice D. Mullins
(NOTARY)

Senator COONS. Thank you, Mr. Andrews.

And last, but certainly not least, Judge Skavdahl.

STATEMENT OF SCOTT W. SKAVDAHL, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF WYOMING

Judge SKAVDAHL. Thank you, Senator Coons and Senator Hatch, and the Committee for holding this hearing today. I am humbled and deeply honored by President Obama's nomination given the significance of this position and the quality of the individuals that were recommended for it.

I am also appreciative to Governor Freudenthal who deemed me worthy of consideration, and to Senators Enzi and Barrasso for their kind words and introduction and support in this process.

I want to recognize my best decision I ever made, my wife, Cidne Skavdahl, seated behind me, of 20 years come August 17th; my daughter, Caitlyn Skavdahl, the greatest blessing I have had. My father, John Skavdahl, is here today. My mother is back in Nebraska watching the dogs. And my sister, Sean Nick, and her husband, Brad, and my nieces and nephews in Fremont, Nebraska.

My friend and colleague, Judge Forgey, from Wyoming, was able to join us today. I appreciate him being here. Mr. Ben Hebner, a family friend, as well as Mr. and Mrs. Neff, family friends.

I am also wanting to say hello to the staff and colleagues and friends and mentors back in Wyoming who might be watching by web cam and who, without their support, I would not be here.

Thank you.

[The biographical information of Judge Skavdahl follows]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Scott Wesley Skavdahl

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

   United States District Judge for the District of Wyoming

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   United States District Court for the District of Wyoming
   J.C. Mahoney Federal Building
   2120 Capitol Avenue
   Room 2120
   Cheyenne, Wyoming 82001

   Residence: Casper, Wyoming

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

   1966; Lincoln, Nebraska

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1989 – 1992; University of Wyoming College of Law; J.D., 1992
   1985 – 1989; University of Wyoming; B.S., 1989

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

February 1, 2011 – present
United States District Court for the District of Wyoming
J.C. Mahoney Federal Building
2120 Capitol Avenue
Cheyenne, Wyoming 82001
Magistrate Judge

2003 – 2011
Seventh Judicial District Court
Townsend Justice Center
115 North Center Street, Suite 200
Casper, Wyoming 82601
State District Judge

2001 – 2003
Ewing T. Kerr U.S. Courthouse
111 South Wolcott
Casper, Wyoming 82601
Part-time United States Magistrate Judge

1997 – 2003
Williams, Porter Day & Neville, P.C.
159 North Wolcott, Suite 400
Casper, Wyoming 82601
Associate (1997 – 1999)
Partner (2000 – 2003)

1994 – 1997
United States District Court for the District of Wyoming
Ewing T. Kerr U.S. Courthouse
111 South Wolcott
Casper, Wyoming 82601
Law Clerk to the Honorable William F. Downes

1991 – 1994
Brown & Drew (now Brown Drew & Massey LLP)
159 North Wolcott, Suite 200
Casper, Wyoming 82601
Associate (1992 – 1994)
Summer Associate (1991)

1990 – 1992
Western Trial Advocacy Institute
Dept. 3035, 1000 East University Avenue
Laramie, Wyoming 82071
Student Director (part-time)

1990 – 1992
University of Wyoming College of Law
Dept. 3035, 1000 East University Avenue
Laramie, Wyoming 82071
Research Assistant (part-time)

1987 – 1990
Consolidated Freightways (facility no longer in business)
1900 Cutler Road
Cheyenne, Wyoming 82001
Dock hand/Freight Clerk (part-time)

Other affiliations (uncompensated)

2008 – 2011
Natrona County Adult Community Corrections Board
c/o Rob Hendry
Chairman, Natrona County Commissioners
200 North Center, Room 115
Casper, Wyoming 82601
Secretary

2009 – 2010
Wyoming State District Judges Conference
c/o Hon. Norman E. Young
President, Wyoming State District Judges Conference
Fremont County Courthouse
450 North 2nd Street
P.O. Box 370
Lander, Wyoming 82520
Secretary/Treasurer

2000
Defense Lawyers of Wyoming (no longer in existence)
c/o John A. Sundahl
Sundahl, Powers, Kapp & Martin
1725 Carey Avenue
Cheyenne, Wyoming 82001
Treasurer

1999 – 2000
Natrona County Meals on Wheels
1760 East 12th Street
Casper, Wyoming 82601
President (1999)
Chair (1999 – 2000)

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I registered for selective service upon turning eighteen.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Wyoming State Bar Service Appreciation (2009)
   Wyoming Law Day Jury Appreciation (2007)
   Casper Star Tribune Wyoming's 40 under 40 (2006)
   Land & Water Law Review: Production Manager (1992)
   College of Law Dean's List (1991 – 1992)
   Joseph B. Sullivan Scholarship (1990 – 1992)
   Western Athletic Conference Academic All Conference Honorable Mention (football) (1988 – 1989)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   American Bar Association (1992 – 2001)
   American Trial Lawyers Association (1992 – 2000)
   Defense Lawyers of Wyoming (1997 – 2002)
   - Treasurer (2000)

   National Association of Juvenile Court Judges (2008 – present)
   Natrona County Bar Association (1992 – present)
   Nebraska Bar Association (1993 – present; inactive since 1993)
   Select Committee to Review the Code of Judicial Conduct (2007 – 2008)
   Wyoming Access to Justice Commission (2009 – 2010)
   Wyoming Bar Association (1992 – present)
   - Civil Pattern Jury Instruction Committee (2006 – 2009)
   - Computer and Technical Committee (1996 – 2000)
     - Chair (1998)

   Wyoming State District Judges Conference (2003 – 2011)
   - Secretary/Treasurer (2009 – 2010)

Wyoming Court Technology Advisory Committee (2008 – 2010)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Wyoming, 1992
Nebraska, 1993

There have been no lapses in membership, although my Nebraska Bar membership has been inactive since the late 1990s because I have not had occasion to practice in the State of Nebraska.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Tenth Circuit, 2000
United States District Court for the District of Wyoming, 1992
Nebraska State Courts, 1993
Wyoming State Courts, 1992

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Big Brother/Big Sisters Program (1993 – 1996)
Casper Country Club (1999 – present)
Casper Little League Baseball (1993 – 1995)
Casper Rotary Club (1993 – 1996)
Natrona County Adult Community Corrections Board (2004 – present)
    Secretary (2008 – present)
Natrona County Meals on Wheels (1995 – 2003)
    President (1999)
    Chair (1999 – 2000)
United Way of Natrona County Legal Services Fund Raising Chair (2000 – 2002)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization

that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently or, with the exception of the Casper Country Club, formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. I am aware that prior to 1991 the Casper Country Club by-laws did not grant women voting rights. That discriminatory practice was eliminated by amendments to the bylaws in 1991, ten years prior to my joining the Casper Country Club.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Access to Justice: A Judge's Perspective, 32 Wyoming Lawyer 1 (Feb. 2009). Copy supplied.

Computer and Technical Committee Update, 33 Land & Water L. Rev. 817 (1998). Copy supplied.

Although I do not remember and have been unable to identify any other published material I have written or edited, there may be other published material that I have been unable to remember or identify.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

Indigent Civil Legal Services in Wyoming, a Report to Governor Freudenthal and the Wyoming Legislature and a Call to Action to Establish a Statewide Program, December 14, 2009. This was a collaborative effort by the Wyoming Access to Justice Commission to which I had minimal input. A copy is supplied.

Final Report of the Select Committee to Review the Code of Judicial Conduct, submitted on November 21, 2008. I had minimal involvement in the preparation

of this report, which addressed amendments to Wyoming's Code of Judicial Conduct in light of the changes in the 2007 ABA Model Code of Judicial Conduct. A copy of the Final Report is supplied.

From September 20-23, 2005, I attended the Changing Lives by Changing Systems: National Judicial Leadership Summit for the Protection of Children, where participants collaborated to draft a National Call to Action report on reforms to be carried out by courts and child welfare agencies to help abused and neglected children. A copy of the report is supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

On May 17, 2010, I appeared before the Wyoming Joint Judiciary Interim Committee to briefly comment concerning perceived problems and proposed changes to Wyoming Juvenile laws and placement authority. I have no notes or record of my statement. A copy of the Committee's Summary of Proceedings is supplied.

On February 11, 2010, I appeared, with other members of the Wyoming Access to Justice Commission via video conference, before the Wyoming House of Representatives Judiciary Committee to answer the committee's questions regarding proposed legislation to create a funding mechanism for legal assistance to indigent litigants in civil matters. I have no notes, transcript or recording. Press coverage is supplied.

On February 7, 2006, I wrote a letter to Wyoming School Facilities Commission Director Jim Shivler about the lack of state funding for our neighborhood elementary school's building updates due to Commission rules. A copy of the letter is supplied.

On July 12, 2005, I appeared before the Wyoming Joint Judiciary Interim Committee to briefly comment on the creation of "family courts" or "problem solving courts." A copy of the Committee's Summary of Proceedings is supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have searched my files and electronic databases, and I am including all materials that I have found. The list below represents my best efforts to provide an answer that is as complete as possible, but I have spoken at many continuing legal education, bar association, community, and school group events – especially since becoming a judge. Thus, there may be other presentations or speeches that I am unable to identify or remember. I typically do not have any prepared remarks, but instead have rough typed outlines or handwritten notes. I have retained some of the notes and materials and have provided copies of everything I could locate.

On July 27 and November 9, 2009, I appeared and participated in town meetings in Cheyenne and Casper, Wyoming respectively as part of the Access to Justice Commission. The purpose of these meetings was to gain information and input from communities regarding legal assistance for indigents in civil court matters. I spoke briefly at each of these meetings. I have no notes or transcript of the town meeting discussions. I am aware that the Access to Justice Commission did videotape these meetings, but I do not have access to the complete videos. Video excerpts of the hearings are available at http://www.courts.state.wy.us/AJC.aspx. The Access to Justice Commission's contact is Ronda Munger, Wyoming Supreme Court, 2301 Capitol Avenue, Cheyenne, Wyoming 82002.

On November 13, 2008, at the request of the Chief Justice, I participated in a Media Seminar panel discussion sponsored by the Wyoming Supreme Court. This panel discussion addressed the types of cases handled by Wyoming state district courts and the different procedural process for civil and criminal cases. I have no notes, transcript, or recording. The address for the Wyoming Supreme Court is 2301 Capitol Avenue, Supreme Court Building, Cheyenne, Wyoming 82002.

On March 8, 2008, I gave the keynote speech at the annual awards ceremony for the Central Wyoming Boy Scouts of America. I have no notes, transcript or recording. The address for the Central Wyoming Boy Scout Council is P.O. Box 1506, 3939 Casper Mountain Road, Casper, Wyoming 82602.

In November of 2007 and again on November 21, 2009, I served as a judge for the Wyoming High School Mock Trial Tournament. I have no notes, transcript or recording. The Wyoming State Bar Association sponsors the event and the address of the Association is 4124 Laramie Street, P.O. Box 109, Cheyenne, Wyoming 82003.

On June 4, 2007, I appeared with two legislators, two Guardian Ad Litems (GALs) and a fellow State District Court Judge for a one-hour panel discussion regarding the operation and funding of a state wide GAL system for juvenile neglect and abuse cases. This event was sponsored by the Guardian Ad Litem Program along with the Children's Justice Project (CJP) as part of the Annual GAL/CJP program. I have no notes, transcript or recording. The address for the

Wyoming Children's Justice Project is Court Services Division, Wyoming Supreme Court, 2301 Capitol Avenue, Cheyenne, Wyoming 82002.

On May 1, 2007, I spoke to visitors to the Natrona County Hall of Justice and Courthouse during the County's Open House at these locations. I spoke on the jury process. I have no notes, transcript or recording. The address of the Hall of Justice is 201 North David Street, Casper, Wyoming 82601.

On January 19, 2007, I participated by making brief remarks at the judicial robing ceremony for Judge Daniel Forgey in Green River, Wyoming. I have no notes, transcript or recording. Judge Forgey's address is 731 C Street, P.O. Box 2028, Rock Springs, Wyoming 82902.

On March 30, 2006, I gave the key note address to the graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My rough notes are supplied.

On four different occasions, between 2006 and 2010, I have made presentations to undergraduate law classes at the University of Wyoming Outreach Center. The presentation discussed cases involving constitutional and administrative law issues. I have no notes, transcript or recording. These classes were taught by my fellow District Court Judges, Judge Thomas Sullins and Judge David Park. Their address is 115 North Center, Suite 200, Casper, Wyoming 82601.

Beginning in September of 2005 and approximately every six months thereafter until January 2009, I presented a one-hour CLE entitled "May it Please the Court" as part of the new lawyer admission program for the Wyoming State Bar (Pathways to Professionalism). This presentation recommended best practices for newly admitted lawyers in pre-trial, motion and trial practice. A copy of the outline used for these presentations is supplied. Also supplied is a DVD of my October 10, 2006 presentation of this CLE.

On January 3, 2005, I administered the oaths of office to the Natrona County District Attorney and to two County Commissioners. I have no notes, transcript or recording, but press coverage is supplied. The address for the County Commissioners is 200 North Center, Room 115, Casper, Wyoming 82601. The address for the District Attorney is 200 North David Street, Casper, Wyoming 82601.

On April 30, 2004, I participated in a Law Day program panel discussion about the legal system at the 24th Annual Trail Youth Seminar. I have no notes, transcript or recording. The address of the Trail Youth Seminar is P.O. Box 3506, Casper, Wyoming 82602. I have participated in Law Day activities on other occasions as well, but cannot recall and have no record of the dates of those events.

On August 27, 2003, I was sworn in as a State District Court Judge and made brief comments at the public ceremony. I have no notes, transcript, or recording, but press coverage is supplied. The address of the court is Townsend Justice Center, 115 North Center Street, Suite 200, Casper, Wyoming 82601.

In approximately March of 2001, I participated in a three hour seminar with one other lawyer addressing the application of the Fair Labor Standards Act & Family Medical Leave Act. This seminar was sponsored by the Wyoming State Bar. I have no notes, transcript, or recording. The address for the Wyoming State Bar is 4124 Laramie Street, P.O. Box 109, Cheyenne, Wyoming 82003.

Annually, from October 1999 through 2002, I participated in a three person all day Employment Law Seminar sponsored by Lorman Education Services. This seminar addressed state and federal employment law issues. I have no notes, transcript, or recording. The address for Lorman Education Services is P.O. Box 509, Eau Claire, Wisconsin 54702.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Carol Crump, *Legal Services Funding Bill Aids Low-Income Citizens*, Casper Journal, Mar. 19, 2010. Copy supplied.

Joshua Wolfson, *Group Seeks to Increase Legal Access*, Casper Star-Tribune, Nov. 11, 2009, at B1. Copy supplied.

On November 5, 2009, at 7:15 a.m., I participated in a brief radio interview (on KTWO radio with Brian Scott) with two other lawyers (Stuart Day and Mary Ann Budenske) regarding the Access to Justice Committee and public meetings being held throughout the state regarding legal services for indigent citizens in civil proceedings. I have not been able to obtain any clips, notes or transcript of this interview. The address for K2 Radio is 150 North Nichols, Casper, Wyoming 82601.

Carol Crump, *Townsend Justice Center Blends Old with New*, Casper Journal, Oct. 14, 2009. Copy supplied.

Joan Barron, *More People Playing Lawyer*, Casper Star-Tribune, Aug. 2, 2009. Copy supplied.

Christine Robinson, *Not a Simple Solution*, Casper Star-Tribune, Mar. 2, 2008, at A1. Copy supplied.

Anthony Lake, *What Judges Say about Wyoming's Juvenile Court System*, Casper Star-Tribune, Aug. 29, 2006. Copy supplied.

Staff, *40 Under 40*, Casper Star-Tribune, Feb. 19, 2006. Copy supplied.

Tom Morton, *Natrona County Could Lose Judge*, Casper Star-Tribune, Nov. 5, 2004, at A1. Copy supplied.

Governor Names Skovdahl Judge, Casper Star-Tribune, July 2, 2003. Copy supplied.

On July 1, 2003, I issued a joint press release with Wyoming Governor Dave Freudenthal concerning my selection to serve as a State District Court Judge. I do not have copies of the press release. It was issued by the Governor's Office. A copy of the July 2, 2003 (noted above), Casper Star Tribune article reporting on this matter is supplied.

Interview on Oct. 5, 1995 with Robert C. Moore, which was referenced in Moore's article, *Comment: The Pack is Back: The Political, Social and Ecological Effects of the Reintroduction of the Gray Wolf to Yellowstone National Park and Central Idaho*, 12 T.M. Cooley L. Rev. 647 (1995). Copy of Moore's article supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

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

    120 (excluding summary judgments in civil cases and custody modifications in domestic and paternity cases)

        i. Of these, approximately what percent were:

jury trials:	40%
bench trials:	60%
civil proceedings:	35%
criminal proceedings:	65%

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

    The only published opinion I have authored, while sitting by designation on the Wyoming Supreme Court, is *Wyoming Dept. of Revenue v. Exxon Mobil Corp.*, 162 P.3d 515 (Wyo. 2007). It was a unanimous opinion.

As a State District Court Judge I authored the following unpublished opinions:

Transportation Commission of Wyoming v. Twenty Nine Acres of Land, et al., CV 90933 (Dec. 2, 2010)

State v. McGehee, CR18197 (Apr. 27, 2010)

Bailey v. Wyoming Workers' Compensation and Safety, CV89985 (Jan. 15, 2010)

Harper v. Fidelity Life and Guaranty Ins. Co., CV88306 (May 15, 2009)

Workers Compensation of Wyoming v. Dial, CV88279 (March 18, 2009)

Hansuld, et al. v. Lariat Diesel Corp., CV85515 (Aug. 3, 2009)

In re JW, JV10046 (Dec. 12, 2008)

Kwedor v. City of Evansville, CV87908 (Sept. 25, 2008)

D & D Well Service v. Lariat Diesel Service, CV87592 (May 20, 2008)

State v. Arellano, CR17660 (Jan. 28, 2008)

State v. Sherman, CR17459 (Mar. 28, 2008)

D'Elia v. Teixeira, CV84490 (Oct. 31, 2007)

D'Elia v. Mason, CV86879 (Oct. 5, 2007)

State v. Drake, CR17280 (Aug. 30, 2007)

Orozco v. Wyoming Workers' Compensation and Safety, CV86010 (July 17, 2007)

Winters v. Allstate Indemnity Co., CV84954 (June 8, 2007)

Bonin v. Wyoming Oncology Prof'ls. LLC, CV86481 (Jan. 5, 2007)

In the Matter of the Domingo Echeverria Trust, CV85516 (Oct. 9, 2006)

Starkey v. Starkey, CV68478 (Sept. 12, 2006)

Gress v. Price d/b/a Mountain States Adjustment, CV85460 (Aug. 4, 2006)

Macias v. State of Wyoming, CR16682 (Apr. 17, 2006)

Hogan v. Fleming, CV83626 (Feb. 17, 2006)

Porter v. Hotle, No. CV83820 (Nov. 3, 2005)

Choong v. Intertribal Addictions Recovery Org., CVC03-10-412, Fourth Judicial District (July 27, 2005)

Stewart v. State, CV16607 (May 12, 2005)

Stinson v. Fire Ins. Exch., CV82788 (Jan. 5, 2005)

Hvastkos v. Turner, CV83144 (March 24, 2005)

State v. Martinez, CR16055 (Apr. 21, 2004)

State v. Bethke, CR16066 (Feb. 12, 2004)

Berg v. State ex rel. Wyoming Workers' Safety and Comp. Div., CV81051 (Jan. 12, 2004)

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *State v. Martinez*, No. CR16055 (2005 – 2006) (copy of my order on pending motions is supplied). The Wyoming Supreme Court affirmed the conviction, *Martinez v. State*, 128 P.3d 652 (Wyo. 2006).

   The defendant was charged with the first degree murder of his wife, who was found stuffed in a duffle bag after being beaten to death by a sawed off shotgun. Other than their two children (ages two and four at the time of the events) there were no eyewitnesses to the murder. The admissibility of defendant's prior criminal history, drug use, and his history of domestic violence was contested under Rule 404(b) of the Wyoming Rules of Evidence. In addition, issues arose during trial as to the victim's family's right to wear "we will never forget" buttons in the presence of the jury and the absence of various witnesses sought to be called by defendant.

   Counsel for State: Michael A. Blonigen
   201 North David, Suite 400
   Casper, WY 82601
   Telephone: (307) 235-9256

Counsel for Defendant:	David E. Westling Wyoming Public Defender's Office 2020 Carey Avenue, Suite 100 Cheyenne, WY 82002 Telephone: (307) 777-3451

2. *State v. Carter*, No. CR17728 (2008 – 2009) (the Wyoming Supreme Court affirmed, --- P.3d ---, 2010 WY 136).

   Defendant was charged with murdering a man with a knife during a drunken brawl in the street. Initially two other defendants were charged along with Mr. Carter. Those defendants pled out and testified at Mr. Carter's trial. At trial, numerous issues arose concerning admissibility of various witness statements and of defendant's police interview. On appeal, defendant claimed the prosecutor committed misconduct by referring to the defendant as the "black guy" in association with witness identification of him. Defendant also claimed ineffective assistance of trial counsel in failing to object to the prosecutor's use of "black guy," not seeking to suppress defendant's interview, and calling a witness that was impeached by the State. The Wyoming Supreme Court rejected these arguments and affirmed the conviction and sentence.

Counsel for State:	Michael A. Blonigen 201 North David, Suite 400 Casper, WY 82601 Telephone: (307) 235-9256
Counsel for Defendants:	Dion James Custis 400 East 20th Street Cheyenne, WY 82001 Telephone: (307) 638-2443

3. *Winters v. Allstate Indemnity Co.*, No. CV84954 (2007) (a copy of Order on P-CSSO Manual is supplied).

   Plaintiff suffered personal injuries in an automobile accident in which the driver of the other vehicle was at fault. After accepting policy limits ($25,000) from the negligent driver, plaintiff sought to recover an additional $70,000 from her own insurer, Allstate, under her policy's underinsured coverage provision. Allstate rejected this demand, offering to pay plaintiff $9,000 in addition to the $25,000 paid by the negligent driver's insurance company. Plaintiff brought suit against Allstate for breach of contract and first party bad faith in failing to pay the amount demanded by plaintiff as entitled under the underinsured coverage provision, and bad faith in the negotiation and investigation of her claim. There were numerous motions and discovery disputes regarding the claims adjustment process used by Allstate, as well as the training of its claims adjusters. Under Wyoming law, the trial had to be

bifurcated. The first phase required the jury to determine the extent of injuries suffered by plaintiff in the underlying automobile accident. The jury returned a damage verdict that exceeded the total amount paid by the negligent driver plus the amount offered by Allstate. This established the basis for plaintiff to proceed on the bad faith claim and second phase of the trial. However, after the jury returned the verdict, the parties reached a settlement.

Counsel for Plaintiff:	Thomas R. Smith Chapman Valdez 125 West Second Street P.O. Box 2710 Casper, WY 82602 Telephone: (307) 237-1983
Counsel for Defendant:	Ronald R. Getchey Luce Forward 600 West Broadway, Suite 2600 San Diego, CA 92101 Telephone: (619) 699-2445

4. *State v. Booth*, No. CR16751 (2006) (the Wyoming Supreme Court affirmed on appeal, 174 P.3d 171, 2008 WY 3).

   The defendant was charged with first-degree murder for the shooting of a cab driver. Mr. Booth was only eighteen years old at the time of the murder. One week prior to the murder, he had been released from the Wyoming Boys' School, which is a boot camp-type program for troubled youth. Mr. Booth had prior methamphetamine addiction problems and appeared to have been seeking money to fund his addiction. To that end, Mr. Booth called a cab and then proceeded to hold up the cab driver with a loaded revolver. The cab driver cooperated and gave Mr. Booth all the money and valuables in his possession, yet he still was shot. After various pre-trial proceedings, in exchange for the State deleting the premeditation aspect of first-degree murder and dismissing the armed robbery count, Mr. Booth pleaded guilty to felony murder. At sentencing, the defense argued for a straight life sentence and the state sought a sentence of life without the opportunity for parole. The State sought to introduce the tape recording of Mr. Booth's confession, which contradicted his version of the facts on the issue of whether the gun accidently discharged. Defendant asserted that, pursuant to the plea agreement, the State could not offer evidence of premeditation, which it contended was the net effect of the State's offer. Based upon Wyoming case law, I overruled the defendant's objection and ultimately found, based upon a consideration of the applicable factors, that a sentence of life without the opportunity of parole was appropriate. On appeal, the Wyoming Supreme Court affirmed my ruling and sentence.

Counsel for State:	Michael A. Blonigen 201 North David, Suite 400 Casper, WY 82601 Telephone: (307) 235-9256
Counsel for Defendants:	Wyatt R. Skaggs 2146 Hancock Laramie, WY 82072 Telephone: (307) 745-3339

5. *State v. Budig*, No. CR17621 (2007) (the Wyoming Supreme Court affirmed on appeal, 222 P.3d 148 (Wyo. 2010)).

   The defendant was charged with multiple counts of second and third degree sexual assault of his step-daughters. In addition, he was charged with child abuse in a separate juvenile proceeding. The facts and circumstances were strongly disputed. Defendant sought to introduce evidence regarding the alleged victims' prior sexual conduct, their manipulative character traits and propensity for meanness. Based upon the rape shield law, I limited the scope of cross-examination of the step-daughters which defendant contended violated his constitutionally protected right to confrontation. Defendant also objected to the introduction of expert testimony by the state as to the general disclosure process that typically occurs with minors who are the victim of sex abuse, claiming such testimony would constitute impermissible vouching for the credibility of the witness/victims. My limitation on the cross-examination of the minor victims and allowance of expert testimony was subsequently affirmed by the Wyoming Supreme Court.

Counsel for State:	Michael Schafer 201 North David, Suite 400 Casper, WY 82601 Telephone: (307) 235-9223
Counsel for Defendants:	Thomas R. Smith Chapman Valdez 125 West Second Street P.O. Box 2710 Casper, WY 82602 Telephone: (307) 237-1983

6. *State v. Iseli*, CR16744 (2005) (the Wyoming Supreme Court affirmed on appeal, 160 P.3d 1133 (Wyo. 2007)).

   Defendant was charged with assaulting and causing bodily injury to a police officer. Defendant, who had several outstanding warrants, was scheduled to meet his wife at a remote park, where law enforcement planned to arrest him

on the outstanding warrants. Defendant arrived at the park early and approached his wife, who was cooperating with law enforcement. A deputy sheriff in an unmarked patrol car and wearing civilian clothes, but with a sheriff's badge on a chain around his neck and outside his shirt pulled up behind defendant's vehicle and began walking toward defendant with his service revolver drawn. The deputy sheriff verbally identified himself as a deputy sheriff and attempted to arrest the defendant. In response, defendant attempted to flee. The deputy gave chase, once again reminding defendant that he was under arrest. The deputy ultimately caught up with defendant and tackled him. Upon hitting the ground, a struggle ensued resulting in the deputy suffering bodily injuries. Defendant got back up and began running but stopped when he was surrounded by other law enforcement officers. At trial, defendant's theory of the case was that he did not know the deputy sheriff was a law enforcement officer at the time of the incident and that he acted in self-defense. Under Wyoming law, the State was required to prove defendant "knowingly and intentionally" caused "bodily injury" to a "peace officer." I refused to instruct the jury on the issue of self-defense because under defendant's theory of defense and the evidence, if the jury believed defendant did not know that the deputy was a law enforcement officer he could not be convicted. However, if he did know he was a peace officer then he was not entitled to resist arrest, absent excessive force, which had not been factually supported. The Wyoming Supreme Court affirmed his conviction, finding that I had properly refused to instruct on the issue of self-defense.

Counsel for State:	Stephanie Sprecher U.S. Attorney's Office 100 East B Street, Suite 2211 P.O. Box 22211 Casper, WY 82602 Telephone: (307) 261-5434
Counsel for Defendants:	Patrick LeBrun Fremont County Prosecuting Attorney 818 S. Federal Boulevard, Suite 700 Riverton, WY 82501 Telephone: (307) 857-3653

7. *State v. McGehee*, No. CR18197 (2009) (a copy of my Order on Defendant's Motion to Exclude Press and Public is supplied).

   Defendant was charged with felony murder, second degree murder and felony child abuse. Defendant's eight month old son was found dead, stuffed in the sleeve of his coat, giving rise to the murder charges. A year and a half prior to this suffocation defendant had permanently scarred one of his other children when he attempted to perform a home circumcision with a filet knife. Various pretrial motions were filed including one seeking to preclude the press or pubic

from hearings on the admissibility of 404(b) evidence and a motion to sever the charges relating to the two events. Due to concerns over defendant's ability to obtain a fair trial and the confidential nature of the information, I sealed some of the court records regarding defendant's alleged prior bad acts. In light of my ruling on the 404(b) evidence, I also determined that the charges relating to the suffocation had to be tried separately from the home circumcision. After I made these rulings defendant entered into a plea agreement.

Counsel for State:	Michael A. Blonigen 201 North David, Suite 400 Casper, WY 82601 Telephone: (307) 235-9256
Counsel for Defendants:	Robert Oldham Wyoming Public Defender's Office 120 West 1st Street, Suite 305 Casper, WY 82601 Telephone: (307) 261-2162

8. *State v. Fuller*, No. CR17784 (2008) (affirmed by Wyoming Supreme Court, 230 P.3d 309 (Wyo. 2010)).

Defendant was charged with felony destruction of property arising out of a dispute with his wife. Defendant and his wife rented a house along with a detached garage. Defendant also carried renters insurance on the property. After a fight with his wife, defendant took his pickup and rammed it through the closed garage door, into his and his wife's car. The car was pushed into the front wall of the garage doing significant damage. Ultimately, this damage was repaired and paid for by defendant's renter's insurance. Defendant sought dismissal of the felony property destruction charges on the car and house, claiming under Wyoming law he could not be charged with destruction of his own property. I agreed as to the car, but denied dismissal on the claim relating to the damage to the rented garage, given the language under Wyoming Statutes. A jury found defendant guilty of the felony property destruction and the Wyoming Supreme Court affirmed.

Counsel for State:	Daniel J. Itzen 201 North David, Suite 400 Casper, WY 82601 Telephone: (307) 235-9223
Counsel for Defendants:	Kimberly Corey Wyoming Public Defender's Office 120 West 1st Street, Suite 305 Casper, WY 82601 Telephone: (307) 261-2162

9. *State v. Farmer*, No. CR15277 (2004) (affirmed by the Wyoming Supreme Court, 124 P.3d 699 (Wyo. 2005)).

Defendant was charged with aggravated assault after he stabbed his neighbor, Mr. Goodhue. Defendant had previously been tried and convicted of this charge but due to errors during the trial, the parties stipulated to re-trial, over which I presided. Defendant contended that he was asleep in his home when he was awakened by loud noises and went outside to investigate. Initially, he thought the commotion was caused by the occupant of a vehicle which he observed in the neighborhood. He yelled at the occupant in the car. When the car left, he focused his attention on Mr. Goodhue's residence, where several individuals were present. They heard Mr. Farmer yelling and approached the fence bordering Mr. Farmer's property, where words were exchanged and the altercation escalated. The State contended that after the initial verbal confrontation, Mr. Farmer jumped the fence and attacked the neighbor's brother, who then entered the fray. After a brief scuffle, Mr. Farmer retreated to his home, the others returned to the Goodhue property, and several remained outside. A short time later, Mr. Farmer jumped over his fence, crossed the road, entered Mr. Goodhue's property and stabbed Mr. Goodhue in the chest before returning to his home. At trial the primary issue was self-defense and the ability of the state to use the prior trial testimony of Mr. Goodhue's brother. After a two week jury trial defendant was convicted of aggravated assault.

Counsel for State:	Stephanie Sprecher U.S. Attorney's Office 100 East B Street, Suite 2211 P.O. Box 22211 Casper, WY 82602 Telephone: (307) 261-5434
Counsel for Defendants:	Donald Lee Tolin 254 North Center Street, Suite 102 P.O. Box 50007 Casper, WY 82605 Telephone: (307) 234-0864

10. *State v. Grissom*, No. CR16068 (2005) (affirmed by the Wyoming Supreme Court, 121 P.3d 127 (Wyo. 2005)).

The defendant was charged with misdemeanor drug possession charges and a felony charge of possession with intent to distribute methamphetamine. Defendant was initially arrested when he was observed running from a hotel room, upon observing law enforcement. After officers apprehended him, defendant was found to be carrying various drug paraphernalia in his fanny pack. In addition, after being placed in the patrol car defendant made various spontaneous statements that were incriminating. Defendant was ultimately

convicted by the jury of all counts. On appeal, defendant asserted that his trial counsel had been ineffective because they did not seek to suppress the items seized from the hotel room or fanny pack. In addition, no effort was made to suppress the spontaneous statements made by defendant. The Wyoming Supreme Court rejected these arguments and affirmed.

Counsel for State:	Kenneth Marken P.O. Box 1750 Casper, WY 82602 Telephone: (307) 265-0960
Counsel for Defendants:	Donald Lee Tolin 254 North Center Street, Suite 102 P.O. Box 50007 Casper, WY 82605 Telephone: (307) 234-0864

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Stinson v. Fire Ins. Exch.*, No. CV82788 (January 5, 2005, Order Granting in Part and Denying in Part Defendants' Motion for Partial Summary Judgment).

Counsel for Plaintiffs:	Judith Studer 141 South Center Street, Suite 500 Casper, WY 82601 Telephone: (307) 235-6681
Counsel for Defendants:	Blair Trautwein #3 Clock Tower Square 323 South College Avenue P.O. Box 2166 Fort Collins, CO 80522 Telephone: (970) 237-5694

2. *Bonin v. Wyoming Oncology Prof'ls, LLC*, No. CV86481 (January 5, 2007, Order Denying Plaintiff's Motion to Vacate Arbitration Award and Granting Defendant's Cross Motion for Confirmation).

Counsel for Plaintiff:	Eldon E. Silverman Suite 800 1401 17th Street Denver, CO 80202 Telephone: (303) 296-4440

Counsel for Defendant: Weston W. Reeves
242 South Park Street
Casper, WY 82601
Telephone: (307) 265-3843

3. *Choong v. Intertribal Addictions Recovery Org.*, No. CVC03-10-412, Fourth Judicial District (Order Granting Defendant Intertribal Addictions Recovery Organization's Motion for Summary Judgment).

Counsel for Plaintiff: H. W. Rasumussen
50 East Loucks, Suite 214
Sheridan, WY 82801
Telephone: (307) 674-2185

Counsel for Defendant: Rex O. Arney
Brown, Drew & Massey, LLP
532 Val Vista, Suite 107
Sheridan, WY 82801
Telephone: (307) 673-8565

Virgil G. Kinnaird
Kinnaird Law Office, PC
449 South Main Street
P.O. Box 627
Sheridan, WY 82801
Telephone: (307) 672-9771

4. *Macias v. State of Wyoming*, No. CR16682 (Order affirming Circuit Court's denial of motion to suppress).

Counsel for Appellant: Cindi Wood
Attorney at Law
160 North Grant
P.O. Box 2826
Casper, WY 82602
Telephone: (307) 237-7300

Counsel for Appellee: Joshua D. Stensaas
District Attorney's Office
400 North David Street, Suite 400
Casper, WY 82601
Telephone: (307) 235-9223

5. *Wyoming Dep't of Revenue v. Exxon Mobil Corp.*, 162 P.3d 515 (Wyo. 2007).

Counsel for Appellant:	Michael L. Hubbard Wyoming Attorney General's Office 2424 Pioneer Avenue Cheyenne, WY 82002 Telephone: (307) 777-7841
Counsel for Appellee:	Patrick Reed Day Holland & Hart, LLP 2515 Warren Avenue, Suite 450 P.O. Box 1347 Cheyenne, WY 82003 Telephone: (307) 778-4200

6. *In re .JW*, No. JV10046 (2007) (Order on Permanency). Because it is a confidential juvenile proceeding, my opinion in the case is sealed, but the Wyoming Supreme Court's decision reversing my order is found at 226 P.3d 873 (Wyo. 2010).

Counsel for the State:	Stephanie Hambrick District Attorney's Office 400 North David Street, Suite 400 Casper, WY 82601 Telephone: (307) 235-9223 Jill Kucera Wyoming Attorney General's Office 123 Capitol Building Cheyenne, WY 82002 Telephone: (307) 777-6142
Counsel for Mother:	Jamie M. Woolsey Center Street Law Offices, LLC 530 South Center Street Casper, WY 82601 Telephone: (307) 237-1977
Guardian Ad Litem:	Lori Gorseth Campbell County Attorney's Office 500 South Gillette Avenue, Suite B-200 Gillette, WY 82716 Telephone: (307) 682-4310

7. *Harper v. Fidelity and Guaranty Life Ins. Co.*, No. CV88306 (2007) (Order Granting Defendant's Motion for Summary Judgment). The Wyoming Supreme Court's affirmance of this decision is found at 234 P.3d 1211 (Wyo. 2010).

Counsel for Plaintiff:	Stephen Winship Winship & Winship, PC 100 North Center Street, 6th Floor P.O. Box 548 Casper, WY 82602 Telephone: (307) 234-8991
Counsel for Defendant:	Julie Tiedeken McKellar, Tiedeken & Scoggin, LLC 702 Randall Avenue P.O. Box 748 Cheyenne, WY 82003 Telephone: (307) 637-5575

8. *Starkey v. Starkey*, No. CV68478 (2006) (Order Regarding Overpayment). The Wyoming Supreme Court's affirmance of this decision is found at 161 P.3d 515 (Wyo. 2007).

Counsel for Plaintiff:	Eric A. Distad Natrona Child Support Enforcement 201 North David Street, 5th Floor P.O. Box 2539 Casper, WY 82602 Telephone: (307) 235-9229
Counsel for Defendant:	Gibson Sean Benham Benham Law Firm 536 South Center Street Casper, WY 82601 Telephone: (307) 265-2003

9. *Berg v. State ex rel. Wyoming Workers' Safety and Comp. Div.*, No. CV81051 (2004) (decision letter reversing award of benefits). The Wyoming Supreme Court's affirmance of this decision is found at 106 P.3d 867 (Wyo. 2005).

Counsel for Plaintiff:	David Drell Vlastos, Henley & Drell, PC 300 South Wolcott Street, Suite 320 P.O. Box 10 Casper, WY 82602 Telephone: (307) 235-6613

Counsel for Defendant:	Alora L. Kempster Kempster Law Office, PC 135 West 9th Street, P.O. Box 2408 Casper, WY 82602 Telephone: (307) 473-1200

10. *Porter v. Hotle*, No. CV83820 (2004) (Order Granting in Part and Denying in Part Defendants' Motion for Summary Judgment).

Counsel for Plaintiff:	Patrick Dixon Chapin & Dixon, LLP First Interstate Bank Building 104 South Wolcott Street, Suite 600 Casper, WY 82601 Telephone: (307) 234-7321
Counsel for Defendant:	Drew Perkins Perkins Law PC 1607 CY Avenue, Suite 104 Casper, WY 82604 Telephone: (307) 315-6177

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

I am not aware of any case over which I presided in which certiorari was requested or granted by the Supreme Court of the United States.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Wyoming Supreme Court

To date, the Wyoming Supreme Court has reversed two of my decisions, *Hansuld v. Lariat Diesel Corporation*, 2010 WY 160, --- P.3d --- (Dec. 9, 2010) and *In re JW*, 226 P.3d 873 (Wyo. 2010).

In *Hansuld*, the Supreme Court, contrary to my holding, determined that Hansuld held an implied easement across Lariet Diesel's land for the use of a water line. In addition, the Court rejected my determination that *res judicata* applied to Lariat Diesel's counterclaim seeking a determination as to the exact legal description of Lariat's access easement.

In *In re JW*, in a three-to-two decision, the Wyoming Supreme Court reversed my permanency order in a neglect case for foster parent adoption, holding that under Wyoming law, a compelling preference exists for placement of children with nuclear or extended family which had not been overcome.

I do not believe any cases in which I was affirmed contain significant criticism of either my substantive or procedural rulings.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

With the exception of the one appellate opinion I wrote while sitting by designation on the Wyoming Supreme Court, all of my orders and opinions issued in my capacity as a State District Court Judge are unpublished. I believe I have issued between 60 to 80 unpublished opinions, some written and many orally transcribed by my court reporter. Each order and opinion is placed in the files of the clerk of court or preserved by my court reporter's transcript of my oral ruling.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

State v. Bethke, CR16066 (2004)

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

For the first year following my appointment, I automatically recused myself from any cases in which my former law firm was involved. This required reassignment in approximately three cases. I did not keep a record of those cases. My family has maintained a longtime friendship with two lawyers in this community and I have reassigned cases in which they were involved. I believe this has been a total of two cases, but I do not keep a record and do not recall the specific cases.

I reassigned a capital murder, death penalty case, because I knew the victim's son and he was in the same class with my daughter. Given the significance of the issues in the case and the likelihood this child would testify, I did not want to compromise the integrity of the proceedings by an appearance of impropriety and reassigned it. The case name is *State v. Rolle*, CR17539, Seventh Judicial District Court (Wyo. 2008). I also reassigned a guardianship involving the victim's son for the same reasons. Recently I reassigned a first-degree rape and kidnapping case (*State v. McDowell*, CR18207, Seventh Judicial District Court (2009)). Because I had been involved in the issuance of several search warrants regarding cellular records and internet protocol addresses and social site access, I was concerned that a challenge to those search warrants I had issued was likely. Thus, I reassigned to avoid any conflict or appearance of conflict. Ultimately, no legal challenge to the search warrants arose.

I have reassigned two divorce cases, *Klungness v. Klungness*, CV89407 (2008) and *Kopitnik v. Kopitnik*, CV 92333 (2010), because the parties and their children were my next-door neighbors.

I have had three cases in which *pro se* parties have sought my removal from civil proceedings involving land ownership and zoning issues. These *pro se* parties consider themselves "Freeman" or "sovereign citizens." Those cases are *Taylor v. LeClair*, CV83984 (2006), which involved claims against a zoning enforcement officer for the City of Casper. The motion to have me recused was assigned to another judge who denied it for lack of legal merit. Similarly, in the case of *Natrona County v. Corrigan*, CV90590 (2009), the defendant sought my recusal for alleged bias and prejudice. The motion was reassigned to another judge who denied it for lack of legal merit. Finally in *Waid v. Cotton*, CV85878 (2006), the defendant sought my removal after I had issued a ruling unfavorable to his position. Based upon the Wyoming Rules of Civil Procedure, Rule 40.1, I denied the request for lack of any factual basis. I believe there may be one case in which I was pre-empted (without cause) by counsel because I had handled the female defendant's underlying child neglect case. I am unable to recall the party's name or the counsel involved.

I, along with all of the other district judges in the Seventh Judicial District, recused myself from two criminal proceedings, *State v. Christ*, CR17394 (2007) and *State v. Christ*, CR17396 (2007), because one of the defendants was a former deputy clerk of the district court and the alleged crimes by the defendants involved forgery of child support checks by her and her husband. In addition, I reassigned a conservatorship involving the former deputy clerk of court, *In the Matter of the Conservatorship of Christ*, PR20135 (2006), because the criminal charges alleged she had withdrawn funds from the conservatorship without my authorization, as required in the order. Therefore, I was a potential witness in the matter.

I do not recall any other situations in which I have recused myself, disqualified myself or have been asked to recuse or disqualify myself.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In approximately 2004, I was appointed by the Natrona County Commissioners to be the District Judge appointment to the Adult Community Correction Board. This is a statutorily created board that reviews and manages the admission of inmates to the Casper Adult Community Corrections facility under contract with the Wyoming Department of Corrections. Since approximately 2008, I have served as the secretary on this board.

I have not been a candidate for elective office, nor have I been an unsuccessful nominee for an appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held an office in or rendered services to any political party or organization. I have not played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

1994 – 1997: After graduating from law school and working for two years in private civil practice, I served as a law clerk to the Honorable William F. Downes of the United States District Court for the District of Wyoming.

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

I have not practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1992 – 1994
Brown & Drew (now Brown Drew & Massey LLP)
159 North Wolcott, Suite 200
Casper, Wyoming 82601
Associate

1997 – 2003
Williams, Porter Day & Neville, P.C.
159 North Wolcott, Suite 400
Casper, Wyoming 82601
Associate (1997 – 1998)
Partner (1999 – 2003)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator, outside my capacity as a district judge.

b. Describe:

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

My practice focused primarily on civil litigation. As an associate attorney from 1992 to 1994, I took whatever cases were assigned. I became involved in more complex litigation after my clerkship in 1997. These cases ranged from employment claims to products liability actions along with the defense of personal injury claims. After becoming a partner I continued to develop my employment law practice but became more

involved in the representation of natural resource companies and appellate work. My representation of natural resource companies included royalty and tax issues as well as environmental issues. In the year preceding my appointment to the State District Court bench, a growing amount of time was spent on class actions claims concerning appropriate deductions from royalty payments for natural gas transportation costs.

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

During my first years of practice, in addition to natural resource companies, I also was involving in medical malpractice insurance defense work or whatever the partners I worked with requested. After completing my federal clerkship in 1997, I became more involved in representing natural resource companies on various tax, royalty and environmental issues. I also became more directly involved in several worksite injuries cases involving independent contractor issues. Due to my exposure to employment law claims as a law clerk my employment law practice grew and I was involved in advising medical centers and school districts on various employment issues. I also took on some limited work representing families in two different wrongful death cases involving an airplane wreck and another involving a car crash.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

i. Indicate the percentage of your practice in:
   1. federal courts: 25%
   2. state courts of record: 65%
   3. other courts: 5%
   4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 95%
   2. criminal proceedings: 5%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I estimate that I tried approximately 14 cases, five as chief counsel, seven as associate counsel and two as sole counsel.

i. What percentage of these trials were:
   1. jury: 40%
   2. non-jury: 60%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Kerr-McGee Corp. v. ANR Prod. Co.*, CV11117, Eighth Judicial District Court, Converse County, Wyoming, Honorable Gary Hartman, 1992 – 1994.

As an associate I, along with various partners in the Brown & Drew law firm, represented Kerr McGee Corporation. Kerr McGee Corporation, on behalf of working interest owners in the Powell Pressure Maintenance Unit, Converse County, Wyoming brought suit against ANR Production for trespass and conversion of hydrocarbons. Kerr McGee alleged, and it was ultimately found, that ANR Production, through a fracture treatment of its completed well, had trespassed into and was producing hydrocarbons from a production zone only Kerr McGee and its other working interest owners were entitled to produce. After a bench trial it was determined that ANR had in fact fractured into and produced substantial quantities of hydrocarbons from Kerr McGee's production zone. In addition to the value of the hydrocarbons converted by ANR Production, the Court awarded several million dollars in interest on the value of that production. I was principally involved in the briefing on post-judgment motions and challenges to the interest awarded. ANR Production contended that the trial court erred in awarding interest on the value of the hydrocarbons converted because the value of those hydrocarbons was not liquidated. Ultimately the Wyoming Supreme Court sustained our position and

held that the finder of fact may award interest as an element of damages in a conversion case regardless of whether the claim is liquidated or unliquidated. *ANR Prod. Co. v. Kerr-McGee Corp.*, 893 P.2d 698 (Wyo. 1995). Lead counsel with me on this case were Craig Newman, 123 West 1st Street, Suite 675, Casper, Wyoming 82602, Tel (307) 237-9588 and the Honorable William F. Downes, 111 South Wolcott, Casper, Wyoming 82601, Tel (307) 232-2600.

Opposing counsel:
Cameron S. Walker
Schwartz, Bon Walker & Studer, LLC
141 South Center Street, Suite 500
Casper, WY 82601
Telephone: (307) 235-6681

Michael S. Yauch
1001 Louisiana Street
Houston, TX 77002
Telephone: (713) 420-4131

2. *BHP Petroleum, Inc. v. Texaco Exploration and Prod., Inc.*, CV73979, Seventh Judicial District Court, Hon. Dan Spangler, 1997 – 2000.

This was a breach of contract case in which I represented the defendant, Texaco, primarily in drafting the summary judgment briefs. Plaintiff BHP, as the operator of a federal oil and gas unit located in Wyoming, brought suit asserting breach of contract against Texaco for reimbursement of oil and gas royalties alleged paid by BHP, as operator of the MDU, on behalf of Texaco. Texaco moved for summary judgment on the basis that BHP's breach of contract claim was governed by either the Colorado six-year or Texas four-year statute of limitation. BHP contended that Wyoming's ten year statute of limitation applied. The trial court granted our motion for summary judgment, finding that Wyoming's statute of limitation did not apply and that BHP's claims were barred under either the Texas or Colorado statute of limitation. The Wyoming Supreme Court affirmed, *BHP v. Texaco*, 1 P.3d 1253 (Wyo. 2000). Lead counsel with me on this case was Richard E. Day, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel:
David F. Evans
Tim Bush
Hickey & Evans, LLP
1800 Carey Avenue, Suite 700
P.O. Box 467
Cheyenne, WY 82003
Telephone: (307) 634-1525

3. *Patterson v. Brown-Foutz Co.*, CV77399 and *Office Max, Inc. v. Brown-Foutz Co.*, CV79093, Seventh Judicial District Court, Hon. W. Thomas Sullins, 2000 – 2001.

   This was a slip and fall accident at a retail store. I represented the contractor who was in the process of finalizing and turning over the property to the owner when Ms. Patterson slipped and fell in the parking lot. After my client settled with Ms. Patterson she sued Office Max, Inc., for whom my client had constructed the building. In turn, Office Max sued my client for equitable indemnity under Wyoming law. Ultimately, I was able to obtain summary judgment in my client's favor on the indemnity claims. I had no co-counsel in this case.

   Opposing Counsel:
   John I. Henley (Patterson)
   Vlastos, Henley & Drell, P.C.
   300 South Wolcott, Suite 320
   P.O. Box 10
   Casper, WY 82601
   Telephone: (307) 235-6613

   Weston W. Reeves (Office Max)
   Park Street Law Office
   242 South Park Street
   Casper, WY 82601
   Telephone: (307) 265-3843

4. *Hittel v. WOTCO, Inc.*, CV76104, Seventh Judicial District Court, Hon. W. Thomas Sullins, 1998 – 2000.

   I was co-counsel for WOTCO in this matter and primarily was involved in drafting the summary judgment brief and brief on appeal. Plaintiff fell through a skylight at WOTCO's facility while working for a third party, Steel Structures. Steel Structures had been hired by WOTCO to construct new roofs on several of their buildings. Plaintiff claimed that WOTCO exercised control over the method and manner used in constructing the new roof, and therefore was liable for his injuries. The trial court granted summary judgment concluding that WOTCO owed no legal duty to plaintiff because the undisputed facts established that WOTCO did not exercise sufficient control over the details of the work or how the work was performed. The Wyoming Supreme Court affirmed on appeal, *Hittel v. Wotco, Inc.*, 996 P.2d 673 (Wyo. 2000). My co-counsel on this case was Patrick Murphy, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel:
James R. McCarty
2530 Kekaa Drive
Lahaina, HI 96761
Telephone: (808) 661-7293

5. *Wells v. Bd. of Trs. of Laramie Cnty. Sch. Dist. No. 1*, Docket 149, No. 449, First Judicial District Court, Hon. Nick Kalokathis, 1997 – 2000.

I was co-counsel in this matter and represented the Laramie County School District. I drafted many of the pleadings, summary judgment and appellate briefs. The School District was sued by one of its teachers, Mr. Wells, for breach of contract, promissory estoppel, breach of the covenant of good faith and fair dealing and deprivation of due process. Plaintiff brought these claims after the School District reduced his salary in accordance with the negotiated agreement with the teacher's union. Defendants obtained summary judgment on all claims, based upon a finding that the school district could not enter into an agreement contrary to the terms of the negotiated agreement and, as a governmental entity, promissory estoppel could not be applied. The Supreme Court reversed, finding that genuine issues of material fact existed regarding whether the contracts had been ratified and that promissory estoppel could not be invoked when the state agency (school district) was functioning in a proprietary capacity. *Wells v. Bd. of Trs. of Laramie Cnty. Sch. Dist. No. 1*, 3 P.3d 861 (Wyo. 2000). My co-counsel in this case was Stuart Day, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel:
Patrick E. Hacker
Hacker, Hacker & Kendall, P.C.
2515 Pioneer Avenue
Cheyenne, WY 82001
Telephone: (307) 778-8844

6. *Wyoming Med. Ctr., Inc. v. Murray*, CV76415, Seventh Judicial District Court, Hon. David Park, 1999 – 2001.

I represented the Wyoming Medical Center (WMC) in a slip and fall tort case. Plaintiff had slipped and fallen on ice in the WMC parking lot and sustained back and knee injuries. The cause and extent of those injuries were disputed because prior to the slip and fall, plaintiff had suffered back and knee problems. At trial the jury awarded Plaintiff approximately $60,000. WMC appealed the verdict asserting that the trial court erred in instructing and allowing the jury to consider the issue of future damages, due to the lack of any evidence to establish that those injuries were caused by the slip and fall, as opposed to pre-existing problems. The Wyoming Supreme Court affirmed the

jury verdict. *Wyoming Medical Center, Inc. v. Murray*, 27 P.3d 266 (Wyo. 2001). My co-counsel in this case was Scott Ortiz, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel
Mel Dunn
Tom Sedar
147 South McKinley Street
P.O. Box 2542
Casper, WY 82601
Telephone: (307) 266-0751

7. *Madsen v. BP America Prod. Co.*, CV10105, Third Judicial District Court, Honorable Dennis L. Sanderson, 2000 – 2003.

This case was one of several class action suits in which I represented various hydrocarbon production companies in class action lawsuits. I was primarily responsible for drafting and arguing legal motions and working with clients on the gathering of data. These class action lawsuits had been brought by royalty interest owners under the Wyoming Royalty Payment Act (WRPA). These royalty interest owners claimed the hydrocarbon production companies had improperly deducted various pipeline transportation costs from their royalty payments for primarily natural gas. As to class certification, a threshold issue concerned the ability, given the language of the WRPA, to certify a statewide class of plaintiffs verses a county wide class. These cases involved parties with interests in multiple fields and counties across the state of Wyoming. This jurisdictional issue was certified to the Wyoming Supreme Court and the Supreme Court held that the WRPA allowed for state-wide jurisdiction. A resolution of the jurisdictional issue was necessary in order to ensure any settlement was valid and binding on all class members. These cases were later settled. My local co-counsel in these cases were Frank Neville and Richard Day, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700. Other participating co-counsel were Kirby Iler, 1501 Stampede Avenue, Cody, Wyoming 82414, Tel (307) 527-2221, and Harrell Feldt, 241 Earl Garrett Street, Kerrville, Texas 78028, Tel (830) 792-8888.

Opposing Counsel
J.N. Nick Murdock
211 South Second Street, Suite B
P.O. Box 1006
Laramie, WY 82073
Telephone: (307) 235-0480

Robert P. Schuster
250 Veronica Lane, Suite 204
P.O. Box 13160
Jackson, WY 83002
Telephone: (307) 732-7800

8. *Young v. VME Americas Inc.*, 97-CV-01021-CAB (D. Wyo. 1997), Wyoming Federal District Court, Honorable Clarence Brimmer, 1997 – 2002.

This was a products liability case involving a front end loader manufactured by Volvo America. I defended Volvo along with co-counsel. I was primarily involved in witness preparation and jury instructions. Plaintiff was injured when, while standing under the bucket, he removed the main hydraulic line running to the hydraulic cylinder for lifting and lowering the bucket. Upon release of the line, the pressurized hydraulic fluid escaped from the cylinder causing the bucket to drop quickly lower. Mr. Young was unable to escape and he became trapped between the bucket, ground and front end of the loader, causing significant ankle and hip injuries. Plaintiff asserted that the lifting mechanism was defectively designed and there was a failure to warn of the danger associated with removal of the main hydraulic line with the bucket raised. We contended that the product was safe when used in its normal manner. It was not reasonably foreseeable that plaintiff would raise the bucket and then remove the main hydraulic line to the cylinder. We contended that this plaintiff's conduct was an unforeseen misuse and that the product operated as it was intended. Moreover, we contended the danger of removing the main hydraulic line from the lifting cylinder with the bucket raised was an obvious danger not requiring warning. The jury returned a defense verdict on all claims. There was no appeal. Co-counsel was Patrick Murphy, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing counsel:
Cameron S. Walker
Schwartz, Bon Walker & Studer, LLC
141 South Center Street, Suite 500
Casper, WY 82601
Telephone: (307) 235-6681

9. *Franks v. Independent Prod. Co., Inc.*, CV22891, Sixth Judicial District Court, Campbell County, Honorable John Perry, 2000 – 2002.

I represented Independent Production Co., Inc. (IPC) in a wrongful death suit brought against it by the estate of Mr. Franks. I was primarily involved in drafting the motion for summary judgment and the appellate brief. Mr. Franks, who worked for a trucking company, was tragically killed while helping a drilling hand unload drill pipe casing from Mr. Franks' flatbed trailer. The

drilling hand was using a front end loaded with forks and Mr. Franks was attempting to balance the pipe on the forks when he fell from the trailer. The pipe then became unbalanced and fell off the forks onto Mr. Franks, killing him. My client was the oil and gas leaseholder who hired A-1 Drilling to drill a coal bed methane well on the leased property. IPC also hired R&J Production to supervise all development, production, and drilling operations on the well site. Franks contended that my client had a non-delegable duty to provide a safe work environment and that the backhoe operator was a "borrowed servant" for whose negligent acts IPC was responsible and liable. My client moved for summary judgment on the basis that it had no legal duty to Mr. Franks because it did not control the drilling operations or have a duty to control the work environment. The district court granted summary judgment in my client's favor finding that IPC did not owe any legal duty to Mr. Franks. This ruling was affirmed on appeal. *Franks v. Independent Prod. Co., Inc.*, 96 P.3d 484 (Wyo. 2004). Co-counsel was Patrick Murphy, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing counsel:
Phil Nicholas
Anthony, Nicholas & Tangeman
170 North 5th Street
Laramie, WY 82072
Telephone: (307) 742-7140

10. *James v. Amoco Prod.*, CV28909, Ninth Judicial District Court, Fremont County, Honorable Nancy Guthrie, 1998 – 1999.

I represented Amoco Production, an oil and gas company, in a suit brought against them by Mr. James, an employee of Teton Well Service. Teton Well Service was a roustabout company that, under contract with Amoco, performed oil and gas well maintenance work for wells operated by Amoco in Fremont County, Wyoming. Some of these wells produced H2S gas as a deadly by-product. While performing work at the direction and control of his employer, Teton Well Service, Mr. James was exposed to H2S gas, resulting in alleged injuries. Mr. James sued Amoco Production alleging that it had a duty and failed to provide him with a safe working environment, resulting in his exposure to H2S gas and his injury. Amoco Production Company sought summary judgment on the basis that it did not direct or control the work done by Teton or Mr. James, thus it had no legal duty or control over the events leading to his alleged injuries. The district court agreed and granted my motion for summary; the order was not appealed. My co-counsel was Frank Neville, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper, Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel:
Vance Countryman
1560 Buena Vista Drive
Lander, WY 82520
Telephone: (800) 598-9636

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

While in private practice, 1997 to 2003, I was involved with the Wyoming State Bar and my law firm in creating internet websites and network systems to efficiently utilize technology in the legal practice. Upon becoming a State District Court Judge, I was asked to be part of the Wyoming Judiciary's Court Technology Committee (CTAC). The Court Technology Committee reviews various technological needs of the Wyoming Judiciary. Three technological improvements that I have been involved with include creating a statewide wireless network for judicial and subsequently public use to access email, networks and the internet. For the last two years, I have also been a part of a Statewide committee comprised of State District Court Clerks, Wyoming Judiciary IT staff and software vendors working on a Statewide District Court electronic case management software system and ultimately electronic filing. In addition, I have been involved in the implementation of a statewide judicial video network to enable parties and/or witnesses to appear via video technology.

In 2008, I collaborated with Professor John Burman and other members of the select committee to review and update Wyoming's Code of Judicial Conduct. I participated in numerous teleconferences between January and October 2008 to update Wyoming's Code of Judicial Conduct. The committee's recommended changes were adopted and became effective July 1, 2009.

In November of 2008, civil legal services for indigent Wyoming citizens were in complete disarray. The Wyoming Legal Services program had lost its funding and, outside the University of Wyoming College of Law legal services clinic, there were no legal resources available to indigent civil litigants. This crisis resulted in the creation of the Wyoming Access to Justice Commission, of which I was a member. Ultimately, that Commission, after many meetings and discussions, developed a long-term strategy to address the funding in civil matters involving indigent parties. The first part of that plan was presented to the Wyoming legislature in early 2010, resulting in the creation of a funding mechanism to address indigent representation in certain civil matters. We are now working on a statewide delivery system to provide the needed legal resources needed. I was proud to be a part of that process and believe it is vital to the operation of the legal system.

I have not performed lobbying activities on behalf of any client or organization.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee. I have not taught any courses.

    I have not taught any classes.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I will receive payments, upon my retirement, from the Wyoming Judicial Retirement Plan.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no such plans.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached net worth statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I know of nothing that would present a potential conflict of interest.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If any matter were to a rise that involved an actual or potential conflict of interest, I would handle it by careful and diligent application of the Code of Conduct for United States Judges as well as other relevant Canons and statutory provisions.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During my years in private practice, I took occasional assignments from the State District Court Judge to represent indigent parties in neglect or juvenile delinquency proceedings, or to serve as a Guardian Ad Litem. From time to time, I would, without charging a fee, represent or advise indigent individuals from church or friends in small claims matters. In addition to United Way fund raising, I provided legal advice for the various community boards on which I have served. Over the years, I have also done a great deal of moot court instructing or judging for junior high and high school students. I have also participated in bar association sponsored Law Day activities and have hosted numerous high school and grade school field trips to the Courthouse. I have given of my personal time to participate in the Access to Justice Commission in an effort establish a State wide system to fund and provide legal services to the indigent in civil matters. This last year I hosted the Wyoming high school State wide moot court competition, at which I judged the initial and championship rounds.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In approximately August of 2010, upon learning that there would be an opportunity for appointment, I verbally expressed my interest to Governor Freudenthal. On approximately October 11, 2010, I received a telephone call from the Governor asking me to submit a resume for his consideration. On

November 4, 2010, I learned that my name, along with two others, had been submitted to the White House for consideration. There were no interviews or, to my knowledge, any selection commission involved.

Since November 8, 2010, I have been in contact with pre-nomination officials at the Department of Justice. On December 21, 2010, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 16, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Skavdahl, Scott W.	U.S. District Court, Wyoming	02/16/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
U.S. District Judge	☑ Nomination, Date 2/16/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	1/1/2010 to 1/31/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
2120 Capitol Avenue Room 2204 Cheyenne, Wyoming 82001	Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Member and Secretary (resigned January 14, 2011).	Natrona County Community Corrections Board (Non-profit statutorily created board pursuant to Wyo. Stat. 7-18-105).
2.	State District Court Judge (resigned January 31, 2011)	State of Wyoming
3.		
4.		
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	1/31/2011	Wyo. Judicial Retirement Plan; Terms of the plan provide for cash payout of approximately $92,500 at time of retirement ($92,500) or pension beginning at 60.
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Skavdahl, Scott W.	Date of Report 02/16/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	State of Wyoming--Salary as State District Court Judge	$122,903.00
2. 2010	State of Wyoming--Salary as State District Court Judge	$125,220.00
3. 2011	State of Wyoming--Salary as State District Court Judge	$10,400.00
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2010	Casper Area Economic Development Commission (CAEDA)
2. 2011	none at this time
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Skavdahl, Scott W.	Date of Report 02/16/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Skavdahl, Scott W.	02/16/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. American Express Bank FSB Money Market Account		None	J	T	Exempt				
2. Stifel Bank & Trust FSB Money Market Account		None	J	T	Exempt				
3. American Funds EuroPacific Growth Fund –529C		None	J	T	Exempt				
4. American Funds The Growth Fund of America –529C		None	J	T	Exempt				
5. American Funds New Perspective Fund –529C		None	J	T	Exempt				
6. American Funds New World Fund –529C		None	J	T	Exempt				
7. American Funds SMALLCAP World Fund –529C		None	J	T	Exempt				
8. American Funds Fundamental Investors –529C		None	J	T	Exempt				
9. American Funds Capital World Growth & Income –529C		None	J	T	Exempt				
10. Calamos Growth & Income Fund Class C		None	J	T	Exempt				
11. Thornburg International Value Fund Class C		None	J	T	Exempt				
12. T. Rowe Price Small Cap Value Fund		None	J	T	Exempt				
13. T. Rowe Price Equity Income Fund		None	J	T	Exempt				
14. Valic Large Cap Core Equity Fund		None	J	T	Exempt				
15. Valic Large Cap Stock Index Fund		None	J	T	Exempt				
16. Valic Global Social Awareness Fund		None	J	T	Exempt				
17. Valic International Growth I Fund		None	J	T	Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Skavdahl, Scott W.	02/16/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Value Science & Technology Fund		None	J	T	Exempt				
19. Wells Fargo Advantage Asset Allocation Fund Class C		None	J	T	Exempt				
20. Hilltop National Bank Savings and Checking Accounts	A	Interest	J	T	Exempt				

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

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Skavdahl, Scott W.	Date of Report 02/16/2011

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

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Skavdahl, Scott W.	Date of Report 02/16/2011

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		9	687	Notes payable to banks-secured		6	200
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		118	482	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		5	100
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		207	600
Real estate owned – personal residence		475	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		144	000				
Cash value-life insurance							
Other assets itemize:							
				Total liabilities		218	900
				Net Worth		528	269
Total Assets		747	169	Total liabilities and net worth		747	169
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	NO		
On leases or contracts				Are you defendant in any suits or legal actions?	NO		
Legal Claims				Have you ever taken bankruptcy?	NO		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
American Express Bank FSB Money Market Account	$ 469
Stifel Bank & Trust FSB Money Market Account	3,109
American Funds EuroPacific Growth Fund –529C	487
American Funds The Growth Fund of America –529C	928
American Funds New Perspective Fund –529C	1,023
American Funds New World Fund –529C	503
American Funds SMALLCAP World Fund –529C	528
American Funds Fundamental Investors –529C	486
American Funds Capital World Growth & Income –529C	940
Calamos Growth & Income Fund Class C	2,090
Thornburg International Value Fund Class C	4,284
Valic Large Cap Core Equity Fund	1,966
Valic Large Cap Stock Index Fund	2,868
Valic Global Social Awareness Fund	991
Valic International Growth I Fund	1,335
Valic Science & Technology Fund	2,172
Wells Fargo Advantage Asset Allocation Fund Class C	2,053
Wyoming Retirement System Pension Plan	92,250
Total Listed Securities	$ 118,482

AFFIDAVIT

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

2/14/2011
(DATE)

(NAME)

KELLIE A. ERICKSON - NOTARY PUBLIC
COUNTY OF LARAMIE
STATE OF WYOMING
MY COMMISSION EXPIRES SEPT. 24, 2011

Kellie A Erickson
(NOTARY)

Senator COONS. Thank you, Judge, and thank you to everybody for introducing your families to us and for your time and attention here.

I would first like to invite each of you in order, if I might, beginning with Mr. Andrews and just proceeding down the panel, to just describe your judicial philosophy, what you see as the appropriate role of the Federal district court judge and how in particular you approach the use of precedent in your judicial duties, should you be confirmed.

Mr. ANDREWS. Yes, Senator. In terms of judicial philosophy, it seems to me the two most important things for a Federal district judge and things that if I were confirmed I would attempt to do is to actively manage the caseload so that it comes to some resolution and, in terms of the things that I would decide, to show restraint, not to decide things that do not need to be decided.

In terms of precedent, the United States Supreme Court and the Third Circuit are binding precedent on a district judge in the District of Delaware, and I would follow their precedents.

Senator COONS. Thank you, Mr. Andrews.

Judge Rogers.

Judge GONZALEZ ROGERS. Thank you, Senator Coons. Quite simply, I think it is my utmost responsibility to fairly adjudicate any and all matters that come before me for all litigants, no matter their station, and to do so in a manner that is impartial and that is done without sympathy, bias, or prejudice.

It is my responsibility to follow the law, to follow the statutes, the plain meaning of the statutes, and I am bound by all of the decisions of the Supreme Court and the circuit in which I sit.

Senator COONS. Thank you, Judge.

Judge Gleason.

Judge GLEASON. Thank you. My philosophy is similar. I see three parts to the role of a judge.

First, I see the role of the judge to determine the facts and issues that are at dispute in the case and do so in a manner that is respectful of the views of each of the parties that are participating in the case.

Second, I see the role of the judge to determine what is the applicable law, and there, precedent of the higher courts is the guiding factor in determining that rule of law and applying it to the case before me.

And, third, I see the role of the judge in explaining the decision that has been reached and explaining it to the parties in a way that they understand what the rule of law is and hopefully leaves them with a sense that their position has been heard and understood in the course of reaching the decision.

Senator COONS. Thank you. I think that is the first time I have heard someone articulate that last particular point, which I think is helpful.

Judge Skavdahl.

Judge SKAVDAHL. Thank you, Senator. My philosophy has always been with litigants before me and people to treat them as I would want to be treated if I were standing in the well of the court. I believe it is important to listen carefully, to be extremely patient with

the process, and exercise humility and understanding in the issues that are presented and make those decisions carefully and wisely.

Senator COONS. Thank you, Judge. I would be interested if you would next take up the question of sort of in particular what is the role of the court in interpreting those laws that are written and adopted by elected bodies, whether State legislatures or the Federal Congress. Mr. Andrews.

Mr. ANDREWS. Yes, Senator. In terms of statutes or statute-like law, the role of the court is first to look to the statute and, when the meaning is plain, to enforce that. When there is ambiguity, then the judge has to look at secondary—other sources, which may be precedent which, while not directly on point, shows reasoning that is analogous and should be followed, legislative intent to the extent that it can be determined, and any other relevant information that might be brought to the court's attention.

Senator COONS. Judge Rogers, anything you would like to add to that view?

Judge GONZALEZ ROGERS. I think he did a terrific job, but I would add, after I agreed with everything that my colleague to the left here said, I would add that at times if we—or if I have found that there is no controlling precedent in my district, I will look to other similar situations perhaps in the Federal courts or other State courts where there were similar situations and use those also a means of trying to bring about a reasoned analysis to whatever the specific dispute is before me, and then to, as narrowly as possible, adjudicate on that basis.

Senator COONS. Judge Gleason.

Judge GLEASON. I am not sure I have a whole lot more to add. I agree with the statements of both of my colleagues to my left here and certainly agree that the starting point and statutory interpretation is the express language of the statute.

Senator COONS. Judge Skavdahl.

Judge SKAVDAHL. I do not think I could add anything further. I would adopt those opinions expressed by my colleagues.

Senator COONS. Thank you. I see my time has expired.

We are doing 5-minute rounds. I would like to welcome Senator Grassley. I am grateful for his joining us.

Senator Hatch.

Senator HATCH. Well, I will defer to Senator Grassley.

Senator GRASSLEY. Thank you very much.

I have questions right now for Judge Gleason. In 1985, while working in private practice, you wrote a report for the Alaska Women's Commission entitled, A Review of Alaska's Statutes for Sex Discrimination. The goal of the report was to identify all potential sexual discrimination in Alaska's statutes, regardless of how a court would decide the constitutionality of a given provision. Your recommendations and findings were far-ranging and, I think, controversial. I want to ask you about some items.

You stated, "[T]he constitutional guarantee of equal rights and protections and the right to privacy present strong arguments in support of decriminalization of prostitution." I want to give you a chance to explain the statement but, more important to me, do you support the decriminalization or legalization of prostitution today?

Judge GLEASON. Thank you for the question, Senator Grassley. I was the coordinator of that report back in 1985, which was my first year as a practicing attorney, and I again read that report just a couple of months ago when I was putting together my response to the Senate Judiciary questionnaire.

My role in the project—it was, as you have indicated, of course, a project put together by the Women's Commission. I was the legal coordinator, and that is indicated in the report, meaning I put together a compilation of opinions by a number of volunteer attorneys and State employees with regard to the various issues presented. Frankly, sitting here today, I do not recall what portions of the report I personally authored and what were the work of volunteer attorneys. So it was more of a synthesis role that I played at that point in time.

My views today with regard to the question that you have posed, I really have not given any reflection on that. I do feel that there are issues in our society with regard to—it is essentially a legislative prerogative, as I would see it, and if there were law one way or the other, it would be my obligation to enforce that law.

Senator GRASSLEY. OK. You have stated that veterans' benefits have "gone too far." Specifically, you said that veterans' benefits have been extended beyond their original purpose of readjusting retired service members to civilian life and, therefore, should be curtailed. You also stated, "[t]o offer lifetime rewards solely to those individuals who have served their country in the armed forces works to the detriment of women as a class." The United States is currently involved in numerous conflicts around the world, putting hundreds of thousands of Americans, both men and women, in danger every day.

No. 1, do you still hold the views that veterans' benefits should be curtailed or that such benefits work to the detriment of women as a class?

Judge GLEASON. No, I do not. But I have to stress again, Senator Grassley, that my role in that report was as a coordinator. It was to synthesize the work of a number of people, and so I know the report, because I have read it very recently, as I indicated for the first time, presented a number of different ways in which the legislature could address what was at that point in time gender discrimination in Alaska statutes. And as I recall, there were alternative recommendations, but my work was to synthesize other individuals' writings, and that is why I was the legal coordinator of that project.

Senator GRASSLEY. OK. Second question, along the same line: Do you believe that men and women who serve in the armed forces today should be denied access to veterans' benefits merely because there are fewer women than men who serve in the armed services?

Judge GLEASON. No.

Senator GRASSLEY. OK. In your 1985 report, you stated that Alaska's restrictions on abortion were unconstitutional. In your view, may a State impose any restrictions on abortions? And if so, what restrictions might be permissible?

Judge GLEASON. Well, the report did discuss, as I recall, the status of the United States Supreme Court precedent at that point in time and whether—and made a recommendation that the current

Alaska statute in place at that point in time did not conform with the directives of the United States Supreme Court.

In my role as a judge, I could be called upon to address issues in the future, but primarily my role would be to enforce the existing law of the law as enunciated by the United States Supreme Court.

Senator GRASSLEY. OK. When discussing the pervasiveness of sexual discrimination in your State, you also alluded to the fact that you would be in favor of State-run, State-sponsored health insurance plans. Given that a number of States have alleged the unconstitutionality of the Federal Patient Protection and Affordable Care Act's mandate for individuals to purchase State-sponsored health insurance, should the Committee assume that you would be in favor of such a plan if the case ever reached the district court?

Judge GLEASON. I would hope the Committee would make no assumption about how I would rule on any issue that might come before me.

Senator GRASSLEY. And your record both in private practice and as an Alaska State court judge suggests that you have not so much experience with Federal law. As you know, Federal district court judges must preside over a wide range of civil and criminal law cases. Would you please describe your experience with Federal civil litigation?

Judge GLEASON. Thank you, Senator Grassley, for the question. I will readily acknowledge that the bulk of the work I have done involves State law, and yet in the course of being a State court judge for 10 years, I have certainly encountered Federal legal issues in the context of—I know I have had cases involving transportation law; I know I have had cases involving the Federal Energy Regulatory Commission, issues to some extent revolving around Federal constitutional law, although oftentimes they are more focused on State constitutional law, but issues with regard to Federal constitutional law have arisen as well. And I have had some rather obscure Federal regulation cases from time to time, I have to say, that just seemed to work their way into State court.

Senator GRASSLEY. And I am down to two final questions, and I do not think they are difficult. What is your plan to become proficient in Federal criminal law and procedure?

Judge GLEASON. Thank you for the question, Senator. I do realize that the area where I would have a steeper learning curve is in criminal law. I will point out, however, that I have had criminal law experience as a trial court judge. I have done a first-degree murder trial where I was affirmed on appeal, and I have done several other criminal trials and post-conviction relief proceedings. But I do recognize Federal law has different proceedings and different procedures that I would need to learn. I would plan to do the same that I do now when I am confronted with a new area of law, and that is to read the applicable law, observe other court proceedings, talk to my colleagues, go to the Administrative Office, get the materials, the bench books that are available, and review carefully the applicable law and facts of each case so that when I walked into the courtroom for a litigant each side would know that I was fully prepared and fully understood the law and ready to make a decision in their case.

Senator GRASSLEY. And my last question is if you could give us, of all the decisions you have had to make, what you would consider the most difficult decision you had to make sitting as a State court judge.

Judge GLEASON. That is an interesting question, and thank you for it. And I have thought about that question to some extent because I have heard it posed to other nominees. I find the job of being a trial court judge to be incredibly rewarding and immensely challenging, and I do not see that the work of making decisions to be a particularly -it is not the—the difficulty is what I strive for, and the same in cases where it is hard to learn the facts.

But where I did feel there was as particularly difficult case that I had was a case that involved many, many allegations of child abuse by foster parents of foster children, and the difficulty of the case was in the selection of the jury because the hardship for the jurors in being questioned about the case and their ability to serve brought up for so many of them the difficulties that they had had in their own lives, and I thought that was a very difficult case to preside over because of the impact it had on individuals that were simply there to do their civic duty.

Senator GRASSLEY. I thank you very much, and I thank my colleagues for letting me go first and having a little extra time. Thank you.

Senator COONS. Thank you, Senator Grassley.

Senator Hatch.

Senator HATCH. Well, thank you, Mr. Chairman.

Judge Gleason, you did admit in your answers to questions—here is what you said. In 1985, you wrote a report for the Alaska Women's Commission which is entitled "A Review of Alaska's Statutes for Sex Discrimination." So I think the record should show that.

Judge GLEASON. I am sorry? Certainly I was the legal coordinator of the report, I believe.

Senator HATCH. Well, you say here, "I wrote a report." Did you just coordinate and write what others had given you?

Judge GLEASON. And here, again, I am——

Senator HATCH. I am not meaning to hold you——

Judge GLEASON. No, no. I had trouble recalling what I did 25 years ago, my first year of practice. I will be——

Senator HATCH. Well, what kind of a person are you that you cannot recall 25 years ago?

[Laughter.]

Judge GLEASON. Thank you, Senator. It gets more challenging.

Senator HATCH. I cannot recall last week sometimes.

Judge GLEASON. But I will say I recall receiving large amounts of materials from attorneys, and I did have my office type it up. The extent to which I actually wrote things versus I wrote what other people contributed, sitting here today I simply cannot point to what I can say I wrote.

The one thing I do recall having written most of in that was in the area of insurance law because I remember reading the insurance code for the very first time as a new lawyer and thinking, "This has some very obscure provisions."

Senator HATCH. That is OK. As far as I am concerned, that is fine.

You found to be discriminatory insurance company policies that correlate sex and risk. You wrote that—and let me give you the quote.

Judge GLEASON. Certainly. Go ahead.

Senator HATCH. A State-administered group insurance plan for individuals who are otherwise without access to group health insurance plans should be explored.

Is that still your opinion?

Judge GLEASON. I see that as a prerogative of the legislature, and the purpose of the report was to give suggested alternative recommendations to the legislature.

Senator HATCH. OK. Judge Skavdahl, I want to know what position you played on the football team?

Judge SKAVDAHL. Senator, I primarily occupied the bench, but——

[Laughter.]

Judge SKAVDAHL. I played under the third down 3 or 30 rule as a wide receiver, and I would go in on third down and 3 or if we were 30 points ahead or behind, which sometimes that was with BYU and the University of Utah, I would get to go in.

Senator HATCH. Now, you better be careful talking about BYU and the University of Utah, is all I can say.

You were a State court judge until your recent appointment as a Federal magistrate. That is great experience. Let me ask you just one question I explored with Justice Christen. What difference do you see in the power or discretion of State and Federal judges, especially when it comes to interpreting the Constitution or statutes?

Judge SKAVDAHL. Well, thank you for the question, Senator. I see general—there are some States that—in Wyoming there is implied common law, and there are some rules of law with respect to whether or not statutes have been enacted that adopt or that eviscerate the common law. I do not think that applies in the Federal situation, and, candidly, I would have to bone up on that issue. But certainly the cornerstone is precedent, and I would be bound by that, and giving plain meaning to the words of the Congress and narrowly interpreting. And there is a presumption of constitutionality that attaches to a statute.

Senator HATCH. Sure. Now, your very own doctors say that you have had various orthopedic problems. Is that going to impair your ability to be a judge?

Judge SKAVDAHL. No, Senator. Thankfully, I do not believe it would. If I was fortunate enough to be confirmed, I am able to walk, and my knee is a little stiff on occasion, but modern medicine has assisted that, so I can still play basketball.

Senator HATCH. I want to know if Barrasso was really that good of a doctor. That is what I am wondering.

[Laughter.]

Judge SKAVDAHL. I am able to get in here without a wheelchair.

Senator HATCH. Well, then, that is something to be said.

Mr. Andrews, you have called for lessening criminal penalties for drug possession and argued that suspending the driver's license for that crime is counterproductive. Now, do you agree that judges, unlike prosecutors or certainly legislators, should not participate in

such policy debates but should simply enforce the laws enacted by the legislature?

Mr. ANDREWS. Yes, Senator.

Senator HATCH. OK. Now, you have also criticized mandatory sentences. Now, if confirmed, what deference will you give to the Federal Sentencing Guidelines?

Mr. ANDREWS. Senator, I am not sure when you say I criticized mandatory sentences. I think that there may be particular statutes where the Committee that I was on thought that the mandatory sentence in that particular case was not the right thing. But I have not criticized them as a general proposition.

In regards to the Sentencing Guidelines for Federal sentencing, they are certainly the starting point for any sentence, and they are entitled to some deference.

Senator HATCH. Join the crowd. I think a lot of us have concerns, and I was one of those who helped put those mandatory guidelines into effect, so I still have concerns about them, to be honest with you.

Now, Judge Rogers, congratulations. You certainly had—all of you have had tremendous accolades from your Senators from your States. I think that is a great tribute to each one of you. Judge Rogers, in a 1992 article published in the La Raza Law Journal, you wrote that, Power is not going to be given to us. It has got to be taken. Now, that can certainly mean different things, including a call to be involved in the political process. Do you believe that judges should be engaged in helping or empowering certain groups? Or must judges decide cases objectively based on the law?

Judge GONZALEZ ROGERS. Judges must, Senator, decide cases objectively on the law. That article really was about political participation in our representative democracy, which I believe is important for all citizens. It was written 20 years ago, as you indicated. But a role of a judge and a role of politicians or those in the political branch are very different.

Senator HATCH. Are you saying that when you are younger you do make some statements that you might have to eat later on in life?

Judge GONZALEZ ROGERS. I think when all of us are younger we make certain statements that we may think about differently at different times in our lives.

Senator HATCH. That is great. Now, you have been on the State court bench just a few years. If I remember correctly from your questionnaire, 95 percent—am I right about this, 95 percent of your private practice was in State court and 99 percent of it was civil rather than criminal?

Judge GONZALEZ ROGERS. Correct. Most of my experience prior to becoming a judge was civil.

Senator HATCH. Now, I for one do not think that disqualifies you at all. What I am concerned about more than anything else with judges is integrity, capacity, the ability to read the law and understand, the ability to interpret the laws, and to live within certain judicial constraints.

I think all four of you have done an excellent job here today, and I just want to tell you that I intend to support each and every one of you and hope that you will make terrific judges on the bench.

As somebody who did practice extensively both in civil litigation but also in Federal litigation, I have nothing but respect for Federal judges. And we want to have the best people we can possibly get, and I certainly think the four of you will make excellent judges on the bench. Just be fair, be honest, be straightforward, and be tough. Sometimes it is important to be tough with attorneys and let them know who is in charge. But I just am very appreciative that you are willing to do this. We know that many of you can make a lot more money in private practice than you do as a Federal judge, but there are very few things that are as satisfying or as important in this country and in our constitutional way of law than being a Federal judge. And I commend each of you for being willing to do this, and I commend the President for sending your names up.

Thank you, Mr. Chairman. And if you will forgive me, I am going to have to leave.

Senator COONS. Thank you, Senator Hatch.

There being no further questions from this panel today, I will thank the nominees and their families, thank the nominees, as Senator Hatch and other members of this panel mentioned, for their willingness to serve the public.

We will hold the record open for a week for any members of the Committee who wish to submit additional questions. I want to congratulate all four of your on your nominations. We are truly grateful that you have answered the call to Federal service and believe all four of you to be highly qualified to serve on the Federal bench, and I am hopeful that the full body of the Senate will take up the consideration of your nominations promptly.

We stand in recess.

[Whereupon, at 4:03 p.m., the Committee was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

Responses of Richard G. Andrews
Nominee to be United States District Judge for the District of Delaware
to the Written Questions of Senator Chuck Grassley

1. **The Delaware Center for Justice appointed you to a task force undertaking a "Racial Improvement Project." The project, which was announced this previous March, essentially investigates racism in the judicial system. As a member of this group, what were your observations or findings regarding evidence that Delaware's judicial system was plagued by racism? If confirmed, what consideration would you give to the race of the defendant or victim in sentencing?**

   Response: In 2010, I was appointed by the Delaware Attorney General to the "Racial Justice Improvement Project Task Force," which is led by a Justice of the Delaware Supreme Court. One part of the Task Force's charge is to select an aspect of the criminal justice system in Delaware in which there are, or appear to be, unexplained racial disparities, and to consider possible changes that might reduce the disparities. As a member of the Task Force, I have not made any findings regarding Delaware's judicial system and racism. If confirmed, I would give no consideration to the race of the defendant or the victim in sentencing.

2. **What is the most important attribute of a judge, and do you possess it?**

   Response: The most important attribute of a judge is to have an appropriate judicial temperament. I understand that to include respect for the law and for all litigants, impartiality, open-mindedness, a willingness and commitment to listen, modesty, and an even disposition. I believe I have an appropriate judicial temperament.

3. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe the appropriate temperament of a judge includes respect for the law and all litigants, impartiality, open-mindedness, a willingness and commitment to listen, modesty, and an even disposition, and I believe I have them.

4. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

5. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to**

what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?

Response: When confronted with a case of first impression, that is, one which controlling precedent did not resolve, my decision-making process would depend upon the nature of the issue. As a general matter, my most likely approach would be to reason by analogy from precedents deciding similar issues. In situations which involved the text of a statute, a regulation, or a rule, I would start with the text of the statute, regulation, or rule.

6. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: If binding precedent dictated the outcome of a particular issue that needed to be decided, I would follow the precedent, whether I agreed with it or not.

7. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

   Response: When there is an issue of the constitutionality of a statute enacted by Congress, it is preferable that a federal court decide the case on other grounds if such grounds are available. If the federal court must decide the issue, however, it is duty-bound to follow faithfully the controlling precedents, which could require a determination that a statute is unconstitutional.

8. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: I intend to manage the caseload by three means. First, there are automated reports that can be run on a regular basis so that judicial attention can be maintained over the entire caseload, and I intend to use them. Second, every case needs to have a scheduled date for some future event. Third, I intend to use scheduling and pretrial conferences to set dates and to keep everything moving toward a timely disposition.

9. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: Yes, judges are responsible for controlling the pace and conduct of litigation. There are two specific steps I would take to control the docket. First, every case needs to have a scheduled date for some future event. Second, I intend to use scheduling and pretrial conferences to set dates and to keep everything moving toward a timely disposition.

10. Please describe with particularity the process by which these questions were answered.

Response: I read the questions. I wrote responses to all of the questions. I later edited the responses. I then sent the questions and responses to representatives of the Department of Justice. I talked with a Department of Justice representative. I then authorized the Department of Justice to send the questions and responses to the Senate Judiciary Committee.

11. Do these answers reflect your true and personal views?

Response: Yes.

Responses of Morgan Christen
Nominee to be United States Circuit Judge for the Ninth Circuit
to the Written Questions of Senator Chuck Grassley

1. **At your hearing, Senator Hatch asked you about one of your opinions on the Alaska Supreme Court, *Allstate Ins. Co. v. Dooley*. In this case, you created an implied private right of action. Senator Hatch explained that many federal statutes create duties but do not explicitly call for private causes of action. He asked what approach a federal judge should take when asked to create what Congress did not – an implied private cause of action based on a federal duty. You said, "A federal judge like a state court judge should always interpret the law faithfully according to the law we are given by the legislative branch. When a statute is unambiguous, Senator, my job is to apply it." Your response, however, does not fully answer Senator Hatch's question. Please take whatever time you need to reflect upon this question and provide a complete answer to the question.**

   Response: In the federal system, I believe the Supreme Court has instructed that it is the intent of Congress that determines whether a private cause of action exists to enforce federal law. To determine the intent of the legislative branch as to any particular statute, I believe the appropriate approach is to begin by examining the text of the statute itself, and to consider how it fits into the larger statutory scheme. If Congress has not expressed an intent to create a private cause of action, I would find that no private cause of action exists.

2. **Based on your legal and judicial experience in Alaska, please explain how privacy rights under the Alaska Constitution compare to privacy rights under the U.S. Constitution.**

   Response: Privacy rights under the Alaska Constitution are generally afforded greater protection than privacy rights under the U.S. Constitution because the Alaska Constitution has an express right to privacy. *Anchorage Police Dep't Emps. Ass'n v. Municipality of Anchorage*, 24 P.3d 547, 550 (Alaska 2001).

3. **Do you think your experience and knowledge of privacy rights and the Alaska Constitution will influence your interpretation of the federal Constitution? Please explain.**

   Response: My experience and knowledge of privacy rights and the Alaska Constitution will not influence my interpretation of the federal Constitution. My personal experiences and knowledge of the law of other jurisdictions, including Alaska, would have no bearing on what I determine the rule of law to be, nor on how I apply the rule of law to any particular case.

4. **According to your questionnaire, only a small percentage of your legal experience concerned criminal law. What is your experience with criminal law and procedure, and how will you prepare yourself for hearing criminal law cases?**

Response: In the Alaska Supreme Court, I have participated in over 225 petitions for discretionary review of criminal appeals. For these petitions, each justice receives and considers the decision or order being appealed, the petition, the opposition, the excerpt of record and/or record, and a recommendation drafted by a member of the court.

As a superior court judge, I had a civil docket but my regular duties also included hearing search warrant applications, conducting grand jury selection, and taking grand jury returns. I was also assigned criminal matters for judges who were disqualified in single-judge court locations and for judges who were on leave or unable to attend to criminal calendars due to illness.

In the Anchorage Municipal Prosecutor's Office, I represented the Municipality in hundreds of misdemeanor criminal cases. These daily court appearances included arraignments, bail hearings, changes of plea, suppression motions, and misdemeanor jury trials.

In the first 10 – 12 years of my private practice, I primarily had a civil case load but I also assisted with the defense of some criminal cases in state and federal court, including drafting and arguing suppression motions. In the last two years of my private practice, approximately half of my time was devoted to defending a federal Medicaid fraud investigation in federal court. This involved coordinating with private criminal defense counsel from approximately ten law firms pursuant to a joint defense agreement.

If confirmed to the Ninth Circuit, I anticipate that I would have a heavier criminal case load than I do on the Alaska Supreme Court. I would prepare for those cases as I have in the past: by working diligently to fully familiarize myself with the applicable law. My preparation would start with thoroughly reviewing the parties' briefs to understand the arguments presented on appeal and the statutory and case law authorities cited in support of the arguments. As appropriate, I would also consult the federal rules of criminal procedure, the federal rules of appellate procedure, library resources, and resources from the Administrative Office, to be fully prepared to address the issue(s) presented on appeal.

5. **In the past few years, the court to which you have been nominated, the Ninth Circuit, has been reversed by the Supreme Court at a higher rate than any other circuit.**

    a. **What is your view of the proper role of an intermediate appellate judge in interpreting and applying Supreme Court precedent?**

    Response: The proper role of an intermediate appellate judge is to faithfully interpret and apply the rule of law as articulated by Supreme Court precedent, without regard to the judge's own views or experiences.

b. **What should an appellate court judge do in a case where he or she believes the applicable Supreme Court precedent is wrong?**

Response: An appellate court judge should apply Supreme Court precedent, regardless of the judge's own views regarding the correctness of the precedent.

6. **Based on your experience, how do you think the approach of a state court judge differs, or should differ, from that of a federal court judge, other than the applicable rules of decision?**

Response: In many ways, my role as a state supreme court justice is very similar to the role of a judge on an intermediate circuit court: my caseload is entirely appellate, and I am a member of a multi-judge court that reviews the work of trial courts, the Alaska Court of Appeals, and administrative agencies.

One way in which my current role differs is in the appropriate approach to statutory interpretation. In the federal system, precedent directs that judges apply statutes according to their plain meaning unless there is an ambiguity in the statute itself. In Alaska state courts, controlling precedent directs that judges may consider legislative history in the absence of ambiguity on the face of a statute. *Bullock v. State, Dep't of Cmty. and Reg'l Affairs*, 19 P.3d 1209, 1224 (Alaska 2001).

7. **In the Supreme Court's recent decision striking down a ban on violent video games, *Brown v. Entertainment Merchants Association*, Justice Breyer supplemented his opinion with appendices comprising scientific articles on the sociological and psychological harm of playing violent video games.**

a. **When, if ever, do you think it is appropriate for judges to conduct research outside the record of the case?**

Response: I have not studied *Brown v. Entertainment Merchants Association* and I am not familiar with its appendices, but I do not believe it is appropriate for judges to conduct research outside of the record of a case.

b. **When, if ever, do you think it is appropriate for judges to base their opinions on psychological and sociological scientific studies?**

Response: It can be appropriate for judges to base their opinions on scientific studies if the studies satisfy the requirements for the admission of scientific evidence, and if the evidence is relevant to issues in a case, e.g. evidence that tends to make a fact at issue more or less likely to be true.

8. **At a speech in 2005, Justice Scalia said, "I think it is up to the judge to say what the Constitution provided, even if what it provided is not the best answer, even if you think it should be amended. If that's what it says, that's what it says." Do you agree with Justice Scalia? Please explain your answer.**

Response: I am not familiar with the speech Justice Scalia gave in 2005, so I do not know the context for his remarks. I do believe that a judge must begin every constitutional analysis with the language of the Constitution itself. I also believe that a judge's personal views about possible constitutional amendments or the correctness of Supreme Court precedent are never a proper part of constitutional analysis or application.

9. Do you believe it ever appropriate for a judge to consult foreign law, when determining the meaning of the United States Constitution?

Response: No. To interpret and apply the United States Constitution, a judge should first consider the language of the pertinent provision of the Constitution itself, and then consider controlling precedent interpreting and applying the provision. Foreign law is not part of this analysis.

10. A recent Time magazine article said that "If the Constitution was intended to limit the federal government, it sure doesn't say so." Do you agree with this statement? Please explain your answer.

Response: I do not agree with this statement. The United States Supreme Court has said that the Tenth Amendment to the United States Constitution affirms that the federal government is one of limited and enumerated powers. *See New York v. U.S.*, 505 U.S. 144, 155-57 (1992).

11. Do you believe that the Second Amendment is an individual right or a collective right?

Response: In *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 130 S.Ct. 3020 (2010) the Supreme Court addressed the Second Amendment and held that it provides protection of an individual right. I would faithfully follow this precedent.

12. What factors have you considered or will you consider when deciding whether or not to dissent from the decision of the court?

Response: I have dissented in cases where, in my best judgment, the facts or controlling authorities do not support the majority decision of the court. If confirmed, I believe it will be my continuing duty to decide cases in accordance with my best judgment and understanding regarding the controlling rule of law.

13. What does the concept of separation of powers mean for the federal courts? If confirmed, will this be a governing principle which you will follow?

Response: The separation of powers is a bedrock principle of our constitutional framework, limiting each branch of government to its appropriate role. I have abided by

this principle for the 9 ½ years I have served as a superior court judge and state supreme court justice. If confirmed, I will continue to abide by it as a federal judicial officer.

14. What is the most important attribute of a judge, and do you possess it?

Response: I believe the most important attribute of a judge is the discipline and commitment to adhere to, and fairly apply, the rule of law, regardless of one's personal views. I believe my record as a judicial officer shows that I possess this attribute.

15. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?

Response: I believe a judge's temperament should demonstrate integrity, dignity, open-mindedness, respect for others, patience, courtesy, and diligence. I believe these qualities should be reflected on and off the bench. I believe I meet this standard.

16. At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?

Response: If the question of first impression arose from a statute, I would look first to the language of the provision itself with the goal of giving the statutory interpretation intended by the legislative branch. Consideration of the statutory language includes consideration of how the provision fits into the larger statutory scheme. If the language of a statute is unambiguous, the statute should be applied as written. If an ambiguity exists after considering the language itself, the legislative history of the provision should be considered, putting the greatest weight on the history that provides the most reliable indication of the intent of the legislative body as a whole. I would then consider the most closely analogous controlling precedent and the reasoning of other circuit courts for guidance.

If the question of first impression involved a constitutional issue, I would start with the language of the constitutional provision, then consider the most closely analogous controlling precedent and reasoning for guidance.

17. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?

Response: Federal statutes are entitled to a presumption of constitutionality, but it is the role of federal courts to declare a federal statute unconstitutional if the statute violates a constitutional provision or if Congress exceeded its authority when it enacted the statute. Federal courts are bound by the Constitution and by Supreme Court precedent and controlling circuit court precedent when making this determination.

18. Under what circumstances, if any, do you believe an appellate court should overturn precedent within the circuit? What factors would you consider in reaching this decision?

Response: Fed. R. App. P. 35 provides that intermediate federal appellate courts may overturn circuit precedent through the en banc review process. Absent en banc review, panels are bound by stare decisis. En banc review may be appropriate if the question is one of exceptional importance or if a division between panels in the circuit, or between a panel and a decision of the Supreme Court, requires review in order to insure uniformity within the circuit.

19. Please describe with particularity the process by which these questions were answered.

Response: I received the questions in the late afternoon of July 20, 2011. I prepared my answers the evening of July 21, 2011. I discussed the questions with a staff person from the Department of Justice on July 22, 2011 and requested that my responses be forwarded to the Committee.

20. Do these answers reflect your true and personal views?

Response: Yes.

Responses of Sharon L. Gleason
Nominee to be United States District Judge for the District of Alaska
to the Written Questions of Senator Charles Grassley

1. **At your hearing, I asked you about a report you appeared to have authored entitled, "A Review of Alaska's Statutes for Sex Discrimination." You responded, in part, "Frankly, sitting here today, I do not recall what portions of the report I personally authored and what were the work of volunteer attorneys. So it was more of a synthesis role that I played at that point in time." However, in response to question 12(b) of your Senate Questionnaire, you wrote: "In 1985, I wrote a report for the Alaska Women's Commission, which was entitled, "A Review of the Alaska Statutes for Sex Discrimination." Given the answer you supplied in the Senate Questionnaire, I was somewhat perplexed by your statement at the hearing.**

   a. **Please explain in detail the extent of your authorship of the report and your review or editing of portions you did not write.**

   Response: I prepared the report in 1985 for the Alaska Women's Commission as part of my work as an associate attorney at Reese, Rice and Volland, P.C. My independent recollection of the project is limited. Therefore, to respond to this question, I referred back to the report. The extent of my authorship of the report is explained on pages three and four of that report. Page three explains that the Alaska Women's Commission decided to conduct a review of Alaska's statutes for sex discrimination. It adds, "a plan was adopted that would request the assistance of the Alaska Bar Association and state government agencies to perform the initial review of the statutes." Page four of the report details my role as the legal coordinator for the project as follows:

   > As the agencies and volunteer lawyers completed their reviews, the Women's Commission hired an attorney to serve as the legal coordinator for the next phase of the project. Under the direction of the project director [a Commission staff person], the legal coordinator consolidated all of the information from the agencies and volunteer attorneys. In addition, the coordinator independently reviewed the Alaska Statutes in an effort to ensure the identification of as many sexually discriminatory statutes as possible. ...
>
> The legal coordinator then organized these statutes by subject matter. Each statute identified was analyzed, with Alaska case law, statutory history, and legal periodicals and similar statutes in other states consulted for reference. The draft report was then prepared and distributed to the Women's Commission, state departments, volunteer members of the judiciary and volunteer lawyers for comment.

> Comments on the draft report were consolidated and then analyzed by the legal coordinator and the project director. ... A synopsis of the comments and suggested actions were presented to the Alaska Women's Commission for final action. These comments were integrated into the final report, which was presented to the Commission in May 1985.

In short, the Alaska Women's Commission was a client of the law firm for which I worked in 1985. In the course and scope of my work with the firm, I acted as the legal coordinator of the project described above. In that role, I prepared the report under the direction of the project director using the input I received from the volunteer attorneys and state agencies about the statutes, as well as the results of my own statutory review and legal analysis. I am unable at this time to identify which portions of the report were derived solely from my own review and analysis, and which portions of the report were derived from the input I had received from other attorneys and state agencies, as well as from the project director and the Commission itself.

b. **Please explain the inconsistency between the answer you provided at your hearing and the response in your Senate Questionnaire.**

Response: As I indicated above and at the hearing, I have limited independent recollection of this project. When I prepared my responses to the Senate Judiciary Questionnaire earlier this year, I had not then thoroughly reviewed that portion of the report that I have cited above that contains the description of my role in the project. Instead, in preparing my response to the Senate Questionnaire, I relied on the report's cover page, which indicates that it was "prepared by" me as the legal coordinator that was hired by the Alaska Women's Commission. In addition, the copy of the report that I supplied to the Senate Judiciary Committee was obtained from the Alaska State Court Law Library. Its on-line catalog indicates that the report is "by Gleason, Sharon L., Alaska Women's Commission," and I relied on that information in preparing my response. Prior to my hearing, I carefully read pages three and four of the report, as cited above, which clarified the extent of my role in the project.

2. **At your hearing, I asked you about a statement from your report, which states: "The Constitution guarantee of equal rights and protections and the right to privacy present a strong argument in support of the decriminalization of prostitution." I asked whether you support the decriminalization or legalization of prostitution today. You did not answer, but stated, "I really have not given any reflection on that. . . . it is essentially a legislative prerogative, as I would see it, and if there were a law one way or the other, it would be my obligation to enforce that law." Please take whatever time necessary to reflect on the issue and answer the following question: Do you support the decriminalization or legalization of prostitution?**

Response: I do not have an opinion as to whether or not prostitution should be legalized. Under current Alaska law, prostitution is a crime. Pursuant to my oath of office as a judicial officer, I am fully committed to the enforcement of all of the duly-enacted laws of the United States, including that law.

That said, I would like to clarify the recommendations of the report. The report notes a discriminatory impact on women under Alaska law because in 1985 prostitution was a crime, but the act of patronizing a prostitute was not a crime. It then states, "[t]wo different approaches would remedy this discriminatory impact. The first is to decriminalize prostitution. The second is to criminalize on an equal basis with prostitution the customer's act of offering money to a prostitute." [Report at 44]

3. **At your hearing, I asked about the portion of your report that concluded that Alaska's restrictions on abortion were unconstitutional. I asked whether, in your view, a State may impose any restrictions on abortions, and if so, what restrictions might be permissible. You did not answer. Please take whatever time necessary, and provide a response that directly answers the question.**

Response: The United States Supreme Court has articulated several situations in which a State may impose restrictions on abortions. For example, in *Planned Parenthood of Southeastern Pa. v. Casey,* 505 U.S. 833 (1992), a plurality of the Supreme Court upheld restrictions related to informed consent, a 24-hour waiting period, parental consent for minors to obtain abortions, and recordkeeping and reporting. In *Mazurek v. Armstrong*, 520 U.S. 968 (1997), the Court held that a State could restrict the performance of abortions to licensed physicians only. And in *Gonzales v. Carhart*, 550 U.S. 124 (2007), the Court upheld the Partial-Birth Abortion Ban Act of 2003, which proscribed a particular method of ending fetal life in the later stages of pregnancy. The Supreme Court has also "long upheld state parental involvement statutes" with respect to minors seeking abortions. *Ayotte v. Planned Parenthood of Northern New England*, 546 U.S. 320, 327 (2006). If confirmed to be a District Court judge, I would faithfully apply this (and all other) controlling precedent and give it full force and effect.

4. **What is the most important attribute of a judge, and do you possess it?**

Response: I believe the most important attribute of a judge is the ability to ascertain and apply the applicable legal precedent to the facts that are at issue before the court. As demonstrated by the high scores I have received from lawyers, peace officers and other court participants in surveys for judicial retention elections, I believe I possess this attribute.

5. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

Response: In my view, a judge should be patient, dignified and respectful at all times to each of the participants in court proceedings. I believe I possess each of these elements.

6. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

7. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If the issue involved one of statutory interpretation, I would look to the text of the statute for its plain and ordinary meaning. In the event of some ambiguity, I would look first to the rulings of the United States Supreme Court and the Circuit in which I would sit in an effort to find case law that was analogous to the issue before me. If there was no precedent to guide me from those courts, I would look to other Circuit Courts in an effort to find case law that could be helpful in deciding the case.

8. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: If confirmed as a District Court judge, I would always apply the precedent of the Supreme Court and the Circuit in which I would sit.

9. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

   Response: A federal court should declare a statute enacted by Congress unconstitutional when persuaded by controlling precedent or analogous authority of the United States Supreme Court or Circuit Court that the statute is inconsistent with a provision in the Constitution. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

10. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

    Response: I have had considerable experience managing my caseload at the state court level, and, if confirmed as a federal court judge, I intend to use the case management skills that I have developed over the past ten years. In particular, I would undertake regular reviews of my pending case lists and pending motions to be certain all cases were receiving the attention they needed, and I would use such tools as pretrial scheduling orders, status conferences, and settlement conferences as warranted in an effort to move each case forward to a prompt and fair resolution.

11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?

Response: In my view, judges have a role in controlling the pace and conduct of litigation. Foremost, I would strive to rule on all motions in a timely manner. I would also plan to continue many of the case management practices that have worked well for me as a trial court judge. This includes keeping records of each pending motion and open case and regularly reviewing those records to ensure that each case is receiving the attention that it requires. I have also found that regular status conferences with counsel are helpful in particularly complex or contentious litigation, and I would plan to continue that practice as warranted.

12. Please describe with particularity the process by which these questions were answered.

Response: I received the questions on July 20, 2011, and reviewed them carefully. I referred to the "Review of the Alaska Statutes for Sex Discrimination" from 1985 to respond to Questions 1 and 2. I prepared my responses, then discussed those responses with an official at the Department of Justice, Office of Legal Policy. Thereafter, I finalized my responses and authorized their transmittal to the Committee.

13. Do these answers reflect your true and personal views?

Response: Yes.

Senator Charles Grassley
Follow-up Questions for the Record
Judge Sharon Gleason, U.S. District Judge for the District of Alaska

1. **At your hearing, I asked you about a statement from your report which states: "The Constitution guarantee of equal rights and protections and the right to privacy present a strong argument in support of the decriminalization of prostitution." I asked whether you support the decriminalization or legalization of prostitution today. You did not answer, but stated, "I really have not given any reflection on that. . . . It is essentially a legislative prerogative, as I would see it, and if there were a law one way or the other, it would be my obligation to enforce that law."**

   In my written questions, I asked you to "please take whatever time necessary to reflect on the issue and answer the following question: Do you support the decriminalization or legalization of prostitution?" Again, you refused to take the opportunity to reflect on and answer the question, but instead stated: "I do not have an opinion as to whether or not prostitution should be legalized."

   Your unwillingness to provide a straightforward answer concerns me for a couple reasons. First and perhaps most importantly, the integrity of the confirmation process requires nominees to answer our questions. Second, your unwillingness to answer this question is particularly curious, given that when I asked whether you still believed veterans' benefits work to the detriment of women as a class, you responded without hesitation, "No, I do not."

   With this in mind, please take whatever time necessary and answer the following two questions:

   a. **Do you support the decriminalization or legalization of prostitution?**

      Response: I acknowledge the Senate's important constitutional role in the judicial confirmation process, and very much respect the integrity of that process. I regret that my earlier answer may seem to indicate otherwise. As a judicial officer, I have seldom expressed my personal opinions on policy issues that fall within the purview of the legislature. On this specific issue, I did not have an opinion. However, in light of the opinions that were expressed in the 1985 report and after receiving these follow-up questions, I have undertaken the research and reflection necessary to formulate my personal opinion. Based on that undertaking, I have concluded that I do not support the decriminalization or legalization of prostitution. Of course, if confirmed to the federal District Court, with respect to this issue, veterans' benefits, and all other issues that might come before me, I would strive to always faithfully and impartially follow the precedents of the United States

Supreme Court and the Circuit in which I would sit, regardless of my personal views.

b. Do you stand by the report's recommendations regarding prostitution?

Response: No.

Responses of Yvonne Gonzalez Rogers
Nominee to be United States District Judge for the Northern District of California
to the Written Questions of Senator Chuck Grassley

1. **You are an active member of your community in California. President Obama has said that he hopes judges would reach decisions based on "their broader vision of what America should be." Based on your experience as both a judge and your work in the community, do you believe judges should consider "their broader vision of what America should be" when deciding cases?**

   Response: I am not familiar with the context for the portion of the quote from President Obama and cannot comment on it. A judge can serve as a role model for the community. As a judge, I regularly engage with members of the community in Court: jurors, witnesses, litigants, attorneys, and the public. When adjudicating cases, a judge should rule objectively based on the law without bias, prejudice or sympathy.

2. **In *People v. Terrazas*, the jury found the defendant guilty of felony driving under the influence and causing injury to more than one individual. Despite that the jury found the defendant guilty of the felony plus one enhancement, you stayed the sentence of 3 years of state prison with an additional year for the enhancement. Please explain your rationale for this decision.**

   Response: My sentencing decision was consistent with the sentencing factors set forth in California statutes and the recommendation of the Court's Probation Department. In this case, significant credible evidence existed of the defendant's history of mental illness. The sentence imposed on the defendant, who was a daughter of a Vietnam veteran and had earned a master's degree, owned her own home and had a history of employment, allowed for lengthier monitoring than incarceration would allow and required treatment in a residential, non-release mental health facility after a year of incarceration. This approach, in light of the circumstances, more effectively promoted the goal of protecting society than the alternative.

3. **Please explain your view of sentencing, and if confirmed, what deference will you give federal Sentencing Guidelines?**

   Response: I use state sentencing guidelines in my criminal sentencing decisions. Federal Sentencing Guidelines represent the reasoned deliberative analysis of a commission whose goal was to establish more uniform sentencing. I commend this goal and, if I am fortunate enough to be confirmed, would use Federal Sentencing Guidelines to guide my decisions.

4. **What is the most important attribute of a judge, and do you possess it?**

   Response: The most important attribute of a judge is an unwavering commitment to adjudicate all cases fairly, based on the law and in a timely manner. I believe I possess this attribute.

5. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: Given the myriad roles and challenges a judge faces, the elements of judicial temperament are broad. Those most important include: integrity; an unwavering commitment to render justice without bias or delay; intelligence; knowledge of and ability to apply the law; respect for the parties, the attorneys, and the litigation process; humility, patience and open-mindedness; a vigorous work ethic; and the capacity to manage large caseloads effectively. I believe I do possess a strong judicial tempermant.

6. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

7. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: In deciding cases of first impression, my goal is to reach a reasoned decision based on an unbiased view of the case and relevant law. I would look to the plain language of the statute, regulation or constitutional provision, if one is at issue. If not clear, I would also consult the legislative history, if it exists, trends of precedent in similar situations, and reasoned analysis from other jurisdictions in the United States.

8. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I would apply the precedent of the decisions of the Supreme Court and the Circuit Court in which I sit.

9. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

   Response: In the first instance, I would follow the canon that statutes should be construed to avoid constitutional questions with care not to rewrite the statute. I am further bound and would follow the precedent set forth in U.S. v Morrison, 529 U.S. 598, 607 (2000) in which the Supreme Court articulated the longstanding principle that "[d]ue respect for the decisions of a coordinate branch of Government demands that we

invalidate a congressional enactment only upon a plain showing that Congress has exceeded its constitutional bounds."

10. As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?

Response: I currently manage a docket of over 550 cases successfully. I would use the same skills to manage a federal docket. These include: a dedication to hard work; active management of the pace of litigation; prompt, sound and reasoned rulings; formal and informal access to the court; steadfast requirement of professionalism from attorneys; and active communication with the parties to determine the most efficient path to resolution without sacrificing the rights of the parties.

11. Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?

Response: Yes. I would manage cases through early and substantive case management conferences, early mediation and/or settlement conferences after initial stages of discovery, and the scheduling of firm trial dates, which will trigger other deadlines. I would also consult with other federal judges regarding best practices so that I could employ those with respect to my own caseload.

12. Please describe with particularity the process by which these questions were answered.

Response: I received the questions from a representative of the Department of Justice (DOJ) on Wednesday, July 20, 2011. After reflection, I drafted my responses and I discussed these responses with the DOJ representative. I finalized my responses on Thursday, July 21, 2011 and then asked the DOJ representative to forward my responses to the Senate Judiciary Committee.

13. Do these answers reflect your true and personal views?

Response: Yes.

Responses of Scott W. Skavdahl
Nominee to be United States District Judge for the District of Wyoming
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: A judge's most important attribute is fidelity to the law. I possess this attribute and have previously demonstrated it in those decisions I rendered as a Wyoming District Court judge.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: The appropriate temperament of a judge should include qualities that instill confidence, trust and faith in the integrity of our legal system. To that end, elements of judicial temperament that I would consider most important include patience, humility, impartiality and respect for the parties and the rule of law. I believe I possess the elements necessary for appropriate judicial temperament.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If faced with a case of first impression I would first look to see if there are any decisions from the Supreme Court or the United States Court of Appeals for the Tenth Circuit that may provide persuasive guidance and reasoning, indicating the likely disposition to be reached. I would also consider as persuasive any district court decisions within the Tenth Circuit that have analyzed the same or analogous issue as well as any decisions from federal Courts of Appeals. To the extent the issue involved a statute, I would look first and foremost to the statute's text, giving plain and ordinary meaning to the words used and the order of their placement.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

Response: I would apply the binding precedent of the Supreme Court or the United States Court of Appeals for the Tenth Circuit regardless of my belief or personal views.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: A federal court should only declare a statute enacted by Congress unconstitutional if the presumption of constitutionality has been overcome, based upon a clear violation of a constitutional provision or if Congress exceeded its authority as set forth in the Constitution. In considering any constitutional challenge to a statute enacted by Congress the court would also apply the Supreme Court precedent relating to any implicated constitutional text.

7. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: If I were to be confirmed as a district court judge I would utilize the District of Wyoming's electronic case management system to verify that cases are progressing efficiently and that pending matters are being dealt with promptly. I would make sure that a pretrial scheduling order is entered promptly for each case setting forth clear rules and deadlines for the case progression to trial and hold the parties, counsel and the court to those deadlines, absent extraordinary circumstances. I would also hold bi-weekly meetings with my judicial staff to identify any cases that are not progressing according to schedule or that have any pending matters that are delaying case progression and set deadlines to resolve those matters. I would also consider holding status conferences or requesting the assistance of the magistrate judge to address any discovery matters that may be delaying case progression.

8. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Judges play a critical role in controlling the pace and conduct of litigation. If confirmed, I would utilize those techniques as set forth in my response to Question No. 7. I would further note that my past experience has been that a trial court's reputation for holding fast to deadlines and timely rendering decisions on pending motions plays a significant role in getting matters to resolution, by way of settlement or trial. Thus, establishing internal deadlines and a tickler system to make sure those deadlines are met would be important.

9. **Please describe with particularity the process by which these questions were answered.**

Response: I read through the questions carefully and then drafted my initial responses on my computer. I then reviewed my initial responses for accuracy and completeness. I

then sent my answers to the Office of Legal Policy for submission back to the Committee.

10. Do these answers reflect your true and personal views?

Response: Yes.

SUBMISSIONS FOR THE RECORD

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa G. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephan Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Edith R. Matthai
Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION
Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 12, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Richard G. Andrews To the United States District Court for the District of Delaware

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Richard G. Andrews who has been nominated for a position on the United States District Court for the District of Delaware. As a result of our investigation, a substantial majority of the Committee is of the opinion that Mr. Andrews is "Well Qualified". A minority of the Committee is of the opinion that Mr. Andrews is "Qualified" for the position.

A copy of this letter has been provided to Richard G. Andrews.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Richard G. Andrews
The Honorable Robert F. Bauer
Michael Zubrensky, Esq.(via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 12, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon. Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

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Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5136

FIRST CIRCUIT
Lisa G. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth E. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Horn
One Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
101 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4060
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Herring Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Eden R. Marshall
Suite 1500
300 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1202
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
420 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION
Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 19, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Morgan Christen
To the United States Court of Appeals
for the Ninth Circuit

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Morgan Christen who has been nominated for a position on the United States Court of Appeals for the Ninth Circuit. As a result of our investigation, the Committee is of the unanimous opinion that Justice Christen is "Well Qualified" for the position.

A copy of this letter has been provided to Morgan Christen.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Morgan Christen
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

May 19, 2011
Page 2

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 19, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

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Lisa L. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 3300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4006
950 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Landeman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Joanne M. Garvey
17th Floor
4 Embarcadero Center
San Francisco, CA 94111-4158

Alan Van Etten
Suite 700
820 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2325

ELEVENTH CIRCUIT
Ramon A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2719

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 L Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
456 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
cardmand@staff.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

April 20, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of The Honorable Sharon L. Gleason
To the United States District Court
for the District of Alaska

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of The Honorable Sharon L. Gleason who has been nominated for a position on the United States District Court for the District of Alaska. As a result of our investigation, the Committee is of the unanimous opinion that Judge Gleason is "Well Qualified" for the position.

A copy of this letter has been provided to The Honorable Sharon L. Gleason.

Sincerely,

Benjamin H. Hill, III
Chair

cc: The Honorable Sharon L. Gleason
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on April 20, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa C. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Reba L. Kaufman
60 East 42nd Street
New York, NY 10165-0021

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
101 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
6th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Edith R. Matthai
Suite 1560
300 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
820 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moseley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4456

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 10, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Yvonne Gonzalez Rogers
To the United States District Court
for the Northern District of California

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Yvonne Gonzalez Rogers who has been nominated for a position on the United States District Court for the Northern District of California. As a result of our investigation, the Committee is of the unanimous opinion that Judge Gonzalez Rogers is "Qualified" for the position.

A copy of this letter has been provided to Yvonne Gonzalez Rogers.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Yvonne Gonzalez Rogers
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

May 10, 2011

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 10, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

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26 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
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Detroit, MI 48226

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Des Moines, IA 50309-4013

NINTH CIRCUIT
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17th Floor
4 Embarcadero Center
San Francisco, CA 94111-4158

Alan Van Etten
Suite 200
850 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-2225

ELEVENTH CIRCUIT
Ramon S. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Cynthia H. Williams
725 12th Street, N.W.
Washington, DC 20005-3901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 15th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
438 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
cardmand@mail.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

February 17, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Scott W. Skavdahl
To the United States District Court
for the District of Wyoming

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Scott W. Skavdahl who has been nominated for a position on the United States District Court for the District of Wyoming. As a result of our investigation, the Committee is of the unanimous opinion that Mr. Skavdahl is "Well Qualified" for the position.

A copy of this letter has been provided to Scott W. Skavdahl.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Scott W. Skavdahl
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 (**via email**) on February 17, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

Anchorage Association of Women Lawyers
c/o Christine Williams

July 8, 2011

VIA FACSIMILE
(202) 224-9516

Senator Patrick J. Leahy
Chairman, Senate Judiciary Committee
437 Russell Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Leahy:

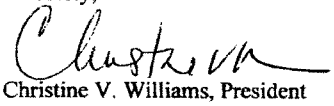
On behalf of the Anchorage Association of Women Lawyers ("AAWL"), I am pleased to write to you to you in your capacity as a member of the Senate Judiciary Committee. Alaska Supreme Court Justice Morgan Christen has been nominated for a position on the Ninth Circuit Court of Appeals. She is scheduled to come before the Senate Judiciary Committee for hearing on July 13, 2011. We write to strongly endorse Justice Christen and ask that you give her your favorable consideration.

AAWL is dedicated to advancing excellence in the practice of law and works tirelessly to ensure diversity in the legal profession. Justice Christen has been instrumental to the growth and advancement of AAWL over the years, contributing her time and leadership ability to advance our growth and success. More importantly, in her role on the bench and in the community Justice Christen has served as a role model and inspiration for practicing lawyers to achieve their best, and for aspiring lawyers of all backgrounds to believe that with hard work, devotion and perseverance barriers can be overcome.

Justice Christen, as we are sure you have heard from many sources, exemplifies the qualities required of a Federal Circuit Court of Appeals judge – superb intellect and experience, integrity and fairness, and a fine judicial temperament. As importantly, Justice Christen has been a pillar of her community, devoting countless hours to numerous charitable organizations and being justly recognized for her service with many awards.

We strongly support the appointment of Justice Christen to the Ninth Circuit, thereby demonstrating the Administration's commitment to both the selection of exceptional Federal judges and to diversity and equality on the Federal bench. AAWL thanks you for your time and for your consideration of its views in this very important selection process.

Sincerely,



Christine V. Williams, President
Anchorage Association of Women Lawyers

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Andrea VanLeesten
Black Women Lawyers Association of Los Angeles

Refer Claire Vermillion
Long Beach Women Lawyers

CALIFORNIA
WOMEN
LAWYERS

Renée Calta
Executive Administrator

Executive Office
650 Howe Ave. Suite 1050
Sacramento CA 95825
Tel. (916) 646-3114
Fax (916) 646-6469
Email: info@cwl.org
www.cwl.org

June 7, 2011

Patrick J. Leahy
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Support of the Confirmation of Yvonne Gonzalez-Rogers for the U.S. District Court for Northern California

Dear Senator Leahy:

The California Women Lawyers strongly supports the confirmation of Ms. Yvonne Gonzalez Rogers for the U.S. District Court for Northern California. Judge Gonzalez Rogers has a sterling reputation as an attorney and as a jurist in the State of California. Judge Gonzalez Rogers is known and respected for her superior intellect and her ability to quickly assess even the most complex of issues. She is thoughtful and analytical which has served her very well in the fair and efficient administration of justice.

Judge Gonzales Rogers has a very broad range of experiences which make her the perfect candidate for the Northern District Court. From her humble beginnings to her very impressive college and law school careers, Judge Gonzalez Rogers has succeeded at each goal she set in attaining her position as a prominent attorney in a major law firm. When Judge Gonzalez Rogers took time away from the full-time practice of law to devote her primary attention to her family, she volunteered in her community, including working on school bond issues, serving on the Alameda County Grand Jury and assisting bar organizations, including the Women Lawyers of Alameda County, with strategic planning and membership development. Her commitment to the community and particularly to the advancement of women in the legal profession has been demonstrated repeatedly and consistently.

Judge Gonzalez Rogers was appointed to the Alameda County Superior Court judiciary and hit the ground with all of her mite. Her superior intellect has aided her well as she quickly distinguished herself as a fair and impartial jurist. Judge Gonzalez Rogers became the "go to" judge and known as a hard worker whose work ethic is of the highest caliber. She is a true leader in the judicial realm and without question, these attributes will serve her well as a Federal Judge.

Judge Gonzalez Rogers is a true role model for women, and for women of color as we all strive to achieve equal access and treatment in our chosen profession. Judge Gonzalez Rogers has also demonstrated an understanding of the enormous responsibility and power of the judiciary and a sensitivity as to how her crucial decisions affect the safety, well-being and protection of our citizens.

She is a true role model for women, and for women of color as we all strive to achieve equal access and treatment in our chosen profession. Judge Gonzalez Rogers has also demonstrated an understanding of the enormous responsibility and power of the judiciary and a sensitivity as to how her crucial decisions affect the safety, well-being and protection of our citizens.

For more than 35 years, the California Women Lawyers has served as the voice for more than 3,000 women attorneys and judges in the State of California. It is with that voice that we express our support for the confirmation of Judge Yvonne Gonzalez Rogers for the United States District Court of Northern California. We urge you and the Congressional leadership to confirm Judge Gonzalez Rogers as quickly as is practical.

We request that our Letter of Support be entered into the Confirmation Hearing Record. If we can be of any further assistance, please do not hesitate to contact us.

Sincerely

Patricia Sturdevant

Patricia Sturdevant
President
California Women Lawyers

Cc: Senator Dianne Feinstein
Senator Barbara Boxer

FOR RELEASE: July 13, 2011
CONTACT: Emily Spain (202) 224-2441

U.S. SENATE COMMITTEE ON THE JUDICIARY

HEARING: "Nominations"

Statement of Senator Tom Carper
As prepared for delivery

Last year, I was pleased to provide the President with the names of three superbly qualified Delawareans for him to consider for the open seat on the United States District Court in Delaware. Any one of them would have made an excellent addition to the Court, and all of them uphold the high regard in which this court is held.

The President has made a strong choice in nominating Richard G. Andrews for this judicial appointment.

Our country is fortunate that someone with his outstanding credentials has stepped forward to do this critical work. Richard Andrews' education, background and legal experience make him superbly qualified for this position.

As a student at Haverford College, Rich graduated with a Bachelor of Arts in Political Science, after which he earned his law degree at the University of California at Berkley – where he served as Note and Comment Editor for the California Law Review. After law school, Rich Andrews launched his career as a Clerk for the Honorable Collins J. Seitz, chief judge of the Third Circuit.

Following his clerkship, for 23 years Rich served as a prosecutor in the United States Attorney's Office in Wilmington – serving in a number of high-profile positions and eventually rising to the position of Assistant U.S. Attorney. In addition, on three separate occasions, he stepped-up to serve as acting U.S. Attorney when the incumbents had resigned. During his time with the United States Attorney's office, Rich prepared and prosecuted countless federal cases, and in so doing, gained wide-ranging trial experience that he will draw upon heavily while serving as District Court Judge.

Currently, Rich serves as the State Prosecutor for the Delaware Department of Justice, where he manages the Criminal Division, oversees more than 70 deputy attorneys general, and makes critical decisions about how to proceed in high-level criminal cases.

In his "free time," Rich has coached for the Concord Soccer Association of Delaware for more than a decade – and I understand that Rich also has spent the last 4 years grading answers for the Delaware Bar Exam.

STATEMENT FOR THE RECORD OF SEN. BARBARA BOXER
ON JUDGE YVONNE GONZALEZ ROGERS, JUDICIAL NOMINEE TO THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA
July 13, 2011

I want to congratulate Judge Yvonne Gonzalez Rogers and her family on this important day. I am proud to offer my strong support for her nomination to the U.S. District Court for the Northern District of California. Judge Gonzalez Rogers was recommended to the President by my colleague, Senator Feinstein, and will be a great addition to the federal bench.

Judge Gonzalez Rogers has been a skilled lawyer and judge during her career. After graduating from the University of Texas School of Law, she practiced complex civil litigation at Cooley Godward in San Francisco, becoming a partner at the firm in 1999. In 2008, she was appointed by then-Governor Arnold Schwarzenegger to the Alameda County Superior Court, where she currently serves. She has also served as Regional President for the Hispanic National Bar Association.

I urge the Senate Judiciary Committee to move swiftly to send Judge Gonzalez Rogers' nomination to the floor. Thank you.

State of Connecticut

HOUSE OF REPRESENTATIVES

STATE CAPITOL
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE LILE R. GIBBONS
ONE HUNDRED FIFTIETH ASSEMBLY DISTRICT
ASSISTANT HOUSE REPUBLICAN LEADER

37 SUNSET ROAD
OLD GREENWICH, CONNECTICUT 06870
TELEPHONE
HOME (203)637-0784
CAPITOL (860) 240-8700
TOLL FREE 1-800-842-1420
E-MAIL Lile.Gibbons@housegop.ct.gov

RANKING MEMBER
HUMAN SERVICES COMMITTEE

MEMBER
FINANCE, REVENUE AND BONDING COMMITTEE
TRANSPORTATION COMMITTEE

July 5, 2011

Senator Patrick J. Leahy, Chairman Senate Judiciary
437 Russell Senate Building
Washington, DC 20510

Dear Chairman Leahy:

I am writing to offer my enthusiastic support to the nomination of Alaska Supreme Court Justice Morgan Christen to the Ninth Circuit Court of Appeals in Alaska.

I have known Justice Christen for over seven years in our shared capacity as directors on the Rasmuson Foundation located in Anchorage, Alaska. When Justice Christen speaks in our foundation meetings, we directors listen as her comments are always concise, well-reasoned and thoughtful. She knows and understands the legal landscape and its ramifications in ordinary situations dealing with people, places and events. In short, Justice Christen is an exceptional colleague who is not only amiable and articulate but extremely helpful in moving the dialogue to a rational and cogent conclusion. It is an honor to have her serve on my family's foundation; I would serve with her in any capacity on any board!

As noted in Justice Christen's judicial record, she distinguished herself first in the private sector as an attorney and since 2001 as a judge in the Superior court, and most recently as a Justice in Alaska's Supreme Court. She was appointed to these judgeships by Democrat and Republican Governors, evidence of her political non-partisanship and her ability to be objective and unbiased in her decision making.

Justice Christen has high energy, high integrity, and high standards in both her personal and her professional life. She has and continues to serve on the boards of numerous non-profits and generally ends up chairing the committees on which she serves. Without a doubt, if her nomination were confirmed, Justice Christen would be an asset to the Ninth Circuit Court and will readily be a distinguished judge on this court.

I respectfully urge you to act in favor of Justice Morgan Christen's nomination to fill a vacancy on the Ninth Circuit Court of Appeals. Thank you for your attention on this matter.

Sincerely,

Lile R. Gibbons

Lile Rasmuson Gibbons

301 W. Northern Lights Blvd.
Suite 400
Anchorage, AK 99503

907.297.2700 *tel*
907.297.2770 *fax*
877.366.2700 *toll-free in Alaska*
rasmusonfdn@rasmuson.org *email*
www.rasmuson.org

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PRESIDENT
Diane Kaplan

July 11, 2011

The Honorable Patrick Leahy
Chairman, Senate Judiciary Committee
437 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

As you weigh the qualifications of candidates forwarded by President Barack Obama to fill a vacancy on the Ninth Circuit Court of Appeals, I want to offer my unqualified recommendation of Alaska Supreme Court Justice Morgan Christen.

Justice Christen is an accomplished Alaskan known for being fair and ethical. She has received broad support from the Alaska Native community, private sector leaders, law enforcement, the Alaska Bar, and leaders in both major political parties in every application and review process. Like all judicial candidates in Alaska, Justice Christen was subject to anonymous surveys conducted by the bi-partisan Alaska Judicial Council; she received the highest score of all candidates for the Alaska Supreme Court in each of the five categories surveyed, including professional competence, integrity, fairness, judicial temperament, and suitability of experience.

In addition to her unimpeachable professional attributes, Justice Christen has made it a point to travel all over Alaska. She knows its people, its history, and its diverse cultures. Further, she is engaged in her community and lives a life dedicated to public service. Among the awards she has received for her community service are the Chamber of Commerce Athena Award, Philanthropy Day Philanthropist of the Year, the YWCA Woman of Achievement Award, and the Light of Hope Award for her work on behalf of Alaska's children.

For the past six years I have had the pleasure of watching her work as a valued member of the Board of Directors of Rasmuson Foundation, a private family foundation dedicated to promoting a better life for Alaskans. I am proud to recommend her as one of the most extraordinary and talented women I have ever encountered.

Thank you for your consideration.

Regards,

Diane Kaplan
President

Statement Of Senator Patrick Leahy (D-Vt.)
Chairman, Senate Judiciary Committee
Hearing On Judicial Nominations
July 13, 2011

Today we will hear from five of President Obama's outstanding nominees for lifetime appointments to the Federal bench. The Committee welcomes Morgan Christen of Alaska, nominated to fill a judicial emergency vacancy on the Ninth Circuit; Scott Skavdahl, nominated to the District of Wyoming; Sharon Gleason, nominated to the District of Alaska; Yvonne Gonzalez Rogers, nominated to the Northern District of California; and Richard Andrews, nominated to the District of Delaware.

I thank Senator Coons for chairing this important hearing and for his strong support of the nominee from Delaware. I also thank our Ranking Member, Senator Grassley, for continuing to work cooperatively with me to schedule hearings on judicial nominations. With judicial vacancies remaining above 90 we have serious work to do both in Committee and in the full Senate to address this crisis that threatens to undermine the ability of courts to provide justice to Americans around the country.

Regrettably our progress in Committee considering judicial nominations in regular order has not been matched in the Senate, where agreements to debate and vote on judicial nominations have ground to a halt. Since May 17, two months ago, the Senate has been allowed to vote on only four judicial nominations at a time when vacancies have remained around 90. Before the Memorial Day recess I urged that the Senate take up and vote on the many consensus judicial nominations then on the calendar, as it traditionally has done before a recess. Republican Senators would not agree to consider a single one.

In June, I again urged the Senate to take steps to address the judicial needs of the American people by confirming the many qualified, consensus judicial nominations reported favorably by the Judiciary Committee. However, Republicans would consent to vote on only four judicial nominations during that month. Three of them were confirmed unanimously. In fact, one of the nominees we considered was, finally, the last of the judicial nominations that had been reported by the Committee last year that, in my view, should have been considered then. Left on the calendar throughout June and now halfway into July are 18 judicial nominations reported favorably by the Judiciary Committee, 15 of which were reported unanimously. These nominees, three of whom were reported unanimously at the beginning of April, and all of whom have been pending on the Senate's Executive Calendar for a month or more have the support of every Senator, Democratic or Republican, on the Judiciary Committee. They are by any measure noncontroversial and will, I expect, be confirmed unanimously when Republicans consent to have votes on them.

We continue to work hard to make progress in Committee. With cooperation, tomorrow the Judiciary Committee could report as many as 11 judicial nominations. These nominations will join the many already on the Senate's Executive Calendar in the coming weeks. As the number of judicial nominations pending before the Senate climbs well above 20, I hope Senators from both parties will join together to finally bring down the excessive number of vacancies that have

persisted on Federal courts throughout the Nation for far too long, and which have led the Chief Justice, the President, the Attorney General and judges around the country to urge the Senate to act.

From his first judicial nomination over two years ago, President Obama has worked with Democratic and Republican home state Senators to identify superbly qualified, consensus nominations. The first nominee appearing before the Committee today, Justice Morgan Christen, continues this practice. Both of Alaska's Senators, Republican Senator Lisa Murkowski and Democratic Senator Mark Begich support Justice Morgan's nomination, and are here today to introduce her to the Committee. Several Republican leaders from Alaska have also written to the Committee to express their support, including former Alaska State Senator Arliss Sturgulewski and the former Alaska Commissioner for Public Safety under Governor Palin, Walt Monegan. Connecticut State Representative Lile Gibbons, a Republican, has also written to the Committee to express her support.

Justice Christen is an experienced jurist who has served on Alaska's highest court for the past three years. She was nominated to that position by then-Governor Sarah Palin, and she is the second woman in Alaska's history to sit on its Supreme Court. Justice Christen previously served for seven years as a judge on the Superior Court for Alaska's Third Judicial District, three of those years as the Presiding Judge. She worked in private practice for 13 years in the Anchorage office of the law firm Preston, Gates & Ellis, clerked for Judge Brian Shortell of the Alaska Superior Court, and has demonstrated a deep commitment to her community throughout her career. If confirmed, Justice Christen will be the first woman from Alaska to serve on the United States Court of Appeals for the Ninth Circuit.

The second nominee from Alaska we will hear from today is Judge Sharon Gleason, who has been nominated to fill a vacancy on the District of Alaska. Since 2001, Judge Gleason has served as a judge on the Superior Court for Alaska's Third Judicial District, for the past two years as Presiding Judge. Prior to joining the bench, Judge Gleason spent 17 years in private practice, before that clerking for Chief Justice Edmond Burke of the Alaska Supreme Court. In addition to her distinguished legal career, Judge Gleason has played clarinet in the Anchorage Symphony Orchestra for over 25 years. Like Justice Christen, Judge Gleason has the bipartisan support of both of Alaska's Senators. If confirmed, she will be the first woman to serve as a Federal district court judge in Alaska.

Judge Scott Skavdahl is another outstanding consensus nominee who has the support of his two home-state senators, Republican Senators Enzi and Barrasso. Judge Skavdahl is nominated to the District Court for the District of Wyoming, where he is currently serving as a magistrate judge and where he previously served as a law clerk for the judge whom he is now nominated to replace, Chief Judge William Downes. Prior to his Federal appointment, Judge Skavdahl spent eight years as a state court judge for the Seventh Judicial District of Wyoming and worked in private practice in the Wyoming law firms Williams Porter P.C. and Brown & Drew LLP. Born in Lincoln, Nebraska, Judge Skavdahl received his bachelor's degree and his law degree from the University of Wyoming, where he played varsity football as an undergraduate.

Judge Yvonne Gonzalez Rogers is nominated to the Northern District of California. Since 2008, she has served as a judge for the Superior Court of California in Alameda County. She previously served for two years as a civil grand juror for Alameda County, and worked for 12 years as a litigator in private practice in the San Francisco office of Cooley LLP. Judge Gonzalez Rogers currently sits on the Council of the American Law Institute, where she has participated in the efforts to develop Restatements of the Law for employment law, election law, and the model penal code. She is also a leader on education issues in her community, steering efforts to improve resources and funding for local schools in Piedmont, California. She has the strong support of both of her home state Senators, including Senator Feinstein, a member of this Committee who is here today to introduce the nominee.

Richard Andrews has dedicated his entire legal career to public service for the state of Delaware. He worked for 24 years as a Federal prosecutor in Delaware, rising through the ranks to become First Assistant U.S. Attorney and Chief of the Criminal Division. Mr. Andrews was also appointed to serve as the Acting U.S. Attorney for Delaware on three occasions, by Janet Reno, a Democrat, and by John Ashcroft, a Republican. In 2007, Mr. Andrews was appointed by Delaware Attorney General Beau Biden to serve as State Prosecutor and has been commended on numerous occasions for his skill and commitment to public service. Mr. Andrews also clerked for Chief Judge Collins Seitz of the United States Court of Appeals for the Third Circuit. He has the strong support of both Delaware Senators, Senator Carper, who is here to introduce the nominee today, and Senator Coons, who I again thank for chairing the hearing today.

I welcome the nominees and their friends and families to the hearing today.

# # # # #

Senator Patrick Leahy
437 Russell Senate Office Building
United States Senate
Washington, DC 20510

July 5, 2011

Re: July 13, 2011 Senate Judiciary Hearing

Dear Senator Leahy:

I am writing regarding the nomination of Alaska Supreme Court Justice Morgan Christen to the Ninth Circuit Court of Appeals. I have known Justice Christen for almost 20 years and know of no more qualified individual for that position. I am aware that others have concerns regarding Justice Christen's past service on the board of Planned Parenthood of Alaska. I would like to share a personal experience that speaks to that concern and affirms why she is exactly the right person to serve on the Ninth Circuit.

When I moved to Alaska in 1992 to become the Executive Director of United Way of Anchorage, Morgan was on a United Way Agency review panel. She also served on the board of Planned Parenthood of Alaska, a member agency of United Way. In 1992, Planned Parenthood of Alaska did not provide abortions. It did provide reproductive health services including birth control and education to prevent unwanted pregnancies. Had that organization managed a clinic that provided abortions, I do not think the United Way would have maintained its relationship.

In 1994, Crisis Pregnancy Center, a pro-life organization, approached the United Way to determine if it could also become a member agency of United Way. The mission of United Way is to connect people with diverse views through their desire to work together for the community. It was in that knowledge that I felt that United Way could maintain its relationship with Planned Parenthood as well as embrace Crisis Pregnancy Center as a member organization. However, as the Executive Director, I understood that the United Way board would need to approve such an association. To be successful, that effort would need a volunteer champion.

Morgan Christen was that champion. When I called Morgan to discuss this opportunity, she immediately saw how having Crisis Pregnancy Center join the United Way would better serve the community by bridging diverse viewpoints. Since Morgan served on the board of Planned Parenthood, her voice was the most effective to promote such a radical idea. Through her persuasion, Crisis Pregnancy was admitted as a member agency in 1994. The United Way of Anchorage was the first in the nation to successfully admit an organization based on pro-life values while maintaining an association with Planned Parenthood.

I frankly do not know Justice Christen's view on abortion, but what I do know is that she is an advocate for justice for all. I applaud her for being one of the most significant attorneys, judges, community leaders, philanthropists, friends, wives and mothers in Alaska and I strongly urge your support of her appointment to the Ninth Circuit Court of Appeals.

Dennis G. McMillian

Dennis G. McMillian

July 8, 2011

Senator Patrick J. Leahy
437 Russell Senate Office Building
United States Senate
Washington, DC 20510
Fax: 202-224-9516

Re: July 13, 2011 Confirmation Hearing for Justice Morgan Christen

Dear Senator Leahy:

My name is Walt Monegan, and I am writing to you in your capacity as a member of the Senate Judiciary Committee. Alaska Supreme Court Justice Morgan Christen has been nominated for a position on the Ninth Circuit Court of Appeals. She is scheduled to come before the Senate Judiciary committee for hearing on July 13, 2011. I write to strongly endorse Justice Christen and ask that you give her your favorable consideration.

By way of background, currently I head the Alaska Native Justice Center, but I have served in law enforcement/public safety for over 35 years. I have held the position of the Anchorage Police Chief for five and half years, and Alaska Commissioner of the Department of Public Safety for a year and a half under former Governor Sarah Palin.

Serving as the head of Alaska's two largest police agencies, there were many opportunities and challenges in addressing law enforcement/public safety issues that required working with our district's presiding judge; this is where I first came to know then Judge Christen. She recommended monthly meetings to maintain a comfortable and open level of communication. At one meeting when we had no pressing issues to discuss, Judge Christen insisted we walk through the remodeling of the courthouse seeking my input on the new designs in regards to courtroom safety and prisoner transportation. Compare that with the fact that I had met her predecessor once in my first three years as the chief of police. My point is that Justice Christen is not one who sits back and waits, she is engaged, proactive, and always seeks improvement.

A little research on Justice Christen will show that she certainly has distinguished herself as a judge. Just four years after she was appointed to the superior court by Governor Tony Knowles in 2001, she was promoted to the position of Presiding Judge of the state's largest judicial district. In this capacity she oversaw nearly 70% of the state's trial court caseload - and 40 judicial officers - while also handling her own caseload. In 2009, Justice Christen was appointed to the Alaska Supreme Court by Governor Sarah Palin as just the second woman to sit on Alaska's Supreme Court. In every application/retention process, Justice Christen has received broad support from leaders in both major political parties, law enforcement, the Alaska Native community, private sector leaders, and the bar.

Regarding community service, Justice Christen is a pillar of the Alaska community and has a long history of community service. Among the awards she has received for her community service are the Chamber of Commerce Athena Award, Philanthropist of the Year, the YWCA Woman of

Achievement Award, and the Light of Hope Award for work on behalf of Alaska's children. She currently serves on the boards of the Rasmuson Foundation and the Alaska Community Foundation. Justice Christen has been a Rotarian since 1992, and is a former Big Sister. Some of her professional service includes: Chair of the Admiralty Rules Revision Committee, Chair of the Child in Need of Aid Committee, President of Anchorage Association of Women Lawyers, Member of the Gender Equality Task Force, and Lawyer Representative for the Ninth Circuit Judicial Conference.

I could give additional and personal testimonials, such as: where she saw a problem outside of her branch of government that was about to cost the state in both time and money, she made a call that prevented it; or that she volunteered to join our city's task force on gangs to seek meaningful ways in which to address that issue. Or even when she took time out of her evening to speak to a class of young school teachers on how their efforts are vital to the success of the students they will someday teach; yet it is my intent to be somewhat brief in my request to you.

Given all this, it is my sincere wish that you now look upon her as I have for the past six years. Morgan Christen is not only our most qualified judge, she is also a remarkable and rare human being; gifted with intelligence and energy, guided by strong ethics and values, and has the grace to be professional and compassionate. I ask again for your favorable consideration in this important position; I ask it not only because of my obvious admiration of her abilities, but more from my belief that in this appointment, she will be given the opportunity to serve all of us to a greater extent.

Thank you for your time.

Respectfully,

Walt Monegan
Former Commissioner of Department of Public Safety, State of Alaska (2006-2008)
Chief of Police (ret.), Anchorage Police Department, Anchorage, Alaska (2001- 2006)

cc: Senator Begich
Senator Murkowski

ph. 907 793.3600
fx. 907 793.3602
web. CITCI.org

July 1, 2011

The Honorable Patrick J. Leahy
Chairman
Senate Judiciary Committee
United States Senate
224 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Leahy:

Alaska Supreme Court Justice Morgan Christen would be an excellent Judge of the United States Court of Appeals for the Ninth Circuit. She has my strong endorsement, and I encourage the U.S. Senate Judiciary Committee to look favorably upon her appointment.

I have worked with Justice Christen for several years on improving systems ranging from family services, to drug and alcohol abuse in Alaska, to looking at innovative methods to reintegrate incarcerated individuals into society once released from prison (through our Chanlyut program), and addressing other community issues related to Alaska Native people. She has always impressed me with her insight and balanced views. She is especially adept at evaluating complicated and complex situations, grasping the core matter at hand, and understanding what needs to be done in a fair and equitable manner. In her capacity as a state court judge, she led the Third District as Presiding Judge; there, she was not just a manager, but used her position to make real change in the Child in Need of Aid process for our vulnerable families and children. As a Supreme Court Justice, she has continued that drive toward court improvement by participating in a national effort to improve the child welfare process; I was honored to be part of a delegation with her in which we tackled these difficult issues and brought new ideas and solutions back to the state.

Justice Christen exemplifies the leadership and ability required for an Alaskan judge. As an officer of the court and as an individual Alaskan, she upholds her civic duty with humility and respect for those around her. She is a great public servant on both a professional or personal basis. She is an active and effective board member of the Rasmuson Foundation, and her contributions to our community have been recognized through many distinguished awards such as the Athena award, Philanthropist of the Year, Light of Hope Award, and Top 40 Under 40. She has earned the integrity and respect of her colleagues and those in the courtroom, consistently achieving top scores in the Alaska Bar survey for each of the judicial positions she has sought previously. Her reputation as an individual, attorney and then judge/justice is impeccable.

COOK INLET TRIBAL COUNCIL
3600 SAN JERONIMO DRIVE
ANCHORAGE, ALASKA 99508

The Honorable Patrick J. Leahy
July 1, 2011
Page Two

Alaska and this nation need more judges like Justice Christen whose professional dedication, intelligence and skills and striving for justice and equal treatment for those involved with the judicial system. In sum, her excellent credentials, her high ethical standards, her outstanding community service and her devotion to the law assure that Justice Christen will be an asset to the federal bench and will serve Alaskans with integrity and fairness.

Please feel free to contact me if I can offer any further assistance or information.

Sincerely,

Gloria O'Neill
President/CEO

cc: U.S. Senate Judiciary Committee members

COOK INLET TRIBAL COUNCIL
3600 SAN JERONIMO DRIVE
ANCHORAGE, ALASKA 99508

Arliss Sturgulewski

July 7, 2011

Senator Patrick J. Leahy
437 Russell Senate Office Building
United States Senate
Washington, DC 20510
Fax: 202-224-9516

Re: Justice Morgan Christen's July 13, 2011 Confirmation Hearing

Dear Senator Leahy:

I am writing to you in your capacity as a member of the Senate Judiciary Committee. Alaska Supreme Court Justice Morgan Christen has been nominated for a position on the Ninth Circuit Court of Appeals. She is scheduled to come before the Senate Judiciary Committee for hearing on July 13, 2011. I write to strongly endorse Justice Christen and ask that you give her your favorable consideration.

I have been an active volunteer and elected official since coming to Alaska in the early 50's. I was elected to the State Senate in 1978 and served 14 years as a Republican Senator from a midtown seat. In 1986 I ran as the first Alaskan woman to receive my party's nomination for Governor. I ran again in 1990 as the Republican Party's nominee. In addition, I have served as Chair of the Western Interstate Commission on Higher Education and advisor to the International Northern Pacific Fisheries Commission. I also served on the National Task Force on Aquaculture sponsored by the Pew Trust and Woods Hole Science Center. After retiring from the Alaska State Senate in 1992, I became active in University of Alaska issues, most particularly as advisor to the Chancellor (three in fact), as advisor to the Institute of Social and Economic Research, and as a member of the University of Alaska Foundation, as well as serving on many other boards and commissions.

It has been my privilege to know Morgan Christen since 1994. Some 15 of us, all Alaskans, belong to an informal group that every year takes a trip together around Alaska, to see this wonderful place in which we live. We've met and made friends who live in rural Alaska and all over this diverse and fascinating land. Over the years, I've come to know Morgan well. I am well aware of the great respect she enjoys from people from across the political spectrum. She has distinguished herself as a trial court judge and now as a member of the Alaska Supreme Court. Throughout her judicial career, she has received broad support from private sector leaders, law enforcement, the Alaska Native community and leaders in both major political parties. Morgan also has a long history of distinguished community service. She is a public servant in the best tradition.

Justice Christen would be a stellar addition to the Ninth Circuit Court of Appeals. She is highly regarded for her intelligence, her understanding and application of the law and her capacity to apply justice. She would bring integrity, self-discipline and professional competence to the bench. Thank you for your favorable consideration.

Sincerely,

Arliss Sturgulewski

Arliss Sturgulewski
Former Alaska State Senator

NOMINATIONS OF EDGARDO RAMOS, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; ANDREW L. CARTER, JR., NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; JESSE M. FURMAN, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; JAMES RODNEY GILSTRAP, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS; AND, JENNIFER GUERIN ZIPPS, NOMINEE TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

WEDNESDAY, JULY 27, 2011

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m., Room SD–226, Dirksen Senate Office Building, Hon. Charles E. Schumer presiding.

Present: Senators Franken, Kyl, and Lee.

OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. I welcome all the nominees who are here today, as well as the family and friends who have come to support them. And I want to thank Senator Kyl for serving as Ranking Member for this hearing.

I am pleased to open the hearing by recognizing the distinguished Senators from Texas, Senators Hutchison and Cornyn, who are here to introduce James Rodney Gilstrap, the nominee for the eastern district of Texas. Then Senator Kyl will introduce Jennifer Guerin Zipps, the nominee to replace Judge Roll, who was so tragically killed earlier this year—and I know he was a good friend of yours, Jon—in the district of Arizona.

And then I will introduce Andrew Carter, Jesse Furman, and Edgardo Ramos, all nominees for the southern district of New York.

So without further introduction, since they have been so patient and were actually pretty close to being on time, which does not happen that much, Senator Cornyn is surprised, I will call on Senator Hutchison, the senior Senator from Texas, first, to be followed by Senator Cornyn.

PRESENTATION OF JAMES RODNEY GILSTRAP, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS BY HON. KAY BAILEY HUTCHISON, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator HUTCHISON. Well, first of all, Mr. Chairman, thank you very much for holding this hearing. And it is a pretty quick turnaround for this nominee and we appreciate it, because we are in complete and full support of Rodney Gilstrap.

He has been nominated for the Federal district bench for the eastern district of Texas in Marshall. Although he was born in Pensacola, Florida, he came to Texas as soon as he could.

[Laughter.]

Senator HUTCHISON. Showing how smart he is. In fact, he is very smart. He attended Baylor University, where he graduated magna cum laude, with a bachelor of arts degree in religion.

Following his graduation, he continued his studies at Baylor Law School, where he was associated editor of the *Baylor Law Review* and received his jurist doctorate in 1981.

The start of his professional career took him to Marshall, Texas, where he resides today. He started as an associate attorney at the Abney, Baldwin & Searcy law firm in 1981 and then went out on his own to form the law firm Smith & Gilstrap in 1984.

In August of 1989, he was appointed county judge of Harrison County and was elected three times to serve starting in 1989 and then served until 2002.

He retired as county judge and returned to the private practice, Smith & Gilstrap, again.

He also has been dedicated to his community. In addition to serving as county judge, he was on the board for the Harrison County Historical Society, the United Way for Harrison County, and the Trinity Episcopal Day School, and, also, served as the Caddo district's Chairman for the Boy Scouts of America.

He certainly is a renowned member of his community, and I will say that Senator Cornyn and I have tried as best we could to appoint people to Federal benches from the area in which they serve, because we think that is important.

He has his family. His wife, Sherry, is here and we are pleased to have her, and two children, Lauren, age 26, and son, Stephen, age 23.

Senator SCHUMER. If you would please stand so we can just greet you and say hello. Welcome.

Senator HUTCHISON. We recommend him highly, and he was recommended from all sectors of the community and the State Bar of Texas, and we look for his early confirmation.

Thank you very much, Mr. Chairman.

Senator SCHUMER. Thank you, Senator Hutchison.

Senator Cornyn.

PRESENTATION OF JAMES RODNEY GILSTRAP, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS BY HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator CORNYN. Thank you, Mr. Chairman.

I am pleased to join Senator Hutchison in recommending Rodney Gilstrap to serve as United States District Judge for the Eastern District of Texas in Marshall.

Senator Hutchison and I have been honored to appoint a bipartisan judicial evaluation Committee that we believe works very well to help us recommend the best and the brightest people to serve in these important jobs, and, certainly, Mr. Gilstrap is no exception.

Based on his broad experience and his commitment to public service, he has earned the support of people of all political stripes in east Texas and around our great state, and I am convinced he will be an outstanding addition to the bench.

Just because I think it is important, because as you know, in addition to being a recovering lawyer, I am also a recovering judge, I just want to say something about Mr. Gilstrap's practice in the legal profession.

He has been an active lawyer in the general civil practice since 1981 and represented a wide variety of clients. I think that is really important, because judges, people who sit in judgment should be people who understand what it takes to be an effective advocate in our adversary system in a court of law.

Also, because I know it is a little different in every state, Mr. Gilstrap's service for 13 years as a county judge is something I just want to mention. This is, in many ways, sort of an administrative position, but in many counties, particularly rural counties, includes some judicial responsibilities, hence, the name county judge.

So he has had broad experience both in the practice of law, as well as in public service, as I say. And I understand we have had his family introduced, his wife, Sherry; his daughter, Lauren; and, I do not recall whether Senator Hutchison mentioned that or not, but I understand Stephen is unable to be here today because he is actually taking the bar exam. Is that right? Our sympathies go out to him.

[Laughter.]

Senator SCHUMER. We wish him a bipartisan good luck.

Senator CORNYN. Thank you very much, Mr. Chairman. We heartily recommend Mr. Gilstrap.

Senator SCHUMER. Thank you both, Senators Hutchison and Cornyn. And I know you have busy schedules. So if you have to be on your way, we understand that.

Now, Senator Kyl has graciously agreed, even though he is the Ranking Member of this hearing, to allow Senator McCain to make the first introduction of Jennifer Guerin Zipps.

PRESENTATION OF JENNIFER GUERIN ZIPPS NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA BY HON. JOHN MCCAIN, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator MCCAIN. Well, thank you, Mr. Chairman.

I am, obviously, pleased and proud to join my friend, Senator Jon Kyl, in introducing to the Committee a fine Arizonan, Judge Jennifer Guerin Zipps.

Judge Zipps was nominated by the President and, obviously, supported by Senator Kyl and me to fill the seat left vacant by the untimely death of Chief Judge John Roll. I do not have to remind the Chairman of the tragedy in Tucson and the sad passing of Judge John Roll in that terrible event.

I know that Judge Zipps shares my admiration for Judge Roll and appreciates the legacy of the seat she is to fill.

The district of Arizona has currently been declared a judicial emergency. That is a rare declaration by Federal court officials. Nowhere is this felt more than in the Federal courthouse in Tucson, which hears more immigration cases than any other courthouse in America. That is why we would be very appreciative of an expeditious and rapid confirmation of Judge Zipps, because of the judicial emergency that exists.

And no one understands that better or appreciates it better than Judge Zipps, because she currently sits as a magistrate in Tucson and routinely hears initial appearances as part of Operation Streamline for up to 70 defendants at a time—70 defendants at a time—who are charged with illegal entry.

Due to her ability to handle such a heavy caseload, her fidelity to the law and her intellectual curiosity, I know Judge Zipps will be an asset to the bench and I hope the Committee, as I mentioned, will swiftly vote to confirm her nomination.

She is originally from Ashland, Ohio, but like a lot of people, came to Arizona to attend the University of Arizona, and then took a short departure from Tucson to attend Georgetown Law Center.

She then returned to work as a litigator for 4 years before beginning her public service in 1999 as a Federal prosecutor, until her appointment to the bench in 2005.

She is imminently qualified. I am proud to support her, and welcome her father, James Pifer, her husband, David, and three children, Renee, James and Michael here before the Committee today. They are very proud of her.

Senator SCHUMER. I would ask you to stand so (off microphone.] Welcome, and congratulations.

Senator MCCAIN. We are extremely proud of her and the great work that she has done under very difficult conditions.

I wish that every member of this Committee could attend her court every workday where there is a minimum of 70 defendants all addressed at one time. It is a very unusual kind of judicial situation. She handles it with skill and efficiency and fairness.

I thank you very much, Mr. Chairman, for allowing me these moments to introduce her.

Senator SCHUMER. Thank you, Senator McCain.

And now we will hear from the Ranking Member of the Judiciary Committee panel today, Senator Kyl.

PRESENTATION OF JENNIFER GUERIN ZIPPS, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA BY HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator KYL. Thank you, Mr. Chairman.

I thank my colleague, Senator McCain. He and I have had the good fortune to be able to nominate or help in the nomination of a lot of people to Arizona courts, since we have had vacancies and we also, as he mentioned, have a very large caseload there.

So we have had the opportunity to add some judges, and I do not remember any of them that had any greater acceptance within the bar and bench community than the nomination of Judge Zipps.

I will not repeat all of the things that Senator McCain has said about her background. I will confess a little conflict of interest. Her daughter, Renee, and my granddaughter, Francis, went to high school together, Mr. Chairman. I attended a graduation ceremony where her daughter, Renee, made a very fine presentation. So I am a little bit biased for Jennifer and her family.

And I would also note that it is not always that our nominees receive unanimous well qualified, the highest commendation from the Bar Association. Judge Zipps received that highest, well qualified unanimous rating, and I think it demonstrates how her colleagues in the bench and bar in Arizona feel about her.

Just a couple of things in her experience that Senator McCain did not mention. She clerked on the ninth circuit court of appeals for Judge Canby, a respected Arizonan on the ninth circuit.

As he mentioned, she was an assistant U.S. attorney in the office there in Arizona, and she rose to be the chief of the civil division, for the last 3 years, was the chief assistant in the office.

I would like, Mr. Chairman, to put into the record a list of many of her memberships, activities and awards. So that I will not mention them here, but would ask that they be placed in the record with my comments.

Senator SCHUMER. Without objection.

[The information referred to appears as a submission for the record.]

Senator KYL. Mr. Chairman, I think that Senator McCain made all of the other points that I would want to make here. It is important, as he said, that we move these confirmations as quickly as possible because of the very, very large hole that the death of John Roll left in our court system in Tucson and the very large caseload that we have there.

We are both very proud to support Judge Zipps in her nomination here today.

PRESENTATION OF ANDREW L. CARTER, JR., NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; JESS M. FURMAN, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK; AND EDGARDO RAMOS, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK BY HON. CHARLES SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator SCHUMER. Thank you very much, Senator Kyl. And you have—we were all taken by the tragedy, the horrible tragedy in Arizona and, of course, the murder of Judge Roll, and I do want to let the people of Arizona know, Senator Kyl let us all of us know what a fine person he was in the weeks after and I will remember your comments about him.

Well, now it is my honor. We have a majority of the five nominee that are nominated to the New York bench. I am very proud of that. I take a lot of time and effort into choosing nominees to the bench, and I have three criteria, actually, when I try to choose judges and they have stuck with me since I became a Senator in 1999—recommend judges, is the better word, to the President for nomination.

They are excellence, moderation and diversity; excellence meaning legal excellence. We try to find people who have great legal minds, not people who have great political connections.

Second, moderation. I do not like to choose judges too far right. That comes as no surprise. I also do not like to choose judges too far left, because I think judges who are at the extremes tend to want to make law rather than interpret law.

And, third, moderation. Once the first two criteria are met, I always look to try to make the bench as diverse as possible. I believe that is a hallmark of America. And I am proud to say that the panel, as a whole, meets all three criteria today.

So let me be brief in my introductions, because we do want to get four, and since we have three, I will ask the entire statement I will submit to the record for each and just be a little briefer.

But the one thing I want to point out here before I introduce Judge Carter is one of the great things we have had in New York is people from all over the country are flocking to New York. Our population went up between 1990 and 2010 by 1.5 million people, approximately, and many of them were some of the best and brightest and hardest working people from around the country who flocked to New York, and many of those in the legal profession.

And one of those is Mr. Carter. He is from Albany—Albany, Georgia, unfortunately. But after graduating from the University of Texas at Austin and receiving his J.D. from Harvard Law School, he came to New York. And after law school, he worked for 2 years at the Ford Foundation and then became a public defender in the New York courts, both State and Federal.

He spent 9 years at the New York Office of Legal Aid Society, and then 4 years at the Federal Defenders of New York.

Since 2009, he has served as a magistrate judge, just like one of our other nominees, Magistrate Zipps from Arizona, and that is great training. It is great training to be a judge when you are an outstanding magistrate.

He was selected by the vote of the sitting district judges to be it, and, as I said, I believe he exemplifies all three of the qualities I mentioned and will be a terrific addition to the southern district bench.

Next, we have Jesse Furman. He was born in New York City. He graduated summa cum laude from Harvard College and received his law degree from Yale Law School. He then served as a law clerk to then Judge Michael Mukasey in the southern district of New York, to Judge Jose Cabranes of the second circuit, and, finally, to Justice David Souter on the U.S. Supreme Court.

He spent several years as an associate at the law firm of Wiggin & Dana, and took some significant time off to care for his first two children when they were infants. Since 2004, he has been a Federal prosecutor in the southern district and deputy chief appellate attorney since 2009.

The southern district is another great training place for a judge and it is just the quality of people are impressive and when you talk to people in the southern district and ask for the two or three top names in that district, the name of Jesse Furman almost always pops up.

He has a stellar record of academic and professional excellence. He has experience in both the public and private sectors. Many of the nominees we have specialize in civil or criminal. He has had great experience in both.

So he is an extremely impressive nominee. I was proud to recommend him and look forward to his continued service to our country from the Federal bench.

Finally, I am also very pleased to introduce to the Committee Edgardo Ramos, another nominee for the bench in the southern district of New York. Now, Mr. Ramos is the quintessential example of the American dream. He was born in Puerto Rico, one of seven children raised by a single mom in Newark, New Jersey, which is almost part of New York. So we are not saying you came from far away.

He excelled in school. He struggled. He worked hard. And he earned his bachelor's degree from Yale, his law degree from Harvard. After graduating, he was an associate at the very prestigious firm of Simpson, Thatcher & Bartlett. He then served for 10 years as an assistant U.S. attorney in the eastern district of New York, another one of these districts where the prosecutors are just top, top notch. And just as Senator McCain mentioned the Arizona, the Tucson district focuses on immigration, the eastern district I think probably does more drug prosecutions than just about any other, and because of the airports that are both in its jurisdiction and lots of, unfortunately, gangs and things like that.

Anyway, he was deputy chief of the narcotics section, which, again, is great training. And then he became a partner in the law firm of Day Pitney. He has also dedicated significant time to public service. He was appointed by Mayor Bloomberg to the New York City Commission to combat police corruption. He is vice president of the nonprofit organization ASPIRA, which provides Latino high school students with community leadership curriculum.

He has deserved an outstanding reputation among his fellow lawyers, prosecutors, judges, as well as in the Hispanic community, and I know he will make an excellent judge.

And I would just like to comment. I do not know the nominees from Texas and Arizona. Of course, I know the three from New York. But hearing about the five of you, at times like this when we worry about the future of America, when America can produce five people like you, the future is best—the best of America is yet to come. So welcome to all of you.

Now, we will ask all the nominees to come forward. You can see how good they are. Each sat by their name. It is very, very good.

Now, I am going to ask each of you to take the oath office. So would you please—sorry. We are going to swear you in. I heard Senators McCain and Kyl say we had to fill that vacancy quickly. So I am sort of jumping the gun.

[Laughter.]

Senator SCHUMER. Please stand to be sworn. Raise your right hands.

[Nominees sworn.]

Senator SCHUMER. Thank you. Please be seated.

Now, I did not introduce, unfortunately, the families of the three New York judges. So I would ask each of the nominees from New York to do that, and we will ask, after the introduction, each of the family members to stand.

So why don't we start with Mr. Ramos.

STATEMENT OF EDGARDO RAMOS, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Judge RAMOS. Thank you, Senator, and thank you for the opportunity to introduce my family. I am joined here today by my wife, Natalia Martin. She is very well known to no less than a half-dozen young individuals in this room as a result of her days as the dean of students at the Yale Law School.

I am also joined by my sons, Andres, 15 years old, and Alejandro, 14 years old. Also, Senator, I am one of eight children, not seven.

Senator SCHUMER. Excuse me. Hard to keep track when there are that many, right?

Mr. Ramos. Tell me about it. Unfortunately, only one could make it here today. She is Lourdes Paladino. With her is her daughter, my niece, Nicole Paladino, who is newly engaged.

I do have a brother who lives in the District of Columbia. However, he is away on business, unfortunately. However, his partner, John Cichello, is here and I thank him for that.

My sister-in-law, Linda Berbiya (ph); her daughter, my niece, Julia Martin; my good friend and partner, Mike Considine; and, I am told, although I haven't seen him, that my cousin, Francisco Ramirez, is here.

Senator SCHUMER. Will the greater Ramos family who was introduced please stand so we can acknowledge you and welcome you? Thank you for being here.

Mr. Carter.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Edgardo Ramos

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

   United States District Judge for the Southern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   Day Pitney LLP
   7 Times Square
   New York, New York 10036

   Residence: Norwalk, Connecticut

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

   1960; Ponce, Puerto Rico

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1984 – 1987, Harvard Law School; J.D., 1987

   1978 –1982, Yale College; B.A., 1982

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2002 – Present
Day Pitney LLP (formerly Day, Berry & Howard LLP)
7 Times Square
New York, New York 10036
Partner

1992 – 2002
United States Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Assistant United States Attorney

1987 – 1992
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Associate

Summer 1987
Bar/Bri Bar Review
415 Seventh Avenue
New York, New York 10001
Site Coordinator (work performed at Harvard Law School)

Summer 1986
O'Melveny & Myers LLP
400 South Hope Street
Los Angeles, California 90071
Summer Associate

Summer 1986
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Summer Associate

Summer 1985
Carpenter Bennett & Morrissey
Gateway Three
Newark, New Jersey 07102
Summer Associate

1982 – 1984
The Prudential Insurance Company of America
Prudential Plaza
Newark, New Jersey 07102
Management Intern, Prudential Management Training Program

Other Affiliations (uncompensated):

2009 – Present
Yale Latino Alumni Association
The Association does not have an address
Board Member

2007 – Present
John Jay College of Criminal Justice Pre-Law Institute
445 West 59th Street, Room 3110
New York, New York 10019
Advisory Board Member

2007 – 2009
Yale Latino Alumni Association of the Tri-State Area
The Association does not have an address
At-Large Board Member

2003 – Present
New York City Commission to Combat Police Corruption
17 Battery Place, Suite 327
New York, New York 10004
Commissioner

2002 – Present
Connecticut Hispanic Bar Association, Inc.
P.O. Box 230869
Hartford, Connecticut 06123
Board Member (2004 – Present)
Vice President (2002 – 2003)

1991 – Present
Aspira of New York, Inc.
520 Eighth Avenue, 22nd Floor
New York, New York 10018
Board Member

2004 – 2007
Puerto Rican Bar Association
303 Park Avenue South, #1405
New York, New York 10010
Board Member

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I registered for selective service upon turning 18.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Selected as a James W. Cooper Fellow of the Connecticut Bar Foundation in 2009.

   Recipient of the Director's Award for Superior Performance as an Assistant United States Attorney from the Executive Office for United States Attorneys in 1999.

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   American Bar Association

   Association of the Bar of the City of New York
   Municipal Affairs Committee (1990 – 1995)
   Criminal Law Committee (2003 – 2006)

   Connecticut Bar Association

   Connecticut Bar Foundation James W. Cooper Fellows Program, Fellow

   Connecticut Hispanic Bar Association
   Vice President (2002 – 2003)
   Board Member (2004 – present)

   Fairfield County Bar Association

   Hispanic National Bar Association
   Chair, National Finance Committee (2005 – 2008)

Lawyers Collaborative for Diversity, Inc.
Edwin Archer Randolph Diversity Award Committee (2007, 2009, 2010)

Minority Corporate Counsel Association
Scholarship Selection Committee (2009, 2010)

National Association of Criminal Defense Lawyers

New York City Bar Association

New York Hispanic Bar Task Force on Judicial Selection (2006 – 2007)

Puerto Rican Bar Association
Board of Directors (2004 – 2007)
Legislation Committee (2005 – 2006)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

State of New York, 1988
State of Connecticut, 2003

There has been no lapse in my membership in either state.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2006
United States Court of Appeals for the Second Circuit, 1994
United States District Court for the District of Connecticut, 2002
United States District Court for the Eastern District of New York, 1991
United States District Court for the Southern District of New York, 1990

There has been no lapse in my membership in any of these courts.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held.

Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Aspira of New York, Inc.
Vice Chair of Board of Directors (1991 – present)

Eastern District Association

John Jay College of Criminal Justice Pre-Law Institute
Advisory Board Member (2007 – present)

Latino Alumni Committee of the Harvard Law School Alumni Association (2005 – present)

New York City Commission to Combat Police Corruption
Commissioner (2003 – present)

New York State Attorney General-Elect Eric Schneiderman Transition Committee
Member (2010)

Norwalk YMCA (1997 – present)

U.S. Department of the Treasury Guidelines Working Group of Charitable Sector Organizations and Advisors (2003 – 2005)

Yale Alumni Schools Committee (2009 – present)

Yale Club of New York (2003 – present)

Yale Latino Alumni Association
Board Member (2009 – present)

Yale Latino Alumni Association of the Tri-State Area
At-Large Board Member (2007 – 2009)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

The Yale Club of New York did not allow women members prior to 1969. To the best of my knowledge, none of the other organizations listed above currently

discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

"U.S. Supreme Court Clarifies Proof Needed for Money-Laundering Convictions," *Day Pitney White Collar Quarterly Newsletter*, Spring 2008. Copy supplied.

With Jeffrey Plotkin, "Responding To SRO Market Surveillance Inquiries Into Potential Insider Trading," *The Metropolitan Corporate Counsel*, October 2007. Copy supplied.

With Lynn Baronas, Introduction to "Day Pitney Diversity Newsletter," *Day Pitney LLP*, April 2007. Copy supplied.

With Clifford E. Nichols III, "The USA Patriot Reauthorization Act, Treasury Guidelines, and Executive Order 13224: An Update on Implications for Grantmakers," *Legal Dimensions of International Grantmaking*, Issue 78, Third Quarter 2006. Copy supplied.

With Lynn Anne Baronas, "What Works: Ways to Increase Diversity at Law Firms," *The National Law Journal*, January 16, 2006. Copy supplied.

James E. Bowers, Edgardo Ramos, et al., "Organizational Sentencing Guidelines: The New Paradigm For Effective Compliance and Ethics Programs," *Briefly . . . Perspectives on Legislation, Regulation, and Litigation*, Volume 8, Number 11, November 2004. Copy supplied.

Contributor to article by Stanley Twardy Jr., "Hurricane Season; Weathering the Perfect Prosecutorial Storm," *D & O Advisor*, September 1, 2004. Copy supplied.

With Stanley Twardy, Jr., "Fighting on Several Fronts," *The National Law Journal*, July 19, 2004. Copy supplied.

Co-author, "Compliance Programs to Detect And Prevent Crime: Amended Federal Sentencing Guidelines," *DBH Alert*, June 7, 2004. Copy supplied.

Co-author, "Handbook on Counter-Terrorism Measures: What U.S. Nonprofits and Grantmakers Need to Know," produced for Independent Sector, InterAction

and the Council on Foundations under the auspices of the Day, Berry & Howard Foundation, March 15, 2004. Copy supplied.

With Robert Knuts, "Risky Business: Aiding and Abetting Another Company's Securities Violations," *Business Crimes Bulletin* Vol. 11, Number 2, March 2004. Copy supplied.

With Timothy R. Lyman, "Simpler Approaches to Cross-Border Giving through Domestic Collaborations: A Post-September 11 Update," *Legal Dimensions of International Grantmaking*, Special Insert, Second Quarter 2003. Copy supplied.

Please note that the White Collar and Internal Investigations Practice Group of Day Pitney LLP, of which I am a part, regularly publishes "Client Alerts" and "Quarterly White Collar Newsletters" that discuss topics of current interest in the field of white collar criminal law. When issued, those publications include the names of all of the partners in the White Collar Group. I have included here only those publications that I was personally involved in drafting.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I contributed to the following two New York City Bar Association reports:

> "Report and Recommendations of the New York Hispanic Bar Task Force on Judicial Selection," published in January 2007, produced by a Joint Task Force of the National Hispanic Bar Association, the Puerto Rican Bar Association, the Dominican Bar Association, and the Latino Lawyers Association of Queens County (New York).
>
> "Proposal for a Mayoral Initiative to Establish a Network for Preventing and Responding to Bias-Related Violence and Intimidation," published in *The Record of the Association of the Bar of the City of New York*, Volume 46, Number 8, by the Committee on Municipal Affairs, in December 1991.

I was a member of one of several committees of the New York City Bar Association that prepared the following report, though I played no role in its preparation:

> "Statement on Civil Commitment of Sex Offenders: Senate Bill S6325 and Assembly Bill A9282," *The Record of the New York City Bar Association*, Volume 61, Number 1, 2006.

I served on the Treasury Guidelines Working Group of Charitable Sector Organizations and Advisors. On June 20, 2003, one of the organizational members of the working group, the Council on Foundations, submitted comments to the Treasury Department on behalf of the Working Group. I did not participate in drafting those comments, but did participate in conference calls discussing the comments. Similarly, in March 2005, the Working Group issued a document entitled "Principles of International Charity." Copy supplied. I did not participate in drafting the document, but did participate in conference calls to discuss it.

In addition, since 2003, I have been the Commissioner for the New York City Commission to Combat Police Corruption. During that time, the Commission has issued several annual reports. Although I did not personally contribute to the preparation of these reports, I did review and approve them. They can be found at http://www.nyc.gov/html/ccpc/html/reports/reports.shtml#annual.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have not issued or provided any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, nor have I had others provide or issue any such testimony, statement or other communications on my behalf to public bodies or public officials.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have not delivered any speeches. While I have spoken on panels at various conferences on issues related to white collar criminal law, evidence, ethics, diversity in the legal profession and compliance in the field of international grantmaking, it has not been my practice to write my remarks out verbatim in advance or to maintain the notes that I may have prepared in advance of such talks. Where I have maintained copies of notes, powerpoint presentations, or transcripts, it is so indicated below and they are attached.

I have participated in the following panels and conferences:

January 11, 2011: I was part of a CLE panel at the United States Attorney's Office for the Eastern District of New York. The subject matter of the panel was conducting effective direct and cross examinations, and it was presented to recently-hired Assistant United States Attorneys and enforcement attorneys with the New York Office of the Securities and Exchange Commission. Powerpoint presentation supplied.

May 19, 2010, April 16, 2009 and April 22, 2008: I moderated panels sponsored by the Minorities in the Profession Committee of the New York City Bar Association. The substance of the presentations was why and how to apply to the Criminal Justice Act Panel. A list of questions that I used as moderator of the panels is supplied. I have no other notes, transcript or recording. The New York City Bar Association is located at 42 West 44th Street, New York, NY 10036.

April 23, 2010: I was part of a panel at the Annual CLE Conference of the American Bar Association Section of Litigation in New York City. The panel was entitled "Leveraging the In-House/Outside Counsel Relationship," and the substance of my remarks related to the increased use of alternative fee arrangements. I have no notes, transcript or recording. The American Bar Association is located at 321 North Clark Street, Chicago, Illinois 60654.

December 18, 2009: I was part of a CLE panel at the United States Attorney's Office for the Eastern District of New York. The subject matter of the panel was delivering effective summations and rebuttal summations, and it was presented to recently-hired Assistant United States Attorneys and enforcement attorneys with the New York Office of the Securities and Exchange Commission. I have no notes, transcript or recording. The Eastern District of New York is located at 271 Cadman Plaza East, Brooklyn, New York, 11201.

March 18, 2009: I was part of a panel that addressed law students at the University of Connecticut School of Law in Hartford, Connecticut entitled, "Preparing for a Tough Job Market." The panel was sponsored by the Office of Career Services at the University of Connecticut School of Law, The Crawford Law Association, the Connecticut Asian Pacific-American Bar Association, the South Asian Bar Association of Connecticut, and the Connecticut Hispanic Bar Association. I have no notes, transcript or recording. The University of Connecticut School of Law is located at 65 Elizabeth Street, Hartford, Connecticut 06105.

July 14, 2009: I was a guest speaker at the Legal Outreach Summer Law Institute at New York University School of Law. The Summer Law Institute is a five-week summer program for high school freshmen that seeks to inspire the students to strive for academic excellence and to pursue careers in the law. The substance of my remarks concerned the work of criminal prosecutors and defense lawyers. I

have no notes, transcript or recording. Legal Outreach is located at 36-14 35th Street, Long Island City, New York 11106.

May 2, 2008: I was part of a CLE panel at a conference of the National Association of Criminal Defense Lawyers in New York City. The panel was entitled "International Trade and Import-Export Law." The substance of the panel was the criminal enforcement of the U.S. export laws. Notes supplied.

April 4, 2008: I was part of a panel in Hartford, Connecticut sponsored by University of Connecticut Business School, Quinnipiac University School of Law, the Hartford Business Journal and the Center for First Amendment Rights, Inc., on the implications of the Patriot Act for business. The panel was entitled "Wanted Dead or Alive: Your Business Data. How the Federal Government Deputizes Business in the War on Terror." The substance of my remarks concerned the steps that businesses must take to be compliant with the USA Patriot Act and responding to National Security Letters. Notes supplied.

March 14, 2008: I was part of a CLE panel entitled "Anti-Money Laundering" as part of the Mid-Year Conference of the Hispanic National Bar Association in New York City. Handwritten notes supplied.

November 16, 2007: I served as Master of Ceremony for the Connecticut Hispanic Bar Association Awards Celebration Dinner. I have no notes, transcript or recording. The address of the Bar Association is P.O. Box 230869, Hartford, Connecticut 06123.

October 5, 2007: I moderated a CLE panel entitled "White Collar Crime: Determining the Appropriate Punishment for the Corporation and the Individual," as part of the Annual Conference of the Hispanic National Bar Association in San Juan, Puerto Rico. I have no notes, transcript or recording. The Hispanic National Bar Association is located at 1900 L Street NW, Suite 700, Washington, DC 20036.

June 17, 2007: I was part of a panel in the Bank Audit Committee Conference sponsored by Bank Director Magazine in Chicago, Illinois. The substance of the panel was "Emerging Governance and Regulatory Trends for Public Banks." I have no notes, transcript or recording. Bank Director Magazine is located at 201 Summit View Drive, Suite 350, Brentwood, Tennessee 37027.

November 8, 2006: I was part of a CLE panel at the 7th Annual Pathways to Diversity Conference of the Minority Corporate Counsel Association in New York City. The substance of the panel was creating effective diversity programs in law firms. I have no notes, transcript or recording. The Minority Corporate Counsel Association is located at 1111 Pennsylvania Avenue NW, Washington, DC 20004.

September 2, 2006: I presented the "Law Firm of the Year" award to Seyfarth Shaw LLP during the Annual Conference of the Hispanic National Bar Association in San Francisco, California. I have no notes, transcript or recording. The Hispanic National Bar Association is located at 1900 L Street NW, Suite 700, Washington, DC 20036.

August 31, 2006: I was part of a CLE panel entitled, "Life Under the Thompson Memo: KPMG and Beyond," during the Annual Conference of the Hispanic National Bar Association in San Francisco, California. I have no notes, transcript or recording. The Hispanic National Bar Association is located at 1900 L Street NW, Suite 700, Washington, DC 20036.

October 18, 2005: I was part of a CLE panel entitled "Securities Investigations," as part of the Annual Conference of the Hispanic National Bar Association in Washington, DC. I have no notes, transcript or recording. The Hispanic National Bar Association is located at 1900 L Street NW, Suite 700, Washington, DC 20036.

April 9, 2005: I was part of a panel at the University of Connecticut School of Law sponsored by the Hispanic National Bar Association and the Connecticut Hispanic Bar Association. The substance of my remarks concerned practicing law at large private law firms. I have no notes, transcript or recording. The Hispanic National Bar Association is located at 1900 L Street NW, Suite 700, Washington, DC 20036.

November 11, 2004: I was part of a panel at the Endowments and Foundations Symposium in New York City sponsored by the Institute for International Research. The panel was entitled "Guidelines to Funding International Activities." The substance of the panel concerned establishing effective internal controls to vet foreign recipients of funds to avoid liability with new IRS guidelines governing foreign organizations and individuals. I have no notes, transcript or recording. The Institute for International Research is located at 708 Third Avenue - 4th Floor, New York, New York 10017.

October 10, 2004: I moderated a CLE panel entitled "White Collar Crime 2004: How Enron and WorldCom Have Changed the Practice," as part of the Annual Conference of the Hispanic National Bar Association in New York City. I have no notes, transcript or recording. The Hispanic National Bar Association is located at 1900 L Street NW, Suite 700, Washington, DC 20036.

September 22, 2004: I was part of a panel at Rutgers School of Criminal Justice in Newark, New Jersey, that was sponsored by the Prudential Business Ethics Center and the Rutgers Center for the Study of Public Security. The panel was entitled "What are the Issues in Stemming the Flow of Funds for Terrorist Activities." Powerpoint presentation supplied.

May 7, 2004: I was part of a panel at the United Way International 2004 World Assembly in San Juan, Puerto Rico. The panel was entitled "International Grantmaking." Powerpoint presentation supplied.

May 9, 2003: I was part of a CLE panel at the Annual Meeting of the ABA Tax Section in Washington D.C. entitled "Terrorist Financing Concerns: Following the Flow of Funds Overseas." The panel discussed the United States Treasury Department's proposed "Voluntary Best Practices for U.S.-based Charities." Transcript supplied.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Dan Levine, "State AGs Play Major Role in US Foreclosure Probe," Reuters, Oct. 29, 2010. Copy supplied.

Press release, "Day Pitney Teams with Full Circle NY to Sponsor Career Camp for Students and Young Professionals," *Day Pitney LLP*, Feb. 18, 2009. Copy supplied.

"Recent Appointment Enhances Day Pitney Diversity Initiative," *The Metropolitan Corporate Counsel*, Nov. 2008. Copy supplied.

Press release, "Day Pitney LLP Teams with the United Negro College Fund and Full Circle NY to Host 'The Real Great Debaters of Wiley College' Documentary Premiere," *Day Pitney LLP*, Sept. 8, 2008. Copy supplied.

In September 2007, I was interviewed by a Swedish television news channel concerning the case of *U.S. v. Kassir*, discussed below in response to Question 17. I was court-appointed counsel for Mr. Kassir, a Swedish national, in a federal criminal case. During the interview I provided basic information concerning the charges against Mr. Kassir as well as general information concerning criminal procedure in American federal courts. I have no copies of the video of that interview.

Judy Wang, "Puerto Rican Elis: A 35-year History," *The Yale Daily News*, Apr. 19, 2007. Copy supplied.

Michelle Mittelstadt, "FBI Hot on Trails in Other Cities," *Dallas Morning News*, July 7, 2005. Copy supplied.

"A Treatise on the Organizational Sentencing Guidelines Addresses the Need for Effective Compliance Programs," *The Metropolitan Corporate Counsel*, Apr. 2005. Copy supplied.

Press release, "Day, Berry & Howard Receives Corporate Commitment Award from Connecticut Hispanic Bar Association," *Day, Berry & Howard LLP*, Dec. 1, 2004. Copy supplied.

Robert E. Kessler, "Drug Smuggler's 30-Year Sentence," *Newsday*, May 1, 2001. Copy supplied.

Hans H. Chen and Chau Lam, "Jury: Drug Lord Guilty," *Newsday*, June 20, 1998. Copy supplied.

Estrella Gutierrez, "Narcotics: U.S. to Limit Colombian Drug Baron's Sentence," *Inter Press Service*, May 6, 1997. Copy supplied.

Helen Peterson, "Builder Admits to Bribes," *Daily News*, May 2, 1997. Copy supplied.

Carol Eisenberg and Tom Demoretcky, "TV Chat Hostess Charged," *Newsday*, Mar. 7, 1997. Copy supplied.

Robert E. Kessler, "Ex-Owner of Pet Cemetery in 3-Months Confinement," *Newsday*, Dec. 6, 1996. Copy supplied.

"2 Accused of Breaking Export Laws," *Albany Times Union*, June 4, 1996. Copy supplied.

Robert E. Kessler, "Buttafuoco Lawyer Admits Fraud," *Newsday*, May 5, 1995. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have never served as a judge.

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

i. Of these, approximately what percent were:

jury trials: ___%
bench trials: ___% [total 100%]

civil proceedings: ___%
criminal proceedings: ___% [total 100%]

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have never served as a judge.

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

1992 – 2002
United States Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Assistant United States Attorney
Appointed by U.S. Attorney General William Barr

2003 – Present
New York City Commission to Combat Police Corruption
17 Battery Place, Suite 327
New York, New York 10004
Commissioner (uncompensated)
Appointed by New York City Mayor Michael Bloomberg

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held a paid position with any political campaign, organization or political entity. Over the past three years, I have volunteered for various activities and fundraising events on behalf of candidates for elective office and an incumbent member of Congress. Specifically, I served on an informal, ad hoc committee that sponsored fundraising events for presidential candidates Hillary Clinton and Barack Obama in 2008; and I served on an informal, ad hoc committee that sponsored a fundraising event for New York Congresswoman Nydia Velazquez in September 2010. Additionally, I served on a committee that hosted a fundraiser for John Kroger and Andrew Cuomo in 2008.

I have not served in any elected or appointed position with any political party.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I never served as a clerk to a judge.

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

I was never a solo practitioner.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1987 – 1992
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
Associate

1992 – 2002
United States Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Assistant United States Attorney

2002 – Present
Day Pitney LLP (formerly Day, Berry & Howard LLP)
7 Times Square
New York, New York 10036
Partner

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator.

b. Describe:

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

Upon graduation from law school, I worked as an associate at Simpson Thacher & Bartlett in New York City where I was involved in all aspects of large commercial disputes involving, among other substantive areas, lender liability, bankruptcy, breach of contract, business libel, insurance coverage and product liability. Specific responsibilities included drafting pleadings and legal memoranda, drafting and responding to discovery requests, conducting depositions, and supervising teams of junior associates and paralegals.

I joined the Office of the United States Attorney for the Eastern District of New York in March of 1992 where I prosecuted a wide array of federal crimes including white collar fraud, defense contractor fraud, money laundering, narcotics trafficking, labor racketeering, public corruption and violations of the Arms Export Control Act. In my ten years in the office I conducted approximately twenty felony trials as first or second chair, and briefed and argued approximately twenty-five cases before the United States Court of Appeals for the Second Circuit. In June of 2000 I was promoted to Deputy Chief of the Narcotics Section where I supervised Assistant United States Attorneys prosecuting international narcotics trafficking, money laundering and racketeering cases.

In June 2002, I joined Day, Berry & Howard LLP (the predecessor firm to Day Pitney LLP) as partner in the Government Investigations Practice Group. In my current position, I represent corporations and individuals in connection with criminal and regulatory investigations conducted by federal and state agencies involving, among other substantive areas, antitrust, bank fraud, securities fraud, public corruption and government program fraud. I also conduct internal investigations for corporate clients.

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

As a litigation associate in the law firm Simpson Thacher & Bartlett LLP, I specialized in complex litigation and my clients were corporations and other large business entities in the fields of banking, finance, insurance, telecommunications and manufacturing.

As an Assistant U.S. Attorney in the Eastern District of New York, my client was the United States of America.

Currently, my typical clients are corporations and corporate executives who are the subjects or targets of criminal investigations. I have specialized in white collar criminal defense and internal investigations.

As a member of the Criminal Justice Act Panel for the Southern District of New York, I also represent indigent criminal defendants as court-appointed defense counsel. I have been a member of the Panel since 2007.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I have spent my entire career as a litigator and prosecutor. As an associate in a large firm early in my career, I was typically part of a larger team working on particular matters and appeared in state and federal courts only occasionally. As an Assistant U.S. Attorney, I appeared in federal court frequently. In my current position and as a member of the CJA Panel in the Southern District of New York, I appear in court frequently.

i. Indicate the percentage of your practice in:
   1. federal courts: 90%
   2. state courts of record: 5%
   3. other courts: 0%
   4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 5%
   2. criminal proceedings: 95%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried approximately 23 cases to verdict. I was sole counsel in approximately 17 of the cases. I was associate counsel in one case. I was co-counsel in five cases.

i. What percentage of these trials were:
   1. jury: 100%
   2. non-jury: 0%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

(1) *U.S. v. Kassir*, 04-CR-356 (S.D.N.Y.), The Hon. John F. Keenan

I represented a criminal defendant at trial as court-appointed defense counsel on charges of providing material assistance to al Qaeda. Specifically, the defendant was charged with attempting to establish a training camp in Bly, Oregon, that would provide training on combat and bomb-making techniques, and with operating numerous websites from his home in Stockholm, Sweden, devoted to recruiting individuals to al Qaeda and providing information on bomb-making and weaponry. The government presented the testimony of numerous co-conspirators with respect to the training camp charges, as well as materials seized from a search conducted at the Finsbury Park mosque in London that the defendant frequented. A co-defendant, Abu Hamza al-Masri, a radical cleric with ties to al Qaeda who presided over the London mosque, is currently jailed in the United Kingdom and is in the process of being extradited to the United States. The government's proof included video tape of the defendant with al-Masri. In addition, the government presented hundreds of computer files seized from the defendant's apartment in Stockholm, Sweden that contained bomb-making manuals, videos of al Qaeda operatives training and engaging in battles with the U.S.S.R. in Afghanistan, and e-mails from Muslim youth seeking to join al Qaeda. The defendant was convicted after trial and sentenced to life in prison.

Co-defense counsel:
Mark DeMarco
2027 Williamsbridge Road
Bronx, New York 10461
(718) 239-7070

The government was represented by:
Assistant U.S. Attorneys Michael Farbiarz and Eric Bruce
United States Attorney's Office for the Southern District of New York
One St. Andrews Plaza
New York, New York 10007
(212) 637-1587 (Mr. Farbiarz)
(212) 488-1203 (Mr. Bruce)

(2) *U.S. v. Ozcan*, 08-CR-227 (E.D.N.Y.), The Hon. Frederic Block

I represented a criminal defendant on charges of public corruption. The defendant, a construction company executive, was charged with receiving kick-backs from sub-contractors on government-financed public works projects. I negotiated a cooperation agreement pursuant to which the defendant participated in an under-cover operation that led to the arrest and conviction of two high-level New York City Building Department officials. During the undercover investigation, my client engaged the public officials in explicit conversations concerning payments that would be made to the officials in exchange for a favorable ruling concerning an appeal. I advocated for a sentence of no jail time, and my client was sentenced to three years supervised release.

The government was represented by:
Assistant U.S. Attorney Sarah Coyne
United States Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6299

(3) *U.S. v. DRS Photronics, Inc., et al.*, 02-CR-543 (E.D.N.Y.), The Hon. Leonard D. Wexler

I prosecuted a corporate defense contractor and lead project engineer on charges of submitting false claims to the federal government. The company manufactured equipment that was used to align the weapons systems of the U.S. Army's Apache attack helicopter. The units, each of which cost approximately $250,000, utilized laser optical technology that allowed the Apache's weapons systems to be bore-sighted while on the ground. Prior to delivery, each unit had to be tested in accordance with specific procedures and equipment detailed in the contract with the government. The investigation revealed that the company falsely affirmed that it was testing the equipment in accordance with the agreed-upon procedures and that each of the units passed the required tests. Forensic testing conducted on the units that were supplied by the company

established that the units were not able to bore-sight the helicopters to the required accuracy. The company and the lead engineer entered felony guilty pleas, and the company was fined $2.5 million.

Defense Counsel:
Elkan Abramowitz
Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, P.C.
565 Fifth Avenue
New York, New York 10017
(212) 856-9600

Thomas L. Weisenbeck
Bressler, Amery & Ross, P.C.
325 Columbia Turnpike
Florham Park, New Jersey 07932
(973) 514-1200

(4) *U.S. v. Perafan-Homen*, 95-CR-722 (E.D.N.Y.), The Hon. Thomas C. Platt

I prosecuted a Colombian drug-kingpin on charges of importing in excess of 27,000 kilograms of cocaine and laundering tens of millions of dollars in drug proceeds. The defendant's organization stretched from Colombia, South America, through Mexico, and into the United States. After manufacturing the cocaine in Colombia, the defendant then transported it via truck to furniture companies on the Mexico – U.S. border. The cocaine was then transported from Mexico on the trucks that carried the furniture to a distribution company in Los Angeles, California. Each of these companies were established by the defendant as fronts to provide cover for the importation of the cocaine into the United States on trucks. The organization also utilized sophisticated technology to hide the cocaine on the trucks and at warehouses in Los Angeles and New York, and to smuggle the millions of dollars in U.S. currency generated by the drug sales out of the country. The entire organization was dismantled and two dozen of the organization's members were also convicted. Defendant was convicted after a three-month trial and sentenced to 30 years in prison.

Co-counsel:
Assistant U.S. Attorney Demetri Jones
United States Attorney's Office for the Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722
(631) 715-7840

Defense Counsel:
Ivan Fisher
251 East 61st Street
New York, New York 10021
(212) 517-5000

(5) *U.S. v. Morris Rothenberg & Son, Inc.*, 99-CR-564 (E.D.N.Y.), The Hon. Joanna Seybert

I prosecuted a Long Island based distributor of Army/Navy surplus for illegally shipping military and police equipment overseas. The company came under investigation when it was determined that it had sold gas masks to a Japanese front company operated by the Aum Shinrikyo, the group credited with carrying out the sarin gas attacks in the Tokyo subway system. The investigation of the subway attack revealed that the company had regularly been shipping items overseas illegally, including gas masks, night vision equipment and other police equipment. As a result of the investigation, the company entered a plea of guilty and paid a fine of $900,000.

Defense Counsel:

G. Michael Bellinger
Dorsey & Whitney LLP
250 Park Avenue
New York, New York 10177
(212) 415-9357

Theodore V. Wells Jr.
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
(212) 373-3089

(6) *U.S. v. Amiel*, 92-CR- 238 (E.D.N.Y.), The Hon. Thomas C. Platt

I prosecuted three members of a Long Island family on mail fraud charges in connection with the sale of purported limited edition, pencil-signed prints by the artists Picasso, Chagall, Miro and Dali. The family was believed to have been the largest distributors of fraudulent art prints in the world. It operated a printing facility on Long Island that created thousands of copies of the 20th Century masters' works. The family then forged the artists' signatures on the copies in pencil and sold them as originals through corrupt, complicit art dealers. Many of the fraudulent prints sold for thousands of dollars. All three defendants were convicted after a six-week trial and sentenced to prison.

Co-counsel:
David Hattem (formerly Assistant U.S. Attorney for the Eastern District of New York)
AXA/Equitable
1290 Avenue of the Americas
New York, New York 10104
(212) 314-3863

Defense Counsel:
Adrien Diluzio
Suite 302
226 Seventh Street
Garden City, New York 11530
(516) 248-8930

Melvyn K. Roth
666 Old Country Road
Garden City, New York 11530
(516) 683-8400

Stanley R. Kopilow
Suite 506
100 Quentin Roosevelt Boulevard
Garden City, New York 11530
(516) 747-4770

(7) *U.S. v. Kohlke*, 01-CR-738 (E.D.N.Y.), The Hon. Charles P. Sifton (deceased)

I prosecuted the defendant, a foreign-based airplane parts broker, on charges of violating the export laws relating to the sale of military equipment to Iran. The defendant would purchase airplane parts from United States manufacturers and falsely identify the end user as an entity that could legitimately receive U.S. military equipment. He then utilized his company in Switzerland to transship the equipment to Iran. The defendant proffered a public authority defense pretrial, alleging that he engaged in the conduct with the knowledge and consent of United States intelligence personnel. The defense was rejected after the United States intelligence agencies established that the defendant had not engaged in the charged conduct with their knowledge or consent. The defendant then entered a plea of guilty and was sentenced to prison.

Defense Counsel:
Lawrence S. Goldman
500 Fifth Avenue
New York, New York 10110
(212) 997-7499

(8) *U.S. v. Rotondi*, 97-CR-355 (E.D.N.Y.), The Hon. Joanna Seybert

I prosecuted a Long Island real estate developer for bribing local housing officials and fabricating fraudulent documents to obtain mortgages for financially unqualified buyers. The defendant targeted low income individuals, convinced them to take mortgages that they were incapable of paying back, and sold them homes that were shoddily constructed and, in many cases, unfinished. He then paid corrupt building inspectors to issue certificates of occupancy. The defendant built approximately 100 homes on Long Island. The defendant was convicted upon his plea of guilty and sentenced to prison.

Defense Counsel:
Edward A. McDonald
Dechert LLP
1095 Avenue of the Americas
New York, New York 10036
(212) 698-3672

(9) *U.S. v. Aliperti*, 94-CR-999 and 96-CR-775 (E.D.N.Y.), The Hon. Denis R. Hurley

I prosecuted a Town of Brookhaven (Suffolk County, Long Island) elected official on bank fraud charges. The investigation revealed that the defendant provided false information on bank applications in order to finance certain of his real estate development projects. The defendant was convicted upon his plea of guilty and sentenced to prison.

Co-counsel:
Loretta E. Lynch
United States Attorney, Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
(718) 254-6260

Defense Counsel:
Joel Winograd
450 Fashion Avenue, 13th Floor
New York, New York 10123
(212) 268-6900

(10) *Home Shopping Network v. GTE*, 87-CV-14199-7, Pinellas County Court, Clearwater, Florida, The Hon. Howard P. Rives (deceased)

I was a member of the trial team that represented GTE in a lawsuit brought by the Home Shopping Network ("HSN") in Pinellas County Court in Clearwater, Florida. HSN sued GTE for 1.5 billion dollars, alleging that GTE had misrepresented the capacity of the telephone equipment it sold to HSN. HSN operators used the telephone equipment to take calls from viewers who wished to purchase items that were simultaneously being featured on HSN's program. HSN alleged that as a result of GTE's misrepresentations, it did not have the capacity to answer all the calls that were being placed, causing many potential customers to be dropped. In its SEC filings, HSN blamed the GTE equipment for its poor sales results and resulting drop in stock price. GTE counter-claimed against HSN for business libel on the basis of the SEC filings. After a 6-week trial, the jury completely rejected HSN's claims against GTE and returned a $100 million verdict in favor of GTE on its counterclaim.

Chief Counsel:
Roy L. Reardon
Simpson Thacher & Bartlett LLP
425 Lexington Avenue
New York, New York 10017
(212) 455-2840

Opposing Counsel:
Jenner & Block
353 North Clark Street
Chicago, Illinois 60654
(312) 222-9350

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    I am currently providing advice to an international media company on establishing a Foreign Corrupt Practices Act Compliance Program. As part of that effort, I am training the company's top executives on the requirements of the FCPA.

    I participated as a member of a team that is supporting the court-appointed monitor of a health care company located in Tampa, Florida. The monitorship was established pursuant to a deferred prosecution agreement with the U.S. Department of Justice.

    I represented a national reinsurance company in connection with an investigation by the U.S. Department of Justice concerning possible fraud relating to the insolvency of a medical insurance company. The investigation was concluded with no charges filed against the client company.

    I represented a multi-national paper manufacturer in an antitrust investigation by the Antitrust Division of the U.S. Department of Justice. The investigation was concluded with no charges filed against the client companies.

    I have not performed any lobbying activities on behalf of a client or other organization.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    If confirmed, I will leave the partnership of Day Pitney LLP and will be paid approximately $88,000, representing the capital I have invested in the firm. In accordance with the partnership agreement, that amount will be paid back in equal annual payments to be made over five years. I have made no arrangements to be compensated in the future for any financial or business interest.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       If confirmed, I would recuse myself for some period of time from any matter in which my current firm, Day Pitney LLP, appears to avoid any potential conflict or the appearance of one. In addition, cases involving prior clients of mine would present a potential conflict. In the event of such a potential conflict of interest, I would advise the parties to the matter before me for their input, and refer to the

Code of Conduct for United States Judges and other relevant Canons and statutory provisions.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

In the event of such a potential conflict of interest, I would advise the parties to the matter before me for their input, and refer to the Code of Conduct for United States Judges and other relevant Canons and statutory provisions.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As a member of the Criminal Justice Act Panel, I represent indigent criminal defendants in the Southern District of New York. Many of these representations I have handled on a pro bono basis. Over the past four years, I have represented approximately 17 criminal defendants on a pro bono basis. I also supervise associates in the firm who are handling pro bono litigation matters.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I initially spoke with Stephanie Martz, Chief Counsel to Senator Charles Schumer of New York, in January 2010. Thereafter, I interviewed on two occasions with Senator Schumer's Judicial Selection Committee, chaired by Mark O'Donoghue, and then with Senator Schumer. On January 25, 2011, I was contacted by Ms. Martz who advised me that the Senator intended to recommend me to the President for a seat on the Southern District bench. Since February 2, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 8, 2011, I interviewed with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 4, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Ramos, Edgardo	United States District Court, Southern District of New York	05/04/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
United States District Judge	☑ Nomination, Date 05/04/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 04/30/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
Day Pitney LLP 7 Times Square New York, New York 10036	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Partner	Day Pitney LLP
2.	Commissioner	New York City Commission to Combat Police Corruption
3.	Board Member	Aspira of New York, Inc.
4.	Board Member	Connecticut Hispanic Bar Association
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	2007	Day Pitney LLP partnership agreement, upon separation from firm, capital contribution to be repaid in equal annual payments over five years.
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 12	Name of Person Reporting Ramos, Edgardo	Date of Report 05/04/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	Day Pitney LLP	$345,529.00
2. 2010	Day Pitney LLP	$249,509.00
3. 2011	Day Pitney LLP	$35,638.00
4.		

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

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

DATE	SOURCE AND TYPE
1. 2010	Simpson Thacher & Bartlett LLP
2. 2011	Simpson Thacher & Bartlett LLP
3.	
4.	

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

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 12	Name of Person Reporting Ramos, Edgardo	Date of Report 05/04/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	Citibank	Revolving line of credit	K
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. JP Morgan Chase accounts	A	Interest	K	T	Exempt				
2. Bank of America accounts	A	Interest	J	T					
3. People's Bank accounts	A	Interest	M	T					
4. Charles Schwab "Aggressive Growth Option		None	N	T					
5. TIAA CREF Retirement Account									
6. - TIAA Traditional		None	M	T					
7. - CREF Stock		None	L	T					
8. - CREF Equity Index		None	J	T					
9. - CREF Global Equities		None	K	T					
10. - CREF Bond Market		None	K	T					
11. - CREF Inflation-Linked Bond		None	J	T					
12. - CREF Money Market		None	J	T					
13. Fidelity Retirement Account									
14. - Dwight Asset Management Fixed Income Fund		None	M	T					
15. - Lazard/IBT Capital Allocator Balanced Portfolio		None	L	T					
16. - Spartan 500 Index-Investor Class		None	K	T					
17. - Fidelity Contrafund		None	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 5 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - Rainier Small Mid Cap Equity Instl CL		None	J	T					
19. - PIMCO Total Return Inst CL		None	J	T					
20. - T. Rowe Price Equity Income SHS		None	J	T					
21. - Harbor International Instl CL		None	J	T					
22. - Kalmar Growth-With -Value Small Cap		None	J	T					
23. - Fdelity Intermediate Government Income Fund		None	J	T					
24. - Third Avenue Real Estate Value		None	J	T					
25. Fidelity Money Market Trust Retirement Money Market Portfoli		None	J	T					
26. CT Higher Education Trust Moderate Managed Allocation Fund	A	Dividend	M	T					
27. Vanguard U.S. Growth Fund UTMA	A	Dividend	K	T					
28. Brokerage Account # 1									
29. - Merrill Lynch Money Market	A	Dividend	J	T					
30. - Abbott Labs	A	Dividend	J	T					
31. - ConAgra Foods Inc.	A	Dividend	J	T					
32. - Dupont E.I. De Nemours	A	Dividend	J	T					
33. - General Electric	A	Dividend	J	T					
34. - GlaxoSmithKline PLC ADR	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P1 =$1,000,001 - $5,000,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 6 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. - Hospira		None	J	T					
36. - Pfizer	A	Dividend	J	T					
37. - Proctor & Gamble	A	Dividend	J	T					
38. Brokerage Account # 2									
39. - Federated Capital Reserves Money Market	B	Dividend	L	T					
40. - AT&T	A	Dividend	K	T					
41. - Abbott Labs	A	Dividend	K	T					
42. - Alcoa Inc.	A	Dividend	J	T					
43. - Allstate Corp	A	Dividend	J	T					
44. - Amerisource Bergen	A	Dividend	J	T					
45. - Amgen Inc.		None	J	T					
46. - BP PLC Spons ADR	A	Dividend	J	T					
47. - Boeing Co Com	A	Dividend	J	T					
48. - Boston Scientific		None	J	T					
49. - CBS Corp. CL B Com	A	Dividend	J	T					
50. - Cigna Corp.	A	Dividend	J	T					
51. - Campbell Soup Co	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 7 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. - Caterpillar Inc.	A	Dividend	K	T					
53. - Chevron Corp. New Com	A	Dividend	K	T					
54. - Cisco Systems Inc.		None	J	T					
55. - Clorox Co Com	A	Dividend	J	T					
56. - Coach Inc. Com	A	Dividend	J	T					
57. - Coca Cola Company	A	Dividend	J	T					
58. - Comcast Corp CL A	A	Dividend	J	T					
59. - ConAgra Foods Inc. Com	A	Dividend	J	T					
60. - Conoco Phillips Com	A	Dividend	J	T					
61. - Corn Prods Intl Inc. Com	A	Dividend	J	T					
62. - Disney Walt Co Disney Com	A	Dividend	J	T					
63. - Discover Finl Svcs Com Inc.	A	Dividend	J	T					
64. - DirectTV Com CL A		None	J	T					
65. - Dow Chem Co	A	Dividend	J	T					
66. - Eastman Chem Co Com	A	Dividend	J	T					
67. - Exxon Mobil Corp Com	A	Dividend	J	T					
68. - Ford Motor Co Del Com Par		None	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 8 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
69. - Freeport McMoran Copper & Gold Inc.	A	Dividend	J	T					
70. - General Electric Co Com	A	Dividend	J	T					
71. - GlaxoSmithKline PLC Spons ADR	A	Dividend	J	T					
72. - Hershey Co Com	A	Dividend	J	T					
73. - Hospira Inc. Com		None	J	T					
74. - Intel Corp Com	A	Dividend	J	T					
75. - IBM Corp	A	Dividend	K	T					
76. - International Paper Co	A	Dividend	J	T					
77. - JP Morgan Chase & Co Com	A	Dividend	J	T					
78. - Kellogg Co	A	Dividend	J	T					
79. - Lifepoint Hosps Inc. Com		None	J	T					
80. - Merck & Co Inc. New Com	A	Dividend	J	T					
81. - Morgan Stanley Com New	A	Dividend	J	T					
82. - NCR Corp Com		None	J	T					
83. - Newell Rubbermaid Inc. Com	A	Dividend	J	T					
84. - News Corp CL A	A	Dividend	J	T					
85. - Oriental Financial Group Inc. Com	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 9 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
86. - Pepsico Inc.	A	Dividend	J	T					
87. - Pfizer Inc. Com	A	Dividend	K	T					
88. - Praxair Inc.	A	Dividend	K	T					
89. - Raytheon Co New Com	A	Dividend	J	T					
90. - Sara Lee Corp	A	Dividend	J	T					
91. - Smucker J M Co Com New	A	Dividend	J	T					
92. - Target Corp	A	Dividend	K	T					
93. - Teradata Corp Del Com		None	J	T					
94. - 3M Co Com	A	Dividend	J	T					
95. - Time Warner Inc. New Com New	A	Dividend	J	T					
96. - Time Warner Cable Inc. Com	A	Dividend	J	T					
97. - Travelers Cos Inc. Com	A	Dividend	J	T					
98. - United Sts Stl Corp New Com	A	Dividend	J	T					
99. - Verizon Communications Com	A	Dividend	J	T					
100. - Viacom Inc. CL B Com New	A	Dividend	J	T					
101. - Vodafone Group PLC Spon ADR New	A	Dividend	J	T					
102. - Yum Brands Inc. Com	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 10 of 12

Name of Person Reporting	Date of Report
Ramos, Edgardo	05/04/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
103. - Public Storage Common Stock (REIT)	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C3)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 11 of 12	Name of Person Reporting Ramos, Edgardo	Date of Report 05/04/2011

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

FINANCIAL DISCLOSURE REPORT Page 12 of 12	Name of Person Reporting Ramos, Edgardo	Date of Report 05/04/2011

IX. CERTIFICATION.

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

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

Signature _____

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		139	632	Notes payable to banks-secured			
U.S. Government securities–Series EE bonds		7	900	Notes payable to banks-unsecured			
Listed securities–see schedule		585	312	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		213	754
Real estate owned – personal residence		387	160	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		65	000	Revolving line of credit		47	987
Cash value-life insurance							
Other assets itemize:							
Certificates of Deposit		22	035				
Retirement Holdings – see schedule	1	137	133				
College Savings Accounts – see schedule		185	075	Total liabilities		261	741
				Net Worth	2	267	506
Total Assets	2	529	247	Total liabilities and net worth	2	529	247
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

83501014.1

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Merrill Lynch Money Market	$11,661
Abbott Labs	32,463
ConAgra Foods Inc.	4,758
DuPont E I De Nemours	4,328
General Electric	15,950
GlaxoSmithKline PLC ADR	12,721
Hospira Inc.	4,778
Pfizer Inc.	32,520
Proctor & Gamble	5,905
Federated Capital Reserves Money Market	75,827
AMR Corp Deleware Common Stock	432
AOL Inc. Com	117
AT&T Inc. Com	15,366
Alcoa Inc. Com	4,715
Alcatel Lucent Spon ADR	151
Allstate Corp	4,258
Amerisource Bergen Corp	5,221
Amgen Inc. Com	7,108
BP PLC Spons ADR	5,914
BT Group PLC ADR	992
Boeing Co Com	4,953
Boston Scientific Corp	5,752
CBS Corp CL B Com	1,252
Cigna Corp	13,284
Campbell Soup Co	2,218
Caterpillar Inc.	29,730
Chevron Corp New Com	21,498
Cisco Systems Inc.	565
Clorox Co Com	9,319
Coach Inc. Com	6,921
Coca Cola Company	4,444
Comcast Corp CL A	1,211
Conoco Phillips Com	5,270
Corn Prods Intl Inc. Com	3,471
Disney Walt Co Disney Com	8,618
Discover Finl Svcs Com Inc.	1,591
DirectTV Com CL A	4,680
Dow Chem Co	6,304
Eastman Chem Co Com	3,277
ExxonMobil Corp Com	16,826
Ford Motor Co Del Com Par	2,475

Freeport McMoran Copper & Gold Inc.	9,887
Frontier Communications Corp	263
HanesBrands Inc. Com	432
Hershey Co Com	7,228
Intel Corp Com	10,750
International Business Machs Corp	21,851
International Paper Co	3,018
JP Morgan Chase & Co Com	9,220
Kellogg Co	5,398
LSI Corp Com	54
Lifepoint Hosps Inc. Com	1,366
Merck & Co Inc. New Com	2,178
Morgan Stanley Com New	3,633
Motors Liq Co Com	2
NCR Corp Com	1,243
Newell Rubbermaid Inc. Com	1,913
News Corp CL A	1,158
Oriental Financial Group Inc. Com	9,199
Pepsico Inc.	6,441
Pharmerica Corp Com	57
Praxair Inc.	20,320
Raytheon Co New Com	5,087
Sara Lee Corp	2,367
Smucker J M Co Com New	2,355
Target Corp	20,004
Teradata Corp Del Com	3,346
3M Co Com	6,264
Time Warner Inc. New Com New	2,356
Time Warner Cable Inc. Com	1,141
Travelers Cos Inc. Com	1,962
United Sts Stl Corp New Com	1,780
Verizon Communications Com	5,164
Viacom Inc. CL B Com New	2,326
Vodafone Group PLC Spon ADR New	2,501
Yum Brands Inc. Com	6,884
Public Storage Common Stock (REIT)	7,320
Total Listed Securities	$585,312

Retirement Holdings	
Thrift Savings Plan	$188,684
TIAA Traditional	125,639
CREF Stock	99,208
CREF Equity Index	12,612
CREF Global Equities	30,718
CREF Bond Market	30,461
CREF Inflation-Linked Bond	1,326
CREF Money Market	2,969
Dwight Asset Management Fixed Income Fund	117,931
Lazard/ IBT Capital Allocator Balanced Portfolio	87,124
Spartan 500 Index - Investor Class	41,763
Fidelity Contrafund	21,828
Rainier Small Mid Cap Equity Instl CL	17,286
PIMCO Total Return Inst CL	13,466
T. Rowe Price Equity Income SHS	11,029
Harbor International Instl CL	8,886
Kalmar Growth-With-Value Small Cap	7,583
Fidelity Intermediate Government Income Fund	4,750
Third Avenue Real Estate Value	4,487
Fidelity Money Market Trust Retirement Money Market Portfolio	1,630
Charles Schwab, "Aggressive Growth Option"	307,753
Total Retirement Holdings	$1,137,133

College Savings Accounts	
Connecticut Higher Education Trust Moderate Managed Allocation Fund UTMA	$137,895
Vanguard U.S. Growth Fund UTMA	47,180
Total College Savings Accounts	$185,075

AFFIDAVIT

Edgardo Ramos, do
'ear that the information provided in this statement is, to the
st of my knowledge, true and accurate.

5/2/2011
(DATE)

(NAME)

(NOTARY)

ELISHA McCUTCHEON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01MC6118817
QUALIFIED IN BRONX COUNTY
MY COMMISSION EXPIRES 11/22/2012

014.1

STATEMENT OF ANDREW L. CARTER, JR., NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. CARTER. Thank you, Senator.

I am proud to introduce the love of my life, my wife of over 12 years, Lisa Stephenson. She is here with our two children, Ellis, age 8, and our daughter, Ava, age 5. We are also joined by my uncle, Jerome Sanders, who is here from Mobile, Alabama, and my father, Andrew Carter, Sr., is here from Houston, Texas.

I would also like to acknowledge, watching at home on the Webcast, my mother, Kathleen Carter, from Houston, Texas, as well as my sister and her family from Los Angeles; my extended family from Mobile, Alabama and Albany, Georgia; and, my in-laws, friends and colleagues in New York City.

Senator SCHUMER. Great. And so will the people who Mr. Carter introduced please stand? Welcome.

Hi, Ellis. That is my middle name. So we are almost related.

[Laughter.]

Senator SCHUMER. Jon Kyl notes he is much better looking than me, and that is a low bar to reach, of course.

[Laughter.]

Senator SCHUMER. Finally, Mr. Furman, would you please introduce the people who are here for you?

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Andrew Lamar Carter, Jr.

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

   United States District Judge for the Southern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   United States District Court for the Eastern District of New York
   225 Cadman Plaza
   Brooklyn, New York 11201

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

   1969; Albany, Georgia

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1991 – 1994, Harvard Law School; J.D., 1994

   1987 – 1991, University of Texas at Austin; B.A., 1991

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   2009 – present
   United States District Court for the Eastern District of New York
   225 Cadman Plaza
   Brooklyn, New York 11201
   U.S. Magistrate Judge

2005 – 2009
Federal Defenders of New York
1 Pierrepont Plaza, 16th Floor
Brooklyn, New York 11241
Supervising Attorney (2006 – 2009)
Staff Attorney (2005 – 2006)

1996 – 2005
Legal Aid Society
49 Thomas Street
New York, New York 10013
Staff Attorney, Criminal Defense Division (1996 – 2000)
Staff Attorney, Federal Defenders Division (2000 – 2005)

1994 – 1996
Ford Foundation
320 East 43rd Street
New York, New York 10017
Program Assistant

Summer 1993
Vinson and Elkins, L.L.P.
First City Tower
1001 Fannin Street, Suite 2500
Houston, Texas 77002
Summer Associate

Summer 1992
African Centre for Democracy and Human Rights Studies (sponsored by the Human Rights Program at Harvard Law School)
Zoe Tembo Building
Kerr Sereign
P.O. Box 2728
Serrekunda, The Gambia
Human Rights Fellow

Other Affiliations (uncompensated):

1992 – 1995
BELL Foundation
60 Clayton Street
Dorchester, Massachusetts 02122
Board of Directors

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I have registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Harvard Black Law Students Association's Muhammad Kenyatta Distinguished Alumni Award, 1995

   Harvard Law School Irving Kaufman Fellow, 1994

   Exxon/Mobil Teagle Scholarship, 1991 – 1994

   University of Texas Dean's Distinguished Graduate Award, 1991

   Kappa Alpha Psi, Brother of the Year, 1990

   National Achievement Award, 1987 – 1991

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

   Association of the Bar of the City of New York, Civil Rights Committee
   Brooklyn Bar Association
   Federal Bar Council
   Metropolitan Black Bar Association
   National Association of Federal Defenders

10. **Bar and Court Admission**:

    a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

       New York, 1995.

       There have been no lapses in membership.

    b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse

in membership. Give the same information for administrative bodies that require special admission to practice.

United States District Court for the Eastern District of New York, 2000
New York State courts, 1995

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

In law school, I co-founded the BELL Foundation, which seeks to transform the academic achievements and aspirations of children from inner city communities. Following graduation, I served on the board of directors for the BELL Foundation from 1992 to 1995.

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

This organization did not and does not discriminate on the basis of race, sex, religion or national origin.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If

you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have searched my files and calendars as well as public databases and the Internet to compile the list of speaking engagements below. I have attempted to generate as complete a list as possible, however it is possible there have been events I have been unable to identify or recall.

July 9, 2009: Investiture Ceremony. Transcript supplied.

April 30, 2009: Harvard Law School Kaufman Fellows Dinner Banquet. The banquet, which celebrates third year law students who are undertaking public interest careers, was held at the Harvard Faculty Club. I spoke about the joys and rewards of public interest work. I have no notes, transcript or recording. The address of HLS is 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

July 26, 2008: At George Washington Law School, I provided introductory remarks at a program sponsored by the Public Defender Services of DC entitled, "The Path to Becoming a Public Defender." The conference was designed to encourage second and third year law students to pursue careers as public defenders. I spoke about the need for intelligent, dedicated lawyers to work on behalf of indigent persons accused of crimes. I have no notes, transcript or recording. The address of PDSDC is 633 Indiana Avenue NW, Washington, DC 20004.

April 24, 2006: Harvard Law School Kaufman Fellows Dinner Banquet. I spoke about the joys and rewards of public interest work. I have no notes, transcript or recording, but HLS coverage is supplied. The address of HLS is 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

David Pomerantz, *Psychiatric Test Sought for JFK Plot Suspect*, The New York Sun, Aug. 3, 2007. Copy supplied.

Ernie Naspretto, John Marzulli, Kathleen Lucadamo and Bill Hutchinson, *NY Minute*, The Daily News, July 12, 2007. Copy supplied.

Anthony M. DeStefano, *Not Guilty Plea in Kennedy Terror Plot*, Newsday, July 12, 2007. Copy supplied.

Former JFK Airport Cargo Handler Pleads Innocent in Terror Plot, Associated Press, July 11, 2007. Copy supplied.

Jess Wisloski, John Marzulli, and Dave Goldiner, *He's Diner Catch of the Day, Suspect Taped Moments Before FBI Bust*, The Daily News, June 5, 2007. Copy supplied.

Greg Miller, *A Down-and-Out Terrorism Suspect; It's Alarming, Say JFK Plot Investigators, That a Man of Meager Means Made Such Progress*, The Los Angeles Times, June 4, 2007. Copy supplied.

Daniel J. Goldstein and Patricia Hurtado, *'Hatred' Behind JFK Plot, Police Say; Al-Qaeda-Like Plan Called for Airport to be Bombed*, National Post (Canada), June 4, 2007. Copy supplied.

Matthew Chayes, *JFK Terror Plot: The Accused; Officials: B'klyn Man 'Brainchild'*, Newsday, June 3, 2007. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

In June 2009, I was appointed to the position of United States Magistrate Judge for the Eastern District of New York. I primarily handle civil cases filed in the Eastern District. Regarding criminal matters, I handle arraignments, take guilty pleas, and conduct suppression hearings when these matters are referred to me by district judges.

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

One.

i. Of these, approximately what percent were:

jury trials:	100%
bench trials:	0%
civil proceedings:	100%
criminal proceedings:	0%

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

Zemana v. Associated Deliveries, Inc., No. 10-CV-3806, 2011 U.S. Dist. LEXIS 45384 (E.D.N.Y. Apr. 27, 2011)

Levy v. Marriott Intern., Inc., No. 08-CV-4795, 2011 WL 1542082 (E.D.N.Y. Apr. 21, 2011)

Igartua v. Elmhurst Hosp. D-11 Psychiatric Ward, No. 09-CV-3287, 2011 WL 1337494 (E.D.N.Y. Mar. 17, 2011)

Riascos-Hurtado v. United States, No. 09-CV-0003, 2011 U.S. Dist. LEXIS 28008 (E.D.N.Y. Mar. 17, 2011)

Kingvision Pay-Per-View, Ltd. v. Vibes Sports Bar and Cafe, Inc., No. 10-CV-127, 2011 WL 1331858 (E.D.N.Y. Mar. 15, 2011)

Rolex Watch, U.S.A., Inc. v. Pharel, No. 09-CV-4810, 2011 WL 1131401 (E.D.N.Y. Mar. 11, 2011)

Trustees of Local 7 Tile Industry Welfare Fund v. City Tile, Inc., No. 10-CV-322, 2011 WL 917600 (E.D.N.Y. Feb. 18, 2011)

Facey v. Equinox Holdings, Inc., No. 09-CV-4411, 2011 WL 917571 (E.D.N.Y. Feb. 15, 2011)

Campinha-Bacote v. Tenney, No. 10-CV-3165, 2011 WL 703936 (E.D.N.Y. Jan. 28, 2011)

Duro v. BZR Piping & Heating Inc., No. 10-CV-879, 2011 WL 710449 (E.D.N.Y. Jan. 26, 2011)

Schwartz v. Caravan Trucking, L.L.C., No. 08-CV-5156, 2011 WL 43231 (E.D.N.Y. Jan. 6, 2011).

Brady v. New York Police Dep't, No. 08-CV-3572, 2011 WL 534116 (E.D.N.Y. Jan. 5, 2011).

Morse v. Jetblue Airways Corp., No. 09-CV-5075, 2010 WL 5313745 (E.D.N.Y. Dec. 20, 2010).

Cavette v. Adult Protective Servs., No. 07-CV- 3170, 2010 WL 5069873 (E.D.N.Y. Dec. 7, 2010).

U.S. v. Peldomo, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

Ferrara v. Corona & Son Trucking, Inc., No. 09-CV5352, 2010 WL 5490918 (E.D.N.Y. Oct. 27, 2010).

Wong v. Yoo, No. 04-CV-4569, 2010 WL 4137532 (E.D.N.Y. Oct. 19, 2010).

J & J Sports Productions, Inc. v. Meson de Colombia, Inc., No. 10-CV-1142, 2010 WL 4791771 (E.D.N.Y. Oct. 7, 2010).

U.S. v. Bouchard Transp., No. 08-CV-4490, 2010 WL 3842268 (E.D.N.Y. Sept. 28, 2010).

Board of Trustees of the United Union of Roofers v. Dana Restoration, Inc., No. 09-CV-1076, 2010 WL 3925115 (E.D.N.Y. Sept. 14, 2010).

Hargroves v. The City of New York, No. 03-CV-1668, 2010 WL 3619542 (E.D.N.Y. Sept. 10, 2010).

Kopec v. GMG Constr., No. 09-CV-2187, 2010 WL 3925210 (E.D.N.Y. Sept. 10, 2010).

Yegoryan v. Morales, No. 08-CV-1308, 2010 WL 4038757 (E.D.N.Y Sept. 10, 2010).

Okeke v. Aviator Sports and Recreation, Inc., No. 08-CV-2343, 2010 WL 3780383 (E.D.N.Y. Aug. 31, 2010).

Orellana v. World Courier, Inc., No. 09-CV-576, 2010 WL 3861002 (E.D.N.Y. Aug. 24, 2010).

Best PayPhones, Inc. v. City of New York, No. 03-CV-192, 2010 WL 3271462 (E.D.N.Y. Aug. 16, 2010).

Hayes v. Cablevision Sys. New York City Corp. for Brooklyn, No. 07-CV-2438, 2010 WL 3156092 (E.D.N.Y. Aug. 9, 2010).

State Farm Mut. Auto. Ins. Co. v. CPT Med. Servs., P.C., No. 04-CV-5045, 2010 WL 3036947 (E.D.N.Y. Aug. 3, 2010).

Continental Ins. Co. v. Huff Enterprises, Inc., No. 07-CV-3821, 2010 WL 2836343 (E.D.N.Y. June 21, 2010).

Orellana v. World Courier, Inc., No. 09-CV-576, 2010 WL 3023664 (E.D.N.Y. June 2, 2010).

Leser v. U.S. Bank Nat'l Ass'n, No. 09-CV-2362, 2010 WL 1945806 (E.D.N.Y. May 13, 2010).

McDermott v. Liberty Maritime Corp., No. 08-CV-1503, 2010 WL 1688477 (E.D.N.Y. Apr. 27, 2010).

U.S. v. Bouchard Transp., No. 08-CV-4490, 2010 WL 1529248 (E.D.N.Y. Apr. 14, 2010).

Saperstein v. Palestinian Authority, No. 09-mc-00619, 2010 WL 1371384 (E.D.N.Y. Apr. 6, 2010).

J & J Sports Productions, Inc. v. Byza Restaurant Corp., No. 09-CV-1773, 2010 WL 889259 (E.D.N.Y. Mar. 10, 2010).

Khait v. Whirlpool Corp., No. 06-CV-6381, 2010 WL 2025106 (E.D.N.Y. Jan. 20, 2010).

Grossi v. City of New York, No. 08-CV-1083, 2009 WL 4456307 (E.D.N.Y. Nov. 30, 2009).

Gregg v. Kennedy, No. 09-CV-2512, 2009 WL 4065043 (E.D.N.Y. Nov. 19, 2009).

Khait v. Whirlpool Corp., No. 06-CV-6381, 2009 WL 6490085 (E.D.N.Y. Nov. 1, 2009).

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *U.S. v. Peldomo*, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

The defendant, who was charged with passport fraud and aggravated identity theft, moved to suppress statements he made to the government. During a meeting with his parole officer, the defendant claimed that the statements were taken in violation of his *Miranda* rights. I held an evidentiary hearing and issued an opinion denying the motion to suppress. The district judge adopted the report and recommendation. The criminal case is still pending before the district judge.

For the Government
Celia Cohen
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza
Brooklyn, NY 11201
(718) 254-7000

Defendant's Counsel
Michael P. Padden
Federal Defenders of New York, Inc.
16 Court Street, 3rd Floor
Brooklyn, NY 11201
(718) 330-1200

2. *United States v. Bouchard Transp.*, No. 08-CV-4490, 2010 WL 1529248 (E.D.N.Y. Apr. 14, 2010).

The plaintiff claimed the defendant caused a spill of over 50,000 gallons of unleaded gasoline into the Arthur Kill Waterway in Staten Island. The suit was brought under the Clean Water Act. The government filed a motion to compel Bouchard Transportation to produce a privilege log for documents withheld by the defendants, which I granted. The district court adopted the report and recommendation. The parties have filed a proposed stipulation regarding settlement with the district judge.

Plaintiff's Counsel
Tiana A. Demas
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6116

Defendants' Counsel
Ronald W. Zdrojeski
Robinson & Cole, LLP
280 Trumbull Street
Hartford, CT 06103
(860) 275-8240

3. *J and J Sports Productions, Inc. v. Byza Restaurant Corp.*, 09-CV-1773, 2010 WL 889259 (E.D.N.Y. Mar. 10, 2010).

Plaintiffs claimed that defendants illegally intercepted and broadcast a 2006 boxing match between Oscar De La Hoya and Ricardo Mayorga. The defendants moved to set aside a default judgment for lack of proper service of the complaint. I held an evidentiary hearing, and subsequently granted the defendants' motion. The district court adopted the report and recommendation, and the complaint was dismissed.

Plaintiff's Counsel
Paul J. Hooten
Paul J. Hooten & Associates
5505 Nesconset Highway, Suite 203
Mt. Sinai, NY 11766
(515) 331-0547

Defendants' Counsel
William M. Spanakos
Spanakos & Spanakos, Esqs.
7207 Fort Hamilton Parkway
Brooklyn, NY 11228
(718) 833-6900

4. *U.S. v Krikheli*, 08-CR-528

A husband and wife were charged with soliciting and receiving bribes in connection with federal health care programs. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. Both defendants were convicted of the first 3 counts in the indictment.

For the Government
Paul A. Tuchmann
United States Attorney's Office
Eastern District Of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6294

Defendants' Counsel
Andrew Citron, Esq.
110 Wall Street, 11th Floor
New York, NY 10005
(212) 804-5759

5. *Maldonado v. MTD*, 08-CV-465 (E.D.N.Y. Mar. 19, 2010). Opinion supplied.

Plaintiffs claimed that Maldonado was injured because the rim of a snow thrower exploded while plaintiff tried to inflate the tire. There were approximately 300 cases filed by other plaintiffs in various jurisdictions related to the rim explosion. Plaintiffs moved to compel defendants to produce deposition transcripts and marked exhibits from other parties in similar actions. I reviewed the parties' submissions, listened to oral arguments, and issued an opinion denying plaintiffs' motion to compel. The parties have settled.

Plaintiffs' Counsel
Deborah A. Trerotola
Bonina & Bonina, P.C.
16 Court Street
Brooklyn, NY 11241
(718) 522-1786

Defendants' Counsel
Jennifer Taina Chavez
Lynch Rowin LLP
630 Third Avenue
New York, NY 10017
(212) 682-4001

6. *U.S. v. Wynaar*, 09-CR-656 (E.D.N.Y 2009)

In this case, the defendant was charged with a conspiracy to import narcotics. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. The defendant was convicted after trial.

For the Government
Stephen E. Frank
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6143

Defendant's Counsel
Jonathan Marks
220 Fifth Avenue, 3rd Floor
New York, NY 10001
(212) 545-8008

7. *U.S. v. Mcintosh*, 10-CR-0267 (E.D.N.Y. 2010)

In this case, the defendant was charged with assaulting a federal officer by attempting to run over the officer with a vehicle. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. The defendant was convicted after trial.

For the Government
Richard M. Tucker
United States Attorney's Office
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6204

Defendant's Counsel
Michael K. Schneider
Federal Defenders of New York, Inc.
16 Court Street, 3rd Floor
Brooklyn, NY 11241
(718) 330-1200

8. *Mineo v. City of New York*, 09-CV-2261 (E.D.N.Y. 2010)

Plaintiff claimed that during his arrest police officers sodomized him with an asp. I managed the discovery in the matter, which was conducted on an expedited basis. I helped the parties resolve numerous discovery disputes. The district judge presided over the trial. The jury could not reach a verdict, and the case is still pending.

Plaintiff's Counsel
Stephen C. Jackson
Stephen C. Jackson, Esq.
350 Fifth Avenue, Suite 2310
New York, NY 10118
(212) 643-2394

Defendant's Counsel
Johana Castro
Lester, Schwab, Katz and Dwyer, LLP
120 Broadway
New York, NY 10271
(212) 341-4413

Mitchell Garber
Worth, Longworth & London, LLP
111 John Street Suite 640
New York, NY 10038
(212) 964-8038

9. *U.S. v. Mergen*, 06-CR-352 (E.D.N.Y. 2010)

Defendant was charged with conspiracy to distribute cocaine and marijuana, robbery, and use of a firearm. Presiding over the jury selection, I ruled on challenges for cause and I managed the attorneys' use of peremptory challenges. The district judge presided over the trial. The defendant was convicted after trial on all counts.

For the Government
Evan M. Norris
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6376

Defendant's Counsel
Martin J. Siegel
Law Office of Martin J. Siegel
170 Broadway, Suite 600
New York, NY 10038
(212) 349-9190

10. *Amram v. Marriott Int'l, Inc.*, No. 08-CV-4795 (E.D.N.Y. 2011).

The plaintiff's estate brought suit claiming that the plaintiff suffered third degree burns on his foot while taking a shower in a Courtyard Marriott hotel. The plaintiff claimed that the defendants negligently failed to maintain safe hot water temperatures. The jury determined that the defendants were not negligent.

Plaintiff's Counsel
Lawrence Goldhirsch
Weitz and Luxenberg, P.C.
180 Maiden Lane, 17th Floor
New York, NY 10038
(212) 558-5594

Nicholas Wise
Weitz and Luxenberg, P.C.
180 Maiden Lane, 17th Floor
New York, NY 10038
(212) 558-5500

Defendants' Counsel
John McDonough
Cozen O'Connor
45 Broadway
New York, NY 10006
(212) 908-1226

David Shimkin
Cozen O'Connor
45 Broadway
New York, NY 10006
(212) 509-9400

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Grossi v. City of New York*, No. 08-CV-1083, 2009 WL 4456307 (E.D.N.Y. Nov. 30, 2009).

Plaintiff's Counsel
Steven A. Morelli
The Law Offices of Steven A. Morelli, P.C.
1461 Franklin Avenue
Garden City, NY 11530
(516) 393-9151

Defendants' Counsel
Susan P. Scharfstein
NYC Law Department
100 Church Street Room 6-119
New York, NY 10007
(212) 227-4071

Judd Cohen
Shaub, Ahmuty, Citrin & Spratt, LLP
1983 Marcus Avenue
New Hyde Park, NY 11042
(516) 488-3300

2. *U.S. v. Peldomo*, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

For the Government
Celia Cohen
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza
Brooklyn, NY 11201
(718) 254-7000

Defendant's Counsel
Michael P. Padden
Federal Defenders of New York, Inc.
16 Court Street, 3rd Floor
Brooklyn, NY 11201
(718) 330-1200

3. *Saperstein v. Palestinian Authority*, No. 09-mc-00619, 2010 WL 1371384 (E.D.N.Y. Apr. 6, 2010).

Plaintiff's Counsel
Robert Joseph Tolchin
Berkman Law Office, LLC
111 Livingston Street, Suite 1928
Brooklyn, NY 11201
(718) 855-3627

Defendant's Counsel
Gary A. Woodfield
Haile Shaw & Pfaffenberger, P.A.
660 US Highway One, Third Floor
North Palm Beach, FL 33408
(561) 627-8100

Counsel for BBC
David S. Korrzenick
Miller Korzenick and Sommers, LLP
488 Madison Avenue, 11th floor
New York, NY 10022
(212) 752-9200

4. *Morse v. Jetblue Airways Corp.*, No. 09-CV-5075, 2010 WL 5313745 (E.D.N.Y. Dec. 20, 2010).

Plaintiff's Counsel
Jennifer Lea Smith
Beranbaum Menken Ben-Asher & Bierman
80 Pine Street, 32nd Floor
New York, NY 10005
(212) 509-1616

Defendant's Counsel
Edward Cerasia, II
Seyfarth Shaw LLP
620 Eighth Avenue
New York, NY 10018
(212) 218-5500

5. *Yegoryan v. Morales*, No. 08-CV-1308, 2010 WL 4038757 (E.D.N.Y. Sept. 10, 2010).

Plaintiff's Counsel
Debra J. Millman
302 Fifth Avenue, 8th Floor
New York, NY 10038
(212) 406-4700

Defendant's Counsel
Ronald E. Joseph
Landman Corsi Ballaine & Ford
120 Broadway
New York, NY 10271
(212) 238-4800

Jason A. Buskin
Landman Corsi Ballaine & Ford, P.C.
120 Broadway
New York, NY 10271
(212) 393-7928

6. *Continental Ins. Co. v. Huff Enterprises, Inc.*, No. 07-CV-3821, 2010 WL 2836343 (E.D.N.Y. June 21, 2010).

Plaintiff's Counsel
Aidan M. McCormack
DLA Piper, LLP
1251 Avenue of the Americas
New York, NY 10020
(212) 335-4750

Defendant Carlisle's Counsel
Brian R. Ade
Rivkin Radler LLP
21 Main Street
Court Plaza South – West Wing
Hackensack, NJ 07601
(201) 287-2460

Defendant Rochdale Village's Counsel
Robert L. Bernstein, Jr., Esq.
2099 Bellmore Avenue
Bellmore, New York 11710
(516) 783-3300

7. *Campinha-Bacote v. Tenney*, 10-CV-3165, 2011 WL 703936 (E.D.N.Y. Jan. 28, 2011).

Plaintiff's Counsel
Avonte D. Campinha-Bacote
Campinha-Bacote & Chang, LLC
2651 Marblevista Boulevard
Columbus, OH 43204
(614) 586-8274

Defendant's Counsel
Joanne Filiberti
Leahey & Johnson, P.C.
120 Wall Street
New York, NY 10005

(212) 269-7308

8. *Hargroves v. City of New York*, No. 03-CV-1668, 2010 WL 3619542 (E.D.N.Y. Sept. 10, 2010).

Plaintiff's Counsel
Michael Levine
26 Court Street, Suite 2015
Brooklyn, NY 11242
(718) 855-8404

Defendant's Counsel
Elizabeth M. Daitz
New York City Law Department, Office of the Corporation Counsel
100 Church Street, Room 3-183
New York, NY 10007
(212) 788-0775

9. *Ferrara v. Corona and Son Trucking, Inc.*, No. 09-CV-5352, 2010 WL 5490918 (E.D.N.Y. Oct. 27, 2010).

Plaintiff's Counsel
Michael Seth Adler
Cohen, Weiss and Simon LLP
330 West 42nd Street, 25th Floor
New York, NY 10036
(212) 563-4100

Defendant's Counsel
No appearance

10. *Okeke v. Aviator Sports and Recreation, Inc.*, No. 08-CV-2343, 2010 WL 3780383 (E.D.N.Y. Aug. 31, 2010).

Plaintiff's Counsel
Chidi Anthony Eze
Chidi Eze & Associates
255 Livingston Street, 3rd Floor
Brooklyn, NY 11217
(718) 643-8800

Defendant's Counsel
JaneAnne Murray
Law Office of JaneAnne Murray
Woolworth Building
233 Broadway, 22nd Floor

New York, NY 10279
(212) 941-9266

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

None.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

United States v. Labiner, No. 09-CR-807 (E.D.N.Y. Jan. 11, 2010). I conducted a *Curcio* hearing, and I recommended that the Court disqualify counsel due to a conflict of interest. Judge Cogan did not adopt my recommendation. My opinion is supplied. Judge Cogan did not write an opinion.

On November 4, 2009, while on arraignment duty, I ordered a defendant released from custody on bail. The U.S. Attorney's office for the Eastern District of New York did not appeal, but the U.S. Attorney's office for the Southern District of Florida – where the defendant had been indicted – appealed my decision. The district judge in the Southern District of Florida reversed my decision granting bail. A copy of that judge's decision is supplied.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

All of my decisions are publicly available on the Court's Electronic Filing system. I do not know the percentage of my decisions that are published versus unpublished. As a magistrate judge, I have not marked any decisions or orders, "Not for Publication."

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Grossi v. City of New York, No. 08-CV-1083, 2009 WL 4456307 (E.D.N.Y. Nov. 30, 2009).

U.S. v. Peldomo, No. 10-CR-00069, 2010 WL 5067914 (E.D.N.Y. Oct. 28, 2010).

Saperstein v. Palestinian Authority, No. 09-mc-00619, 2010 WL 1371384 (E.D.N.Y. Apr. 6, 2010).

Campinha-Bacote v. Tenney, 10-CV-3165, 2011 WL 703936 (E.D.N.Y. Jan. 28, 2011).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Prior to taking the bench, I was a Supervising Attorney for Federal Defenders of New York. I handled a caseload and supervised other attorneys in the office. Consequently, I recuse from any criminal case in which the defendant had been represented by Federal Defenders of New York from October 2000 until June 2009.

In addition, I recuse from any case in which my wife's employer, J.P. Morgan Chase Bank, is a party. Moreover, I do not allow family members, by blood or marriage, or close friends to appear before me.

I recently recused from a case in which a *pro se* litigant filed a complaint against me, in my capacity as the assigned magistrate judge, and Judge Kiyo Matsumoto, the district judge assigned to the case, for our handling of her civil case. She also filed a complaint against the chief judge, and the entire Second Circuit. The case is *Myers v. Bimbo Bakeries, USA*, 8-CV-1179 (E.D.N.Y.).

Recently, I was handling a case involving the New York Mets and a kosher hot dog company. After a status conference, one of the attorneys for the kosher hot dog company jokingly remarked that he had previously seen me wearing a Mets cap. They asked if they had anything to worry about. I told them there was not. However, on further reflection, I thought it might interfere with the public's feeling of confidence in the impartiality of the judiciary and I recused myself.

No party has ever requested my recusal from a case.

15. **Public Office, Political Activities and Affiliations:**

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held any public office other than judicial office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held office in or rendered services to a political party or election committee. I have not held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a clerk for a judge.

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

I have not practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1994 – 1996
Ford Foundation
320 East 43rd Street
New York, New York 10017
Program Assistant

1996 – 2005
Legal Aid Society
49 Thomas Street
New York, New York 10013
Staff Attorney, Criminal Defense Division (1996 – 2000)
Staff Attorney, Federal Defenders Division (2000 – 2005)

2005 – 2009
Federal Defenders of New York
1 Pierrepont Plaza, 16th Floor
Brooklyn, New York 11241
Supervising Attorney (2006 – 2009)
Staff Attorney (2005 – 2006)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as an arbitrator or a mediator.

b. Describe:

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

I started practicing criminal law in 1996. My practice changed from a state level criminal practice to a federal criminal practice in 2000. In state court, I primarily handled misdemeanor cases, low level drug cases, and a few violent felonies. In federal court, my typical cases included drug cases, gun cases, and cases involving immigration fraud. In 2009, I became a magistrate judge.

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

From 2000 until 2009, my practice was a trial level, public defender practice. I represented poor people charged with committing federal crimes in the Eastern District of New York. From 1996 until 2000, I also worked as a public defender, except during that period, I worked exclusively in New York Supreme or Criminal Court in Manhattan. In 1994, I received a two-year fellowship with the Ford Foundation. As a Program Assistant (the title has since been changed to Program Associate), I attended meetings and conducted legal research related to many of the foundation's grant-making endeavors.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

At the Ford Foundation, I did not appear in court, and my position did not involve litigation. However, during my tenure at the Ford Foundation, I handled a pro bono appeal with the Legal Aid Society's Volunteer Division.

At the Legal Aid Society, 100% of my work was criminal litigation, and 100% of my practice occurred in state court. I appeared in court almost daily.

At Federal Defenders, 100% of my practice was criminal litigation, and 100% of my practice occurred in federal court. I appeared in court frequently.

i. Indicate the percentage of your practice in:
   1. federal courts: 68%
   2. state courts of record: 32%
   3. other courts: __%
   4. administrative agencies: __%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 0%
   2. criminal proceedings: 100%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried 17 jury trials to verdict as chief counsel. I supervised several additional trials, but I usually did not sit at counsel table with the lead attorney.

i. What percentage of these trials were:
   1. jury: 100%
   2. non-jury: 0%

c. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1) *People of the State of New York v. Carmona*, Docket No. 10712-96, New York Supreme Court, New York County, New York, Judge Bernard Fred; 1997 – 1998

Mr. Carmona was charged with selling drugs. Another Legal Aid attorney represented him at trial and the jury was hung. The split was eight to four to convict. I was assigned the case for retrial. This was my first felony trial. Mr. Carmona was convicted on all counts and sentenced as a predicate felon.

Opposing counsel
Assistant District Attorney Nigel Farina
Office of the Special Narcotics Prosecutor
80 Centre Street, 6th Floor
New York, NY 10013
(212) 815-0424

2) *People of the State of New York v. Vasquez*, Docket No. 06848-97; New York Supreme Court; New York County, New York, Judge Charles Solomon; 1997 – 1998

I started representing Mr. Vasquez in October 1997, after his prior attorney left the Legal Aid Society. Mr. Vasquez was accused of robbing a bodega worker in Manhattan. The man claimed that Mr. Vasquez, a much smaller man, beat him up with no weapon and took twenty dollars from him. Mr. Vasquez testified that he tricked this man into giving him his money. While Mr. Vasquez had no history of violence, he had a long criminal record for tricking people out of their money. I argued to the jury that my client, in

conformity with his long record, did not take this man's money by force, but had tricked him out of his money. Mr. Vasquez was acquitted of Robbery in the Third Degree and Grand Larceny in the Fourth Degree. He was convicted of Petit Larceny, a class A misdemeanor.

Opposing counsel
Raja Chaterjee
Morgan Stanley
1221 Avenue of the Americas Floor 35
New York, NY 10020
(212) 762-7138

3) *People of the State of New York v. Braxton*, Docket No. 03451-97; New York Supreme Court, New York county, New York, Judge Renee White; 1997 – 1998

I represented a man accused of possessing stolen credit cards. Mr. Braxton exercised his right to go to trial, but did not testify. I was lead counsel for the defense and was assisted throughout trial by a relatively new lawyer to our office. I conducted the majority of the voir dire, made the legal arguments, delivered the opening statements, examined the People's witnesses, and delivered the summation.

Mr. Braxton was convicted after trial and sentenced to 2-4 years in prison. However, during jury selection, a potential juror expressed doubts over her ability to be fair and impartial. The judge denied my challenge for cause, and I used a peremptory challenge to excuse that juror. To preserve the issue for appeal, I exercised all of my remaining peremptory challenges. A lawyer in the Legal Aid Society's Criminal Appeals Bureau litigated the appeal. The case was reversed and remanded for the judge's failure to excuse this juror. 277 A.D.2d 39; 716 N.Y.S.2d 44; 200 N.Y. App. Div. LEXIS 11281. By the time the case was remanded, I had started working with Federal Defenders of New York. A different lawyer handled the case, and Mr. Braxton was again convicted after trial.

Dates of representation: 1997 – 1998

Opposing counsel
ADA Bonnie Sard
New York County District Attorney's Office
One Hogan Place
New York, NY 10013
(212) 335-4195

Co-counsel
Isaac Hurwitz
638 Montgomery Street
Brooklyn, NY 11225
(646) 706-8289

4) *People of the State of New York v. Eljanati*, Docket No. 01569-98; New York Supreme Court, New York County, New York, Judge Ira F. Beal; 1998

I represented, at trial, a man accused of selling drugs and possessing drugs with intent to sell. My client testified that he was not selling drugs, or possessing drugs with the intention to sell them, but rather was purchasing drugs to support his addiction. He was acquitted on all counts.

Opposing counsel
Support Magistrate Cheryl Joseph-Cherry
400 Carleton Avenue
Central Islip, NY 11722
(631) 853-4098

5) *People of the State of New York v. Britt*, Docket No. 6376-99; New York Supreme Court, New York County, New York, Judge Ira F. Beal; 1999 – 2000

I represented a man accused of Attempted Robbery in the First Degree. The complainant, a parking lot attendant, claimed that my client tried to rob him in a small parking lot booth at gunpoint. Mr. Britt testified that he regularly parked his company van at the lot, and that he owed the complainant money. He claimed that the complainant made up the robbery story to get Mr. Britt arrested. Mr. Britt was acquitted on all counts.

Opposing Counsel
ADA Elliot Felig
200 East 58th Street, Apt. 11H
New York, NY 10022
(646) 554-7953

6) *United States v. Millet*, Docket CR-00-1040; Eastern District of New York, Judge John Gleeson; 2000

I represented, at trial, a woman charged with importing cocaine into the United States. I was assigned the case after Ms. Millet turned down a plea offer from the government. At the time of my assignment to the case, I had been working at Federal Defenders for about one month. This was my first federal trial. Ms. Millet testified at trial that she did not know that the bags she checked had drugs in them. She was acquitted.

Opposing counsel
Suzanne McDermott
Halcyon Asset Management, LLC
477 Madison Avenue, Floor 8
New York, NY 10022
(212) 303-9498

7) *United States v. Gonzalez*, Docket No. CR-03-1161; Eastern District of New York, Judge Raymond Dearie; 2004

I took over the representation of Mr. Gonzalez after his prior attorney left Federal Defenders of New York. Mr. Gonzalez was charged, along with his brother, of possession with intent to distribute a controlled substance. I represented Mr. Gonzalez; co-counsel represented his brother.

My client was a lawful permanent resident who was working two jobs. He testified at trial; his brother did not. Mr. Gonzalez told the jury that he was doing a favor for his girlfriend's cousin, who had asked him to pick up a female friend at the airport for him. I argued that Mr. Gonzalez did not know that the bag contained drugs or that the woman was a drug courier. Both Mr. Gonzalez and his brother were acquitted.

Opposing counsel
Gurbir Grewal
16 Reagan Way
Kinnelton, NJ 10022
(973) 492-1017

Counsel for the Co-Defendant
Joyce David
16 Court Street, Suite 3604
Brooklyn, NY 11241
(718) 875-2000

8) *United States v. Marshall*, Docket No. CR-04-811; Eastern District of New York, Judge Allyne Ross; 2004 – 2006

Mr. Marshall is a veteran of the armed services who was working for a government services provider in the Middle East in support of U.S. national security and foreign policy objectives. He was very proud of the work he was doing, and on a flight home he brought some armaments on the plane with him. He was charged with intentionally placing explosive devices on an aircraft. When he was arrested, he indicated to the agents that he believed it was safe to bring the items on the plane, and that he was bringing them home as souvenirs.

After a motion to transfer venue was denied, we conducted a hearing to suppress his statements on February 2, 2006. It became readily apparent that the Court would deny our motion to suppress, and the discovery we gained through the hearing was not favorable. Mr. Marshall pled guilty and was sentenced to probation.

Opposing counsel
John Nathanson
Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022
(212) 848-8611

9) *United States v. Defreitas*, Docket CR-07-543; Eastern District of New York, Judge Dora Irizarry; 2007 – 2009

Mr. Defreitas was charged with plotting to blow up fuel tanks at JFK airport. I represented him at arraignment in June 2007 until approximately June 2009. The co-defendants were not extradited from abroad until June 2008. I left the office before the case was tried and before most of the substantive motions were filed. I filed a motion to have Mr. Defreitas moved from the special housing unit to general population in order to better address his health concerns. That motion was denied. Eventually, Mr. Defreitas was convicted and sentenced to life.

Opposing Counsel
Jeffrey Knox
United States Department of Justice
Fraud Section
1400 New York Avenue, N.W.
Washington, DC 20530
(202) 616-2634

Marshall L. Miller
United States Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6421

Co-Defendants' Counsel
Michael O. Hueston
350 Fifth Avenue, Suite 4810
New York, NY 10118
(212) 643-2900

Kafahni Nkrumah
Sankofa Law Firm
116 West 111th Street
New York, NY 10026
(212) 864-4445

Daniel Nobel
401 Broadway, 25th Floor
New York, NY 10013
(212) 219-2870

Toni Marie Messina
100 Lafayette Street, Suite 502
New York, NY 10013
(646) 207-4705

Co-Counsel
Mildred M. Whalen
Federal Defenders of New York, Inc.
16 Court Street
Brooklyn, NY 11201
(718) 330-1290

10) *United States v. Pierce*, Docket No. CR-06-42; Eastern District of New York, Judge Dora Irizarry; 2006 – 2008

Mr. Pierce was charged with possessing a firearm. The government claimed that they found the gun in Mr. Pierce's pocket. Mr. Pierce had a lengthy criminal record, and was being prosecuted under the Armed Career Criminal statute. An Armed Career Criminal is an individual who has been convicted of possessing a firearm after sustaining three prior felonies for crimes of violence or drug trafficking offenses. We moved to exclude one of Mr. Pierce's prior convictions from consideration under the statute, and we conducted a hearing on a motion to suppress his statements. Judge Irizarry published a decision denying both motions. *See* 2007 U.S. Dist. LEXIS 28988 (E.D.N.Y. Apr. 19, 2007). Subsequently, Mr. Pierce went to trial, and I tried the case alone. Mr. Pierce was convicted after trial, and our motion for a new trial was denied. *See* 2008 U.S. Dist. LEXIS 2315 (E.D.N.Y. Jan. 11, 2008).

We continued to litigate whether some of Mr. Pierce's other convictions could count as predicates for a sentencing enhancement under the Armed Career Criminal statute. In 2008, the U.S. Supreme Court decided *Begay v. United States*, 553 U.S. 137, 128 S. Ct. 1581, L. Ed. 2d 490 (2008). After briefing, Judge Irizarry determined that Mr. Pierce was not an Armed Career Criminal. On September 23, 2008, Mr. Pierce was sentenced to the statutory maximum of ten years in prison.

Opposing counsel
AUSA Daniel Spector
Office of the United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6345

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    As a public defender, my work usually began at arraignment. My client had already been charged with a crime and the government had certainly begun, if not completed, its investigation. My job was to meet with the client, represent the client at arraignment, and make a determination as to what legal or factual issues, if any, would be in dispute, and to begin investigating them immediately. Following my investigation, I would meet with my client to advise him/her as to whether they should consider pleading guilty, filing a dispositive motion, or going to trial. The overwhelming majority of my clients chose to plead guilty. In state court, I would negotiate a promised sentence with the prosecutor. In federal court, I would negotiate non-binding plea agreements. I would also advise clients about the potential benefits of cooperating with the government. In federal court, the majority of my advocacy concerned sentencing. After the guilty plea, I would work with my client regarding any factual or legal issues for sentencing. After sentencing, I would encourage my clients to make better choices if they were ever going to be released from prison. I would also encourage them to take full advantage of any educational, occupational, or substance abuse programs available in prison.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no such plans.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       A potential conflict of interest would be presented in any case in which my wife's employer, J.P. Morgan Chase, is a party. In addition, prior to taking the bench, I was a Supervising Attorney for Federal Defenders of New York. I handled a caseload and supervised other attorneys in the office. I recuse and would continue to recuse from any criminal case in which the defendant was represented by Federal Defenders of New York from October 2000 until June 2009. Moreover, I do not and would not allow family members, by blood or marriage, or close friends to appear before me.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

       The clerk's office in the Eastern District of New York is aware of my conflict policy regarding persons previously represented by Federal Defenders and my recusal policy regarding J.P. Morgan Chase as a party. Regarding friends and family members, I deal with those matters as they arise. If confirmed as a district judge, I would employ the same procedure in the Southern District of New York, and I would continue to comply with the Code of Conduct for United States Judges.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout my adult life, I have been committed to advancing the cause of equal justice under law. At Harvard Law School, I tutored junior high school students through the "I Have a Dream" program. After the end of my first year, another law student and I launched the BELL Foundation. BELL is an operating foundation that provided college scholarships to graduating high school students and currently provides tutoring and mentoring services to elementary school students from disadvantaged backgrounds.

After graduating from law school, I was chosen to be in the inaugural class of program assistants at the Ford Foundation. I worked in what was then known as the Rights and Social Justice Program. At the Ford Foundation, I conducted legal research and provided grant-making support to organizations concerned with the Community Reinvestment Act, Higher Education, and the Voting Rights Act. In addition, while working at the Ford Foundation, I volunteered to handle an appeal with the Legal Aid Society on a *pro bono* basis. The appeal was based on a judge's decision to deny the suppression of contraband. I filed the appeal and argued before New York's Appellate Division for the Second Department.

Following this experience, I decided to pursue a full-time career in public service, first with the Criminal Defense and Federal Defenders Divisions of the Legal Aid Society and then with the Federal Defenders of New York.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On December 6, 2010 I submitted a judicial questionnaire to Senator Charles Schumer regarding potential openings in the Eastern and Southern Districts of New York. On January 12, 2011, I met with Senator Schumer. On February 3, 2011, I met with Senator Schumer's Judicial Screening Panel. On February 15, 2011, I received notice that Senator Schumer was recommending me for nomination to the President.

Since February 17, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 29, 2011, I interviewed with officials from the White house Counsel's Office and the Department of Justice in Washington, D.C. On May 19, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
CARTER, ANDREW L.	SOUTHERN DISTRICT OF NEW YORK	05/19/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
ACTIVE DISTRICT JUDGE	☑ Nomination, Date 05/19/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 05/19/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
EASTERN DISTRICT OF NEW YORK 225 CADMAN PLAZA ROOM 509 BROOKLYN, NY 11201	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☑ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.		
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting CARTER, ANDREW L.	Date of Report 05/19/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 1/09-6/09	FEDERAL DEFENDERS OF NEW YORK-SALARY	$84,680.00
2.		
3.		
4.		

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

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

DATE	SOURCE AND TYPE
1. 1/10-5/11	J.P. MORGAN CHASE-SALARY
2.	
3.	
4.	

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

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting CARTER, ANDREW L.	Date of Report 05/19/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	EXEMPT		
2.			
3.			
4.			
5.			

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

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	TUITION MANAGEMENT SYSTEMS	TUITION	K
2.	FACTS MANAGEMENT	TUITION	K
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
CARTER, ANDREW L.	05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. VANGUARD INDEX 500 (IRA)	A	Dividend	M	T	Exempt				
2. VANGUARD INDEX 500	A	Dividend	K	T					
3. VANGUARD STAR FUND (IRA)	A	Dividend	J	T					
4. FIDELITY CONTRAFUND (IRA)		None	L	T					
5. FIDELITY TOTAL BOND INDEX FUND (IRA)		None	L	T					
6. J.P. MORGAN STABLE VALUE (401K)		None	K	T					
7. J.P. MORG. COM STOCK FUND (IRA)	B	Dividend	K	T					
8. J.P. MORG. AGG PORTFOLIO (IRA)		None	M	T					
9 J.P. MORG. MOD AGG (401K)		None	M	T					
10. J.P. MORGAN PENSION	D	Interest	L	T					
11. CITADEL BROAD- CASTING (STOCK) (Y)									
12. DISNEY WALT CO. (STOCK)	A	Dividend	J	T					
13. EXXON MOBIL CO. (STOCK)	A	Dividend	J	T					
14. MATTEL (STOCK)	A	Dividend	J	T					
15. MERCK AND CO. (STOCK)	A	Dividend	J	T					
16. TIME WARNER INC. (STOCK)	A	Dividend	J	T					
17. J.P. MORG. SAVINGS ACCT.	A	Interest	L	T					

1. Income Gain Codes: (See Columns B1 and D4)
A =$1,000 or less
B =$1,001 - $2,500
C =$2,501 - $5,000
D =$5,001 - $15,000
E =$15,001 - $50,000
F =$50,001 - $100,000
G =$100,001 - $1,000,000
H1 =$1,000,001 - $5,000,000
H2 =More than $5,000,000

2. Value Codes (See Columns C1 and D3)
J =$15,000 or less
K =$15,001 - $50,000
L =$50,001 - $100,000
M =$100,001 - $250,000
N =$250,001 - $500,000
O =$500,001 - $1,000,000
P1 =$1,000,001 - $5,000,000
P2 =$5,000,001 - $25,000,000
P3 =$25,000,001 - $50,000,000
P4 =More than $50,000,000

3. Value Method Codes (See Column C2)
Q =Appraisal
R =Cost (Real Estate Only)
S =Assessment
T =Cash Market
U =Book Value
V =Other
W =Estimated

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
CARTER, ANDREW L.	05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. NEW YORK 529 MOD. GROWTH		None	K	T					
19. NEW YORK 529 GROWTH		None	K	T					
20. NEW YORK 529 BOND MKT. INDEX		None	J	T					
21. NEW YORK 529 MOD AGE BASED		None	K	T					
22. REAL ESTATE	E	Rent	O	R					
23. J.P. MORG COMMON STOCK	A	Dividend	J	T					
24. J.P. MORG RESTRICTED STOCK		None	J	T					
25. J.P. MORG STOCK OPTIONS		None	J	T					
26. REAL ESTATE	C	Rent	L	R					
27. WELLS FARGO MONEY MARKET	A	Interest	K	T					
28. AMERICAN CENT. MONEY MARKET	A	Interest	J	T					

1. Income Gain Codes (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000 I =$15,000 or less M =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000 K =$15,001 - $50,000 O =$500,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000 L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000 M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)					
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimate	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting CARTER, ANDREW L.	Date of Report 05/19/2011

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

In Part VII, line 22 I listed "real estate." The property was purchased on January 5, 2000 for $585,000. The property is located in Kings County in New York state.

In Part VII, line 26, I listed "real estate." The real estate was purchased on September 9, 2010 for $85,100. The property is located in Seminole County in the state of Florida.

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting CARTER, ANDREW L.	Date of Report 05/19/2011

IX. CERTIFICATION.

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

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

Signature _____

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		71	882	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		838	788	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		21	846
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		476	236
Real estate owned - -see schedule		670	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		5	800	Home equity line of credit		83	000
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		41	235				
				Total liabilities		581	082
				Net Worth	1	046	623
Total Assets	1	627	705	Total liabilities and net worth	1	627	705
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
American Century Money Markey Fund	$11,940
Fidelity Contrafund	58,684
Fidelity Total Bond Index Fund	53,434
J.P. Morgan Stable Value Fund	35,607
J.P. Morgan Chase Common Stock Fund	46,823
J.P. Morgan Chase Aggressive Portfolio	101,004
J.P. Morgan Chase Mod.-Aggressive Portolio	153,267
J.P. Morgan Pension Plan	91,935
Vanguard Index 500 Fund	154,566
Vanguard Star Fund	2,526
Wells Fargo Money Market Fund	21,724
Exxon Mobil Co. stock	2,412
Mattel stock	801
J.P. Morgan common stock	2,045
J.P. Morgan restricted stock	20,166
J.P. Morgan stock options	6,022
Merck & Co. stock	651
Time Warner Inc. stock	256
Walt Disney Co. stock	902
New York 529 Bond Market Index	14,482
New York 529 Growth	22,148
New York 529 Moderate Age-Based Growth	22,864
New York 529 Moderate Growth	14,529
Total Listed Securities	$838,788

Real Estate Owned	
Personal residence	$585,000
Rental property	85,000
Total Real Estate Owned	$670,000

AFFIDAVIT

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

May 17, 2011
(DATE)

(NAME)

(NOTARY)

ALEXEI MARTINEZ
Notary Public, State of New York
No. 02MA5009487
Qualified in Kings County
Commission Expires March 15, 2015

STATEMENT OF JESSE M. FURMAN, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. FURMAN. Yes. Thank you, Senator.

Let me just start by thanking the Committee Chairman, the Ranking Member and the other members of the Committee for holding this hearing today. I would also like to thank you for your generous introduction and for the privilege of your recommendation to the President. And, finally, of course, thank the President for the distinct honor of his nomination.

With me today, first and foremost, is my wife of 15 years, Ariela Dubler. Ariela is a professor of law at Columbia Law School. She is the love of my life and has been my partner in all matters since college. And is an understatement to say I would not be sitting here today without her constant love and support.

We are joined by the three greatest joys of our life, our 10-year-old son—he actually turned 10 last week—Ilan; our 7-year-old daughter, Mira; and, our 3-year-old son, Lev. They are a daily reminder of what is the most important thing in the world.

I am also joined here by my parents, Gail Furman and Jay Furman. They taught me from an early age the values of love for family, hard work, public service, and intellectual honesty, and I thank them for that and for their love and support through my life.

There are other family members here, as well. I think my brother, Jason Furman, may be here, but I haven't seen him. I gather he is here. My sister-in-law, Eve Gerber; my in-laws, Walter and Nancy Dubler; my brother-in-law, Josh Dubler, and his wife, Lisa Sarami (ph), and some other family members, as well. I am very grateful for their support and their presence.

I am also joined by many friends, most of whom have come here from New York, and I am both flattered and grateful for their presence.

And then lastly, joined by a number of colleagues from the Department of Justice, both from my time in Attorney General Mukasey's office and from my career in the United States Attorney's office. It has been the singular privilege of my life to work with them on behalf of our country, and I am honored by their presence.

Thank you, Senator.

Senator SCHUMER. Thank you. And will the Furman family please stand up so we can greet you? And welcome. Very nice. Thank you.

Now, we allowed Messrs. Ramos, Carter and Furman to introduce more than their immediate family. For those who came in a little later, Senators Cornyn and Hutchison and Senators Kyl and McCain introduced the immediate family of Mr. Gilstrap and Ms. Zipps. But are there other people you would like to introduce? It is always so nice to see all the people here and so happy. With all the trouble going on around here, this is a nice moment and we want to extend it as long as we can.

[Laughter.]

Senator FRANKEN. I have a distant cousin in the anteroom.

[Laughter.]

Senator SCHUMER. He may stand or she may stand.

So if there is anyone else you would like to introduce, so we could ask them to stand, feel free.

Mr. Gilstrap.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Jesse Matthew Furman

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

   United States District Judge for the Southern District of New York

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   United States Attorney's Office
   Southern District of New York
   One St. Andrew's Plaza
   New York, New York 10007

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

   1972; New York, New York

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1995 – 1998, Yale Law School; J.D., 1998

   1994 – 1995, Oxford University (Henry Fellow); no degree awarded

   1990 – 1994, Harvard University; B.A. (*summa cum laude*), 1994

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2009 – Present
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Deputy Chief Appellate Attorney

2007 – 2009
United States Department of Justice
Office of the Attorney General
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Counselor to the Attorney General

2004 – 2007
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Assistant United States Attorney

2003 – 2004
Wiggin & Dana LLP
450 Lexington Avenue, Suite 3800
New York, New York 10017
Associate

2002 – 2003
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543
Law Clerk to the Honorable David H. Souter

2000 – 2002
Wiggin & Dana LLP
265 Church Street
New Haven, Connecticut 06508
Associate

1999 – 2000
United States Court of Appeals for the Second Circuit
141 Church Street
New Haven, Connecticut 06510
Law Clerk to the Honorable José A. Cabranes

1998 – 1999
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007
Law Clerk to the Honorable Michael B. Mukasey

Summer 1997
Jenner & Block
1099 New York Avenue, N.W.
Washington, D.C. 20001
Summer Associate

Summer 1996
United States Attorney's Office for the Eastern District of New York
147 Pierrepont Street
Brooklyn, New York 11201
Summer Intern

Other Affiliations:

2008 – Present
Goddard Riverside Community Center
593 Columbus Avenue
New York, New York 10024
Member, Board of Directors (uncompensated)

2005 – Present
MF Est L.P.
810 Seventh Avenue, 10th Floor
New York, New York 10019
Limited Partner

1999 – Present
MF Est LLC
810 Seventh Avenue, 10th Floor
New York, New York 10019
Non-Managing Member

1999 – Present
RHO Capital Partners 1999 L.P.
152 West 57th Street
New York, New York 10019
Limited Partner

1999 – 2009
American Securities Partners II L.P.
299 Park Avenue, 34th Floor
New York, New York 10171
Limited Partner

2000 – 2008
The Furman Foundation, Inc.
151 East 83rd Street
New York, New York 10028
Treasurer (uncompensated)

2004 – 2008
Jay Furman Partners
810 Seventh Avenue, 10th Floor
New York, New York 10019
Limited Partner

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I have registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Member, The American Law Institute (elected 2009)
   International Narcotic Enforcement Officers Association
   International Award of Honor (2007)
   Executive Editor, *Yale Law Journal* (1997 – 1998)
   Articles Editor, *Yale Law and Policy Review* (1996 – 1997)
   First in Politics M.Phil. Qualifying Examination, Oxford University (1995)
   Henry Fellowship (one-year fellowship to Oxford University) (1994 – 1995)
   Phi Beta Kappa (1994)
   Thomas Temple Hoopes Prize (for top Harvard College thesis) (1994)
   Alexis de Tocqueville Prize (for top thesis in Social Studies) (1994)
   Philo Sherman Bennett Prize (for top thesis on government) (1994)
   USA Today All-USA Academic First Team (1994)
   Harvard Institute of Politics Political Journalism Awards (1990 and 1991)

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association (2000 – Present)
Member, Criminal Justice Section
Co-Chair, Prosecution Function Committee (2010 – Present)
The American Law Institute (2009 – Present)
Member, Members Consultative Group, Model Penal Code: Sentencing
Federal Bar Council (2007 – Present)
New York State Bar Association (1999 – Present)
Member, Criminal Justice Section (2007 – 2010)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

New York, 1999

There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2002
United States Court of Appeals for the Second Circuit, 2005
United States District Court for the District of Connecticut, 2001
United States District Court for the Southern District of New York, 2000

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

American Constitution Society (2009 – Present)
Member, Executive Committee, N.Y. Lawyer Chapter (2010 – Present)
Goddard Riverside Community Center (2008 – Present)
Member, Board of Directors
The Furman Foundation, Inc. (2000 – 2008)
Treasurer

The Harvard Club of New York (1994 – 1996)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of these organizations discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Note, *Political Illiberalism: The Paradox of Disenfranchisement and the Ambivalences of Rawlsian Justice*, 106 Yale Law Journal 1157 (1997). Copy supplied.

Letter to the Editor, *Judging by the Cover, and What's Inside*, The New York Times, June 27, 1993. Copy supplied.

Broken Records, The New Republic, August 31, 1992. Copy supplied.

The Speech Thing, The New Republic, August 17/24, 1992 [re-printed in multiple outlets]. Copy supplied.

With Steven Emerson, Response to Letters to the Editor, The New Republic, December 23/30, 1991. Copy supplied.

With Steven Emerson, *The Conspiracy That Wasn't*, The New Republic, November 18, 1991. Copy supplied.

Breaking the Codes, The New Republic, July 8, 1991. Copy supplied.

Bang, Bang, You're Dead! The NRA Supplied the Lead!, The Harvard Perspective, June 1991. Copy supplied.

Up the Volga Without a Paddle, The Harvard Perspective, May 1991. Copy supplied.

A Legacy of Discrimination, The Harvard Perspective, Dec. 1990. Copy supplied.

The Missile Crisis, The Concord Review, Fall 1989.

During college, I authored several other articles in *The Harvard Perspective* in addition to those listed above, but I have been unable to locate copies.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

J. Gerald Hebert, Donald B. Verrilli, Jr., Paul M. Smith, Sam Hirsch, and Heather Gerken, The Realists' Guide to Redistricting: Avoiding the Legal Pitfalls (1997) (assisted in researching and drafting as a summer associate at Jenner & Block). Copy supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

May 12, 2010: I signed a joint letter from Yale Law School alumni to Senators Patrick Leahy and Jeff Sessions in support of Goodwin Liu's nomination to the United States Court of Appeals for the Ninth Circuit. Copy supplied.

September 19, 2007: I signed a joint letter from former law clerks to the Honorable Michael B. Mukasey to Senators Harry Reid, Mitch McConnell, Patrick Leahy, and Arlen Specter in support of the nomination of Michael B. Mukasey to be Attorney General of the United States. Copy supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

June 3, 2011: My wife and I spoke to our son's elementary school class about the law. I have no notes, transcript, or recording.

May 12, 2011: I served as master of ceremonies and delivered remarks at a Special Ceremonial Session of the United States District Court for the District of Connecticut on the occasion of the unveiling of a portrait of the Honorable José A. Cabranes. Prepared remarks supplied.

April 14, 2011: I served as a judge for a mock jury trial conducted as part of a trial advocacy class at New York Law School taught by my colleague, David Raskin. The trial concerned a hypothetical murder-for-hire case. I have no notes, transcript, or recording. The mock trial was conducted at New York Law School, 185 West Broadway, New York, New York 10013.

March 4, 2011: Training session for the Criminal Division of the United States Attorney's Office for the Southern District of New York on the law and practice relating to indictments. I have presentation materials, but they are privileged. The address of the U.S. Attorney's Office is One St. Andrew's Plaza, New York, New York 10007.

March 3, 2011: I served on a five-judge panel at the American Bar Association Law Student Division National Appellate Advocacy Competition moot court. The argument concerned a hypothetical case involving a First Amendment challenge to restriction on commercial advertising. I have no notes, transcript, or recording. The ABA is located at 321 North Clark Street, Chicago, Illinois 60654.

October 19, 2010: I participated in a roundtable discussion on the law of entrapment organized by the Center on Law and Security at New York University Law School. It was an informal discussion involving government officials (including another Assistant United States Attorney, from the Eastern District of New York), defense attorneys, and academics about issues relating to entrapment. I have no notes, transcript or recording. The Center is located at Wilf Hall, 139 Macdougal Street, Fourth Floor, New York, New York 10012.

In 2009 and 2010, I conducted training sessions for the General Crimes Unit of the Criminal Division of the United States Attorney's Office for the Southern District of New York on the law and practice relating to criminal discovery. The presentation was videoed by the United States Attorney's Office and I have presentation materials, but these items are privileged. The address of the U.S. Attorney's Office is One St. Andrew's Plaza, New York, New York 10007.

February 3, 2010: I served on a three-judge panel at the New York City Bar's Annual National Moot Court Competition. The argument concerned a hypothetical criminal case in which the defendant, a juvenile at the time of the crime, challenged the denial of her motion to change venue based on negative

pretrial publicity and her sentence of life imprisonment. I have no notes, transcript, or recording. The New York City Bar is located at 42 West 44th Street, New York, New York 10036.

November 12, 2009: I participated in a panel, along with the Honorable Cathy Seibel, United States District Judge for the Southern District of New York, and Guy Petrillo, of Petrillo Klein LLP, in a Judicial Externship Program class at Columbia Law School conducted by my former colleague, Paul Radvany, and Mel Cantor, Esq. I spoke extemporaneously about the role of a federal prosecuto in the criminal justice system. I have no notes, transcript, or recording. Columbi Law School is located at 435 West 116th Street, New York, New York 10027.

In or about 2006, I served as a judge for a moot court oral argument in the first-year Lawyering class at New York University Law School. The oral argument concerned a hypothetical case involving the Indian Child Welfare Act. I have no notes, transcript, or recording. NYU Law School is located at 40 Washington Square Park South, New York, New York 10012.

November 10, 2003: I delivered remarks at a Special Ceremonial Session of the United States District Court for the District of Connecticut for the Investiture of Mark R. Kravitz as a United States District Judge. Transcript supplied.

December 6, 1993: I participated in a panel at Harvard University's Institute of Politics titled "What Is Radcliffe's Relationship to Harvard?" A video of the panel discussion is available at http://www.iop.harvard.edu/content/advancedsearch?SearchText=furman. Press coverage also supplied.

In addition to the foregoing, I recall participating in various panels during college and law school on subjects such as extracurricular life at Harvard College, joining *The Yale Law Journal*, and applying for judicial clerkships. I neither recall the specific dates of these appearances nor have any materials relating to them.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Alumni Notes, Wiggin & Dana LLP, Autumn 2010. Copy supplied.

Thomas Scheffey, *Construing the Establishment Clause*, The Connecticut Law Tribune, June 25, 2001. Copy supplied.

Jonathan A. Lewin, *Seniors Play and Delay*, The Harvard Crimson, Feb. 19, 1994. Copy supplied.

Pat Ordovensky, *1994 Best and Brightest/Brilliant, Bold and Benevolent*, USA Today, Feb. 4, 1994. Copy supplied.

Stephanie P. Wexler, *'Inside Edge' Goes Monthly*, The Harvard Crimson, Oct. 19 1993. Copy supplied.

Elie G. Kaunfer, *Tutors to Retract Threats of Libel*, The Harvard Crimson, Oct. 13, 1993. Copy supplied.

Nan Zheng, *Alcohol Policy Poses Threat to Students' Social Life*, The Harvard Crimson, Sept. 20, 1993. Copy supplied.

John A. Cloud, *From 'Poon to Perspective, the Two Sides of a Paradox*, The Harvard Crimson, June 10, 1993. Copy supplied.

Tara H. Arden-Smith, *New Student Center Designed to Foster Sense of Community*, The Harvard Crimson, June 10, 1993. Copy supplied.

Mary Louise Kelly, *Clinton Joins Galas*, The Harvard Crimson, Jan. 21, 1993. Copy supplied.

Marion B. Gammill, *New Center May Change Student Life*, The Harvard Crimson, Sept. 28, 1992. Copy supplied.

November 6, 1991: I was interviewed on the Peter Meade Show, on WBZ Boston radio, regarding Steven Emerson's and my article, "The Conspiracy That Wasn't," which appeared in the November 18, 1991 issue of *The New Republic*. Audio recording supplied.

Maggie S. Tucker, *Radical Journal Intends to Shock*, The Harvard Crimson, Feb. 4, 1991. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have never held a judicial office.

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

i. Of these, approximately what percent were:

jury trials: ___%
bench trials: ___% [total 100%]

civil proceedings: ___%
criminal proceedings: ___% [total 100%]

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have never been a judge.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held an office in, or rendered a service to, a political party or election committee. I have never held a position or played a role in a political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the following three judges:

The Honorable Michael B. Mukasey
United States District Court for the Southern District of New York
1998 – 1999

The Honorable José A. Cabranes
United States Court of Appeals for the Second Circuit
1999 – 2000

The Honorable David H. Souter
Supreme Court of the United States
2002 – 2003

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

I have not practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

2000 – 2002
Wiggin & Dana LLP
265 Church Street
New Haven, Connecticut 06508
Associate

2003 – 2004
Wiggin & Dana LLP
450 Lexington Avenue, Suite 3800
New York, New York 10017
Associate

2004 – 2007
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Assistant United States Attorney

2007 – 2009
United States Department of Justice
Office of the Attorney General
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Counselor to the Attorney General

2009 – Present
United States Attorney's Office for the Southern District of New York
One St. Andrew's Plaza
New York, New York 10007
Deputy Chief Appellate Attorney

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From 2000 to 2002, and again from 2003 to 2004, I worked as a litigation associate at Wiggin & Dana LLP, which is headquartered in New Haven, Connecticut. I was a member of the White-Collar Defense, Investigations and Corporate Compliance Practice and the Appellate Litigation Practice Groups. My work involved a mix of civil appellate litigation (in both state and federal courts), white collar criminal defense, and internal investigations.

From 2004 to 2007, I was a federal prosecutor in the United States Attorney's Office for the Southern District of New York. From 2004 to 2005, as a member of the General Crimes Unit, I prosecuted a wide range of offenses, including firearms offenses, immigration offenses, child pornography offenses, fraud offenses, and narcotics offenses. In 2006, as a member of the Narcotics Unit, I prosecuted narcotics and money-laundering offenses. From 2006 to 2007, as a member of the International Narcotics Trafficking Unit, I prosecuted large-scale international narcotics-trafficking and money-laundering organizations.

From December 2007 to January 2009, I took a detail from the United States Attorney's Office to be Counselor to Attorney General Michael B. Mukasey in the Department of Justice. In that position, I was involved in advising the Attorney General on a range of matters, including some areas of criminal law, civil rights, drug enforcement, immigration, and border security. Among other things, I assisted in preparing the Attorney General for his oral argument before the Supreme Court of the United States and for his testimony before the Senate and House Judiciary Committees; for much of my tenure, I was also responsible for supervising the drafting of Attorney General speeches and immigration orders and opinions.

In February 2009, I returned to the United States Attorney's Office for the Southern District of New York, where I have served as Deputy Chief Appellate Attorney. In that position, I am primarily involved in conducting and supervising litigation before the United States Court of Appeals for the Second Circuit and advising colleagues on legal issues in trials and other litigation before the District Court. I have spent a substantial portion of my time in that position working and advising on national security and terrorism matters. I have also continued to handle or supervise several matters in District Court, including two matters that culminated in jury trials.

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

At Wiggin & Dana LLP (2000 to 2002 and 2003 to 2004), I specialized in civil appellate litigation and white collar criminal defense. On the appellate side, I handled cases ranging from the First Amendment to school desegregation to copyright to town beach public access to unfair trade practices, and represented clients as diverse as the Attorney General of Canada, MP3.com, the Anti-Defamation League, and the Zoning Board of the City of Stamford, Connecticut. Working primarily with Mark R. Kravitz, now a United States District Judge in the District of Connecticut, I was involved in litigation before both federal and state courts, including the United States Supreme Court, the United States Court of Appeals for the Second Circuit, the Connecticut Supreme Court, the New Hampshire Supreme Court, and the Appellate Division of the New York Supreme Court. On the criminal defense side, I worked primarily with David B. Fein, now United States Attorney for the District of Connecticut, representing companies and individuals in connection with grand jury investigations, including a subject in the Bridgeport corruption investigation, and assisting in internal corporate investigations.

As an Assistant United States Attorney (2004 to 2007 and 2009 to the present), I have represented the United States in criminal prosecutions and habeas corpus litigation. I have handled both trials and appeals.

As Counselor to the Attorney General (2007 to 2009), I advised the Attorney General in his official capacity on a range of matters, including some areas of criminal law, civil rights, drug enforcement, immigration, and border security.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Aside from the period of time in which I served as Counselor to the Attorney General (which involved a substantial amount of work relating to litigation, albeit at a far remove from the litigation itself), all of my practice has been in litigation. During the time I have served as an Assistant United States Attorney, I have appeared in court frequently, although the frequency has decreased since I became Deputy Chief Appellate Attorney in February 2009 (and my appearances since that time have been primarily before the United States Court of Appeals for the Second Circuit). During the time I worked as a litigation associate at Wiggin & Dana LLP, I appeared in court only occasionally (and never in a speaking role) for appellate arguments.

i. Indicate the percentage of your practice in:
   1. federal courts: 90%
   2. state courts of record: 10%
   3. other courts: 0%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 20%
   2. criminal proceedings: 80%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried nine cases to verdict in the United States District Court. In each case, I tried the case with a partner or partners as co-counsel. I have also handled up to a dozen hearings, including suppression hearings and sentencing hearings, each of which has involved the examination and cross-examination of witnesses and the introduction of physical evidence. In two hearings, I appeared primarily in a supervisory capacity with a relatively junior Assistant United States Attorney; I was sole counsel in the other hearings.

i. What percentage of these trials were:
   1. jury: 100%
   2. non-jury: 0%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

While at Wiggin & Dana, I was the primary drafter of an *amicus* brief submitted on behalf of the Anti-Defamation League and other organizations in *Good News Club* v. *Milford Central School*, 533 U.S. 98 (2001). (My name did not appear on

the brief because my application for a Supreme Court clerkship was pending at the time and I was advised to omit any mention of my involvement as a result.) I was also a primary drafter of the petition for writ of *certiorari* and reply in *Manning* v. *School Board of Hillsborough County*, No. 00-1871. Copies supplied.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

    a. the date of representation;

    b. the name of the court and the name of the judge or judges before whom the case was litigated; and

    c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

The following list is roughly in chronological order:

1. *Attorney General of Canada* v. *R.J. Reynolds Tobacco Holdings, Inc.*, 268 F.3d 103 (2d Cir. 2001). United States Court of Appeals for the Second Circuit: Guido Calabresi and Robert A. Katzmann, Circuit Judges; Lewis A. Kaplan, District Judge.

This case involved an appeal by Canada from dismissal of its civil suit under the Racketeer Influenced and Corrupt Organizations (RICO) Act against R.J. Reynolds Tobacco Holdings and others to recover revenue lost as a result of an alleged conspiracy to smuggle cigarettes into Canada for sale on the black market. The District Court had held that Canada's suit was barred by the common law "revenue rule," which holds that the courts of one sovereign will not enforce the tax judgments or claims of another sovereign. Although not counsel of record, I assisted in drafting and editing Canada's briefs on appeal while working as an associate at Wiggin & Dana with Mark R. Kravitz, now a United States District Judge for the District of Connecticut, and I participated in mooting Philip Beck of Bartlit Beck for the argument. On October 12, 2001, the Second Circuit affirmed the District Court's dismissal of the suit over a dissent by Judge Calabresi.

Co-Counsel (partial list):

The Honorable Mark R. Kravitz (then at Wiggin & Dana LLP)
United States District Court
141 Church Street
New Haven, CT 06510
(203) 773-2022

Philip Beck, Esq.
Bartlit Beck Herman Palenchar & Scott LLP
Courthouse Place
54 West Hubbard Street, Suite 300
Chicago, IL 60654
(312) 494-4400

Opposing Counsel:

The Honorable Jeffrey S. Sutton (then at Jones, Day, Reavis & Pogue)
United States Court of Appeals for the Sixth Circuit
Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, OH 45202
(513) 564-7000

2. *United States* v. *Hertular*, 04 Cr. 009 (NRB); 562 F.3d 433 (2d Cir. 2009). United States District Court for the Southern District of New York: District Judge Naomi Reice Buchwald; United States Court of Appeals for the Second Circuit: Chester J. Straub and Reena Raggi, Circuit Judges; and William K. Sessions III, District Judge.

In this case, the defendant, having been extradited from Belize, was convicted of conspiring to import and to distribute over six tons of cocaine from Belize and of obstructing justice by threatening to kill two Drug Enforcement Administration agents. From February 21, 2006, to March 1, 2006, I tried the case before a jury with then-AUSA Anirudh Bansal. Among other things, I gave the Government's principal summation and examined roughly half the witnesses. Following conviction on all four counts, the defendant was sentenced principally to 400 months' imprisonment. I drafted a substantial portion of the Government's 78-page brief on appeal; AUSA Bansal drafted the remaining parts; and the brief was edited by AUSA Katherine Polk Failla. AUSA Bansal argued the appeal while I was serving as Counselor to the Attorney General in Washington, D.C. On April 6, 2009, the Second Circuit vacated one of the four counts – a misdemeanor conviction for forcibly impeding or intimidating a federal officer – for insufficient evidence, but affirmed the rest of the defendant's conviction; the Court remanded for resentencing. On December 29, 2009, Judge Buchwald resentenced the defendant to the same 400-month term of imprisonment. I handled the resentencing along with AUSA Bansal and I am now handling the defendant's appeal.

Co-Counsel:

Former AUSA Anirudh Bansal
Cahill Gordon & Reindel LLP
Eighty Pine Street
New York, NY 10005
(212) 701-3207

AUSA Katherine Polk Failla
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2324

Opposing Counsel:

Marvin E. Schechter, Esq. (for trial)
152 West 57th Street, 24th Floor
New York, NY 10019
(212) 307-1405

Ira D. London, Esq. (for initial sentencing and appeal)
245 Fifth Avenue, Suite 1900
New York, NY 10016
(212) 683-8000

Ivan S. Fisher, Esq. (for resentencing)
251 East 61st Street
New York, NY 10021
(212) 517-5000

3. *United States* v. *Maduka and Ibiam*, 06 Cr. 921 (SHS); Nos. 08-1961-cr(L), 08-3055-cr(Con), 2009 WL 1737510 (2d Cir. June 19, 2009). United States District Court for the Southern District of New York: District Judge Sidney H. Stein; United States Court of Appeals for the Second Circuit: Guido Calabresi, Robert A. Katzmann, Circuit Judges; and Richard K. Eaton, Court of International Trade Judge.

In this case, the defendants were convicted of conspiring to import and to distribute heroin following what was apparently the first controlled delivery in the United States of heroin from Afghanistan. The charges stemmed from an undercover investigation in Afghanistan in which an informant working for the Drug Enforcement Administration received almost 20 kilograms of heroin for delivery to the United States and England. Maduka and Ibiam were identified through wiretaps and other evidence as the intended recipients of the heroin in the United States. I indicted the case and, along with AUSA Jocelyn Strauber, tried it before a jury from June 4, 2007, to June 13, 2007. Among other things, I gave the Government's opening statement and rebuttal summation; examined

roughly half the witnesses; and largely drafted the Government's motion papers before and during trial. Following convictions on both counts, Maduka was sentenced to 240 months' imprisonment and Ibiam was sentenced to 121 months' imprisonment. I wrote the vast majority of the Government's 80-page brief on appeal, which addressed, among other things, an unsettled issue regarding the *mens rea* requirements in drug conspiracy cases; AUSA Strauber assisted in drafting the brief, which was edited by AUSA Katherine Polk Failla. I argued the appeal, and the Second Circuit affirmed in all respects by summary order on June 19, 2009. (The Second Circuit later issued a precedential opinion adopting our arguments on the *mens rea* issue in *United States* v. *Andino*, 627 F.3d 41 (2d Cir. 2010), another case I argued that is discussed below.) Earlier this year, each defendant filed a habeas petition challenging his conviction or sentence, and I represented the Government in responding. In May 2011, the District Court denied each petition and neither defendant has sought to appeal. In 2007, I was awarded the International Narcotic Enforcement Officers Association International Award of Honor for my work on the case.

Co-Counsel:

AUSA Jocelyn Strauber – (212) 637-1034
AUSA Katherine Polk Failla – (212) 637-2324
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007

Opposing Counsel:

Victoria Brown-Douglas, Esq. (for Ibiam at trial)
223-12 Linden Boulevard
Cambria Heights, NY 11411
(718) 969-1226

Sanford I. Weisburst, Esq. (for Ibiam at sentencing and on appeal)
Benjamin W. Thorn, Esq.
Quinn Emanuel Urquhart Oliver & Hedges LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010
(212) 849-7000

Raymond S. Sussman, Esq. (for Maduka at trial)
4523 Avenue H
Brooklyn, NY 11234
(718) 338-3302

Joseph Aaron Grob, Esq. (for Maduka at sentencing and on appeal)
Goldberg & Rimberg, PLLC
115 Broadway, Suite 302
New York, NY 10006
(516) 569-2822

4. *In re New York Times Co. to Unseal Wiretap & Search Warrant Materials*, 577 F.3d 401 (2d Cir. 2009). United States Court of Appeals for the Second Circuit: Ralph K. Winter, José A. Cabranes, and Peter W. Hall, Circuit Judges.

This case involved an affirmative Government appeal from an order of the Honorable Jed S. Rakoff, United States District Judge, granting an application by the New York Times Company for disclosure of the wiretap applications and orders in the federal investigation of the Emperors Club VIP, the investigation that led to the resignation of New York Governor Eliot Spitzer. Judge Rakoff had ordered disclosure of the applications and orders under the common law and First Amendment rights of access to judicial documents. On August 20, 2009, the Second Circuit reversed, adopting the Government's argument that disclosure was prohibited under the statute governing wiretaps. I was the principal drafter of the Government's briefs before the Court of Appeals. Then-AUSA Daniel L. Stein, who had handled the litigation before Judge Rakoff, assisted in drafting the briefs and argued the appeal.

Co-Counsel:

Former AUSA Daniel L. Stein
Richards Kibbe & Orbe LLP
One World Financial Center
New York, NY 10281
(212) 530-1830

Opposing Counsel:

David E. McCraw, Esq.
Vice President & Assistant General Counsel
The New York Times Company
620 8th Avenue, 18th Floor
New York, NY 10018
(212) 556-4031

5. *United States* v. *Awad et al.*, 598 F.3d 76 (2d Cir. 2010); 369 Fed. Appx. 242, 2010 WL 827294 (2d Cir. Mar. 11, 2010). United States Court of Appeals for the Second Circuit: John M. Walker, Guido Calabresi, and Richard C. Wesley, Circuit Judges.

This case involved an appeal by seven defendants and a Government cross-appeal from judgments convicting the defendants, following two separate jury trials, of conspiracy to import and to distribute cathinone, a chemical ingredient of the khat plant that is listed as

a Schedule I controlled substance. The defendants (among 44 charged in the original indictment) raised almost 20 issues on appeal, including a number of novel questions relating to the propriety of a forfeiture money judgment where a defendant lacks assets at the time of sentencing and the *scienter* required for conviction in khat cases (because khat itself is not a controlled substance). In its cross-appeal, the Government contended that Judge Cote had erred in concluding that the sentences imposed on three defendants were limited by the Supreme Court's decision in *Apprendi* v. *New Jersey*, 530 U.S. 466 (2000). I drafted significant portions of the Government's 223-page initial brief, as well as the reply brief and a five-page letter brief (regarding the forfeiture issue), and I edited all of those briefs in their entirety. AUSAs Daniel L. Stein and Anjan Sahni, who represented the Government before the District Court, assisted in drafting the briefs and argued the appeal on October 21, 2009. On March 11, 2010, the Second Circuit ruled in favor of the Government in all respects, affirming the defendants' convictions in their entirety; rejecting all of the defendants' challenges to their sentences; and vacating three defendants' sentences and remanding for resentencing for the reasons argued by the Government in its cross-appeal. The Court addressed the forfeiture issue in a published opinion and disposed of the other issues by summary order.

Co-Counsel:

AUSA Anjan Sahni
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2491

Former AUSA Daniel L. Stein
Richards Kibbe & Orbe LLP
One World Financial Center
New York, NY 10281
(212) 530-1830

Opposing Counsel:

Michael O. Hueston, Esq. (for Awad)
350 Fifth Avenue, Suite 4810
New York, NY 10018
(212) 643-2900

Neil B. Checkman, Esq. (for Hussein)
111 Broadway, Suite 1305
New York, NY 10006
(212) 264-9940

Robert J. Boyle, Esq. (for Moge)
299 Broadway, Suite 806
New York, NY 10007
(212) 431-0229

Robin C. Smith, Esq. (for Jama)
25 Eighth Avenue
Brooklyn, NY 11217
(718) 403-9599

Howard L. Jacobs, Esq. (for Egal)
401 Broadway, Suite 1902
New York, NY 10013
(212) 431-3710

Laurie S. Hershey, Esq. (for Shire)
222 Park Avenue
Manhasset, NY 11030
(516) 424-9111

Martin R. Stolar, Esq. (for Mohamed)
351 Broadway
New York, NY 10013
(212) 219-1919

6. *United States* v. *Ghailani*, 98 Cr. 1023 (LAK), 11-320 (2d Cir.). There are numerous reported decisions in the case, of which the most relevant include: 751 F. Supp. 2d 502 (S.D.N.Y. 2010) (denying motion to dismiss indictment on due process grounds); 751 F. Supp. 2d 515 (S.D.N.Y. 2010) (denying motion to dismiss indictment on speedy trial grounds); 743 F. Supp. 2d 242 (S.D.N.Y. 2010) (ordering a hearing on motion to suppress testimony of a Government witness); 743 F. Supp. 2d 261 (S.D.N.Y. 2010) (granting motion to suppress testimony of a Government witness); — F. Supp. 2d —, 2011 WL 181757 (S.D.N.Y. Jan. 21, 2011) (denying post-trial motion for judgment of acquittal or new trial). United States District Court for the Southern District of New York: District Judge Lewis A. Kaplan; United States Court of Appeals for the Second Circuit: Appeal pending.

This case involved the prosecution of a former detainee at the Guantanamo Bay Naval Base for his participation in the 1998 bombings of the United States embassies in Kenya and Tanzania, which resulted in the deaths of 224 people. The defendant was transferred from Guantanamo Bay to the Southern District of New York on June 9, 2009. After substantial pretrial litigation, including motions to dismiss the indictment on both due process and speedy trial grounds, the case was tried before a jury in October and November 2010, resulting in the defendant's conviction on one count of conspiracy to destroy buildings and property of the United States, resulting in death, and his acquittal on the remaining counts. I was assigned to the case as an appellate specialist and was

heavily involved in handling the pretrial litigation, including the defendant's motions to dismiss and his motion to suppress evidence derived from his interrogations while in the custody of the Central Intelligence Agency. I was not involved directly in the trial, but I provided legal advice to the trial team on various issues during the trial and in the litigation between the verdict and sentencing. The defendant was sentenced to life imprisonment on January 24, 2011. He has filed a notice of appeal.

Co-Counsel:

AUSA Michael Farbiarz – (212) 637-1587
AUSA Harry Chernoff – (212) 637-2481
AUSA Nicholas Lewin – (212) 637-2337
AUSA Sean Buckley – (212) 637-2261
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007

Opposing Counsel:

Peter E. Quijano, Esq.
Quijano & Ennis, P.C.
381 Park Avenue South, Suite 701
New York, NY 10016
(212) 686-0666

Steve Zissou, Esq.
Steve Zissou & Associates
42-40 Bell Boulevard, Suite 302
Bayside, NY 11361
(718) 279-4500

Michael K. Bachrach, Esq.
276 Fifth Avenue, Suite 501
New York, NY 10001
(212) 929-0592

7. *United States* v. *Andino*, 627 F.3d 41 (2d Cir. 2010). United States Court of Appeals for the Second Circuit: Guido Calabresi, Amalya L. Kearse, and Richard C. Wesley, Circuit Judges.

This appeal presented the question of whether, in a drug conspiracy case, the Government is required to prove that the defendant knew or could have reasonably foreseen the drug type and weight involved in the offense — an issue of significance given the large number of drug conspiracy prosecutions in the Second Circuit. In a 2005 decision that appeared to conflict with its prior precedent, the Second Circuit had created some confusion about the issue. Although I was not involved in the trial, I was the principal

drafter of the Government's 54-page brief on appeal, and I argued the case before the Second Circuit on October 14, 2010. In the brief and at oral argument, I contended that, under the Controlled Substances Act, the Government is required to prove only that a defendant knowingly agreed to distribute some controlled substance and that, at least where a defendant was directly involved in a transaction, the Government is not required to prove that he or she knew or could have reasonably foreseen the drug type or quantity involved the transaction. (I had made the same argument before the Second Circuit in 2009 in *United States* v. *Maduka & Ibiam*, discussed above. In that case, the Court had ruled in our favor, but in a non-precedential summary order.) On December 3, 2010, the Second Circuit adopted that argument and affirmed the defendant's conviction. Judge Calabresi authored the unanimous opinion.

Co-Counsel:

AUSA Randall W. Jackson
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007
(212) 637-1029

Opposing Counsel:

Yuanchung Lee, Esq.
Federal Defenders of New York, Inc.
52 Duane Street, 10th Floor
New York, NY 10007
(212) 417-8742

8. *United States* v. *Balkany*, 10 Cr. 411 (DLC) (S.D.N.Y), 11-756 (2d Cir.). United States District Court for the Southern District of New York: District Judge Denise L. Cote; United States Court of Appeals for the Second Circuit: Appeal pending.

In this case, the defendant, a prominent Orthodox rabbi, was convicted of wire fraud, extortion, blackmail, and false statements in connection with a scheme to extort $4 million from the hedge fund SAC Capital Advisors and its principal, Steven A. Cohen. From November 1, 2010, to November 10, 2010, I tried the case before a jury with co-counsel, AUSA Marc P. Berger. Among other things, I gave the Government's opening statement and rebuttal summation; examined roughly half the witnesses, including the two principal witnesses; and largely drafted the Government's motion papers before and during trial. Following conviction on all four counts, the defendant was sentenced principally to 48 months' imprisonment on February 18, 2011. The case is now on appeal, and AUSA Berger and I continue to represent the Government.

Co-counsel:

AUSA Marc P. Berger
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2207

Opposing Counsel:

Benjamin Brafman, Esq. (for trial)
Karen Anne Newirth, Esq.
Brafman & Associates, P.C.
767 Third Avenue, 26th Floor
New York, NY 10017
(212) 750-7800

Alan Kaufman, Esq. (for sentencing)
Kelley Drye & Warren
101 Park Avenue
New York, NY 10178
(212) 661-0040

Paul Schechtman, Esq. (for appeal)
Stillman & Friedman, P.C.
425 Park Avenue
New York, NY 10022
(212) 223-0200

9. *United States* v. *Al Kassar et al.*, Docket Nos. 09-1051-cr(L), 09-1057-cr(CON), 09-3972-cr(CON) (2d Cir.). United States Court of Appeals for the Second Circuit: Dennis Jacobs and Peter W. Hall, Circuit Judges; and Shira A. Scheindlin, District Judge.

This case, currently pending, involves the prosecution of a notorious international arms trafficker and his associates for various offenses, including conspiracies to murder United States nationals, officers, and employees; conspiracy to acquire and use an anti-aircraft missile system; and conspiracy to provide material support to a designated foreign terrorist organization. The case arose from a sting operation in which confidential informants, posing as representatives of the Fuerzas Armadas Revolucionarias de Colombia (or "FARC"), a designated foreign terrorist organization and the world's largest supplier of cocaine, negotiated to purchase various weapons, including surface-to-air missiles, from the defendants. The defendants, who were convicted at trials in 2008 and 2009, received sentences ranging from 300 to 360 months' imprisonment. They have raised various arguments on appeal, including challenges to their convictions on the grounds that the Government's involvement in the offense violated their rights under the Due Process Clause; that applying American law to their conduct abroad violates the Due

Process Clause; and that the District Court erred in excluding certain classified evidence. I drafted significant portions of the Government's 97-page unclassified brief and a classified supplemental brief, both filed on November 30, 2010, and I edited both of these briefs in their entirety. Deputy United States Attorney Boyd M. Johnson III and AUSA Brendan McGuire, who represented the Government before the District Court, assisted in drafting the briefs and argued the appeal on February 7, 2011. A decision is pending.

Co-Counsel:

Deputy United States Attorney Boyd M. Johnson III – (212) 637-2200
AUSA Brendan R. McGuire – (212) 637-2220
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007

Opposing Counsel:

Marc Antony Agnifilo, Esq. (for defendant Al Ghazi)
Brafman & Associates, P.C.
767 Third Avenue, 26th Floor
New York, NY 10017
(212) 750-7800

Roger Lee Stavis, Esq. (for defendants Al Kassar and Godoy)
Gallet Dreyer & Berkey LLP
845 Third Avenue, 8th Floor
New York, NY 10022
(212) 935-3131

10. *United States* v. *Noorzai*, 09-1954-cr, 2011 WL 1938525 (2d Cir. May 23, 2011). United States Court of Appeals for the Second Circuit: Ralph K. Winter, Rosemary S. Pooler, and Barrington D. Parker, Circuit Judges.

This case involved the prosecution of an Afghan tribal leader, former mujahedeen warlord, and high-level Taliban associate for conspiracies to import and distribute heroin in the United States. The defendant was convicted at trial in 2008 and sentenced to life imprisonment. He raised several arguments on appeal, including a challenge to the admissibility of statements he made during an 11-day interrogation after he was allegedly lured to the United States by a promise of safe passage to and from Afghanistan. I drafted significant portions of the Government's 55-page brief, and I edited the brief in its entirety. AUSA Anjan Sahni and Associate Deputy Attorney General David O'Neil, the latter of whom represented the Government before the District Court (when he was an Assistant United States Attorney), assisted in drafting the briefs, and AUSA Sahni argued the case before the Second Circuit. On May 23, 2011, the Second Circuit affirmed in all respects by summary order.

Co-Counsel:

AUSA Anjan Sahni
United States Attorney's Office
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2491

David O'Neil
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-3712

Opposing Counsel:

B. Alan Seidler, Esq.
Law office of B. Alan Seidler, Esq.
580 Broadway
New York, NY 10012
(212) 334-3131

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In 2009, I participated in a team of Assistant United States Attorneys from the Southern District of New York and the Eastern District of Virginia assigned to assess the feasibility of prosecuting Khalid Sheikh Mohammed and four other detainees at the Guantanamo Bay Naval Station allegedly involved in the terrorist attacks of September 11, 2001, in an Article III criminal court. I was principally involved in identifying and evaluating various legal issues that would be confronted in an Article III prosecution. After the Attorney General's announcement on November 13, 2009 that the case would be transferred to the Southern District of New York for prosecution, I was assigned to the prosecution team, with primary responsibility for identifying and addressing legal issues before and during trial. In that capacity, I assisted in drafting the 10-count, 80-page indictment returned by a grand jury in the Southern District of New York on December 14, 2009, and prepared memoranda on various legal issues that we expected to confront in the prosecution. Beginning in early 2010, when the Administration announced that it was reassessing the choice of forum and venue for prosecution of the case, our efforts became more limited, although I periodically engaged in an analysis of legal issues

relating to the sealed indictment. I was also involved in the process leading up to the dismissal and unsealing of the indictment on April 4, 2011.

In the last two years at the United States Attorney's Office, I have been involved in a variety of other national security matters not yet involving litigation, with an emphasis on the analysis of complex legal issues. As Deputy Chief Appellate Attorney, I am also frequently consulted on legal issues or asked to assist in drafting briefs or other pleadings in investigations and trials conducted by other Assistant United States Attorneys, including, most recently, *United States* v. *Rajaratnam* (the Galleon insider trading case); *United States* v. *Bonventre et al.* (the prosecution of former employees of Bernard L. Madoff Securities); *United States* v. *Shahzad* (the Times Square bomber case); *United States* v. *Cromitie et al.* (the Riverdale synagogue bombing plot trial); *United States* v. *Chapman et al.* (the Russian spies case); *United States* v. *Siddiqui* (the prosecution of a Pakistani neuroscientist with ties to al Qaeda for attempted murder of American military personnel); and *United States* v. *Kerik* (the prosecution of the former New York City Police Department Commissioner).

In 2006 and 2007, I was involved in or led a number of significant investigations, including one resulting in the indictment of a major international drug trafficker designated by the Department of Justice as a Consolidated Priority Organization Target (CPOT).

As Counselor to the Attorney General, I was involved in advising the Attorney General on a range of legal matters, including some areas of criminal law, civil rights, drug enforcement, immigration, and border security. Among other things, I assisted in preparing the Attorney General for his oral argument before the Supreme Court of the United States and for his testimony before the Senate and House Judiciary Committees; for much of my tenure, I was also responsible for supervising the drafting of Attorney General speeches and immigration orders and opinions.

While at Wiggin & Dana LLP, I participated in a few significant legal matters that did not progress to litigation. Most significant among them, I worked with Mark R. Kravitz, now a United States District Judge in the District of Connecticut, on preparations for an appeal to the Second Circuit from District Judge Jed S. Rakoff's ruling in *UMG Recordings, Inc.* v. *MP3.com*, No. 00 Civ. 472 (JSR), holding MP3.com liable for copyright infringement based on its digital library system and imposing damages of up to $118 million. The case settled before we perfected an appeal, although not before I had drafted substantial portions of a brief. In addition, I worked with David B. Fein, now United States Attorney for the District of Connecticut, on several significant criminal matters, including one case in which we represented a subject in the federal investigation of corruption in the City of Bridgeport, Connecticut.

I have not performed any lobbying activities.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe

briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    Upon retirement, I will receive payments from the Federal Employees Retirement System. Otherwise, I do not expect any deferred income or future benefits.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    Although I currently have no commitments to pursue outside employment, I have been invited by Columbia Law School to co-teach (with AUSA David Raskin) a class titled "National Security Investigations and Prosecutions," in Fall 2011.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       As a general matter, I would handle any matters involving actual or potential conflicts of interest in conformity with the Code of Conduct for United States Judges and any other relevant statutes, ethical canons, and rules.

At a minimum, I would recuse myself from any criminal case that I worked on or supervised as an Assistant United States Attorney. For the most part, such cases should be easily identified; for a period of time, however, I would also seek confirmation from the Assistant United States Attorneys involved in any criminal case that I had not been consulted or otherwise involved in the case while serving as an Assistant United States Attorney. With respect to any other case in which the United States Attorney's Office was involved, I would look for guidance to the Code of Conduct for United States Judges and any other relevant statutes, ethical canons, and rules.

My wife is on the faculty of Columbia Law School. A filing in federal court involving Columbia University will be rare and easily identifiable. In the event of such a filing, I would look for guidance to the Code of Conduct for United States Judges and any other relevant statutes, ethical canons, and rules.

My father has occasionally been involved in litigation in the United States District Court for the Southern District of New York, either as a party or (through RD Management Corporation, of which he is a principal) as a crime victim or creditor in a retail tenant bankruptcy proceeding. A filing in federal court involving my father or RD Management Corporation will be rare and easily identifiable. In the event of such a filing, I would recuse myself.

I do not believe other family members are likely, either in the capacity of a party or counsel, to have cases in federal court.

Beyond criminal cases, I cannot think of any category of litigation that, by its nature, would present a conflict-of-interest issue for me. Of course, I would recuse myself from any case in which a credible claim of financial interest on my part or my family's part could be made.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will handle all matters involving actual or potential conflicts of interest through the careful and diligent application of the Code of Conduct for United States Judges and any other relevant statutes, ethical canons, and rules. Further, upon becoming aware of a situation that any party or observer might conceivably identify as a potential conflict of interest, I would alert parties to the issue in question and offer them the opportunity to express their views, including the opportunity to brief any recusal or conflict-of-interest issue. In addition, I would, as appropriate, consult my judicial colleagues on these issues.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in

serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As a litigation associate at Wiggin & Dana LLP, I performed a substantial amount of pro bono work. Among other things, in 2001, I was the principal drafter of an *amicus* brief submitted on behalf of the Anti-Defamation League and other organizations in *Good News Club* v. *Milford Central School*, 533 U.S. 98 (2001). (My name did not appear on the brief because my application for a Supreme Court clerkship was pending at the time and I was advised to omit any mention of my involvement as a result.) I was also a primary drafter of the petition for writ of *certiorari* and reply in *Manning* v. *School Board of Hillsborough County*, No. 00-1871, a school desegregation case in which I worked with the NAACP Legal Defense Fund. During my career in public service at the United States Attorney's Office, I have not performed pro bono legal work per se, but I have done a substantial amount of volunteer and community work, including at the Goddard Riverside Community Center (where I am an unpaid director) and at my children's elementary school.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In September 2009, I contacted a member of Senator Charles E. Schumer's Judicial Screening Committee and requested a questionnaire for Senator Schumer's Screening Committee. After receiving the questionnaire, I submitted it to the Screening Committee on October 13, 2009. I was contacted by an assistant to a member of the Screening Committee on November 10, 2009, and interviewed with the Screening Committee on November 19, 2009.

I did not have any communications with anyone from the White House, the Justice Department, or Senator Schumer's office about this process in 2010. On February 2, 2011, I spoke with the Deputy White House Counsel about the process. I was contacted by a member of Senator Schumer's staff on February 10, 2011, and interviewed with Senator Schumer the next day. On March 9, 2011, I spoke by telephone with Senator Schumer and, thereafter, with a member of his staff. Since that date, I have been in contact with pre-nomination officials from the Department of Justice. On April 15, 2011, I interviewed with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On June 7, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Furman, Jesse M.	U.S. District Court, NY-S	6/7/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 6/7/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 1/1/2010 to 6/3/2011
7. Chambers or Office Address U.S. Attorney's Office, SDNY One St. Andrew's Plaza New York, NY 10007	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Member, Board of Directors	Goddard-Riverside Community Center
2.	Member, Executive Committee, New York Lawyer Chapter	American Constitution Society
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 7	Name of Person Reporting Furman, Jesse M.	Date of Report 6/7/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

	DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.			
2.			
3.			
4.			

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

	DATE	SOURCE AND TYPE
1.	2010-11	Columbia University - salary
2.	2010	Harvard University - honorarium ($500)
3.	2010	University of Colorado - honorarium ($200)
4.		

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

	SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1.	Exempt				
2.					
3.					
4.					
5.					

FINANCIAL DISCLOSURE REPORT Page 3 of 7	Name of Person Reporting Furman, Jesse M.	Date of Report 6/7/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-35 of filing instructions.)*

☐ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.	Flagstar Bank	Mortgage on Rental Property, Providence, RI (Pt. VII, line 27)	M
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 4 of 7

Name of Person Reporting	Date of Report
Furman, Jesse M.	6/7/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. MF Est LLC	G	Int./Div.	P2	U	Exempt				
2. MF Est L.P.	C	Int./Div.	M	U	Exempt				
3. Trust #1	F	Int./Div.	P1	U	Exempt				
4. - 3750 Monroe Avenue Associates LLC									
5. - Ashland Greenup LLC									
6. - AFMB Russell LLC									
7. - KIM-FUR Retail Holdings LLC									
8. - JJPR LLC									
9. - Southgate Associates L.P.									
10. - PBCD Rho LLC									
11. - MJS Ponce II LP									
12. - MJS Ponce III LP									
13. Trust #2	E	Rent	L	U	Exempt				
14. - 319 Stanhope LLC (Queens, NY)									
15. Rho Capital Partners 1999 L.P.	E	Distribution	O	U	Exempt				
16. iShares MSCI Emerging Markets Fund	B	Dividend	L	T	Exempt				
17. Vanguard 500 Index Fund	D	Dividend	M	T	Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000 -	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 5 of 7

Name of Person Reporting	Date of Report
Furman, Jesse M.	6/7/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Vanguard Total Bond Market Index Fund	B	Dividend	K	T	Exempt				
19. Vanguard Money Market Account	A	Dividend	K	T	Exempt				
20. Vanguard 500 Index Fund (IRA #1)	A	Dividend	K	T	Exempt				
21. Vanguard 500 Index Fund (IRA #2)	A	Dividend	K	T	Exempt				
22. Vanguard Extended Market Index Fund (Retirement)	A	Dividend	L	T	Exempt				
23. Vanguard Intermediate-Term Bond Index Fund (Retirement)	B	Dividend	L	T	Exempt				
24. Vanguard 500 Index Fund (Retirement)	A	Dividend	K	T	Exempt				
25. Vanguard Long-Term Bond Index Fund (Retirement)	C	Dividend	L	T	Exempt				
26. Rental Property, Providence, RI (2011 $305,000)	C	Rent	N	R	Exempt				
27. Citibank Accounts	A	Interest	L	T	Exempt				
28. Akiva Armon, personal loan - note receivable		None	L	T	Exempt				
29. McDonald's Common Stock	A	Dividend			Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 6 of 7	Name of Person Reporting Furman, Jesse M.	Date of Report 6/7/2011

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

Part VII: I am the sole beneficiary of Trust #1 (Part VII, Line 3), with entitlement to a portion of the principal at present and entitlement to the full principal on June 7, 2012. I am a beneficiary of Trust #2 (Part VII, Line 13), with entitlement to a portion of my share of the principal at present and entitlement to all of my share of the principal on June 7, 2016. I am not a trustee of either trust.

Part VII: Income amount codes for MF Est LLC, MF Est L.P., Trust #1, and Trust #2 (Part VII, Lines 1, 2, 3, and 13) are based on estimates of income. Each asset is a mix of real estate and non-real estate holdings, some of which do not report income until as late as September of the following calendar year, making an exact calculation impracticable.

FINANCIAL DISCLOSURE REPORT Page 7 of 7	Name of Person Reporting Furman, Jesse M.	Date of Report 6/7/2011

IX. CERTIFICATION.

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

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

Signature

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		93	582	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		616	942	Notes payable to relatives			
Unlisted securities – see schedule	7	711	738	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends		70	000	Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule	1	716	558
Real estate owned – see schedule	7	105	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		200	000	Charitable pledges		80	000
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		188	309				
				Total liabilities	1	789	396
				Net Worth	14	196	175
Total Assets	15	985	571	Total liabilities and net worth	15	985	571
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
iShares MSCI Emerging Markets Fund	68,502
Vanguard 500 Index Fund	298,957
Vanguard Extended Market Index Fund	53,279
Vanguard Intermediate-Term Bond Index Fund	73,893
Vanguard Long-Term Bond Index Fund	81,423
Vanguard Total Bond Market Index Fund	40,888
Total Listed Securities	$ 616,942

Unlisted Securities	
MF Est L.P. (limited partner interest)	$ 211,638
MF Est LLC (non-managing member interest)	6,715,100
Rho Capital Partners 1999 L.P. (limited partner interest)	785,000
Total Unlisted Securities	$ 7,711,738

Real Estate Owned	
Personal residence	$ 6,800,000
Investment property	305,000
Total Real Estate Owned	$ 7,105,000

Real Estate Mortgages Payable	
Personal residence	$ 1,480,646
Investment property	228,750
Total Real Estate Mortgages Payable	$ 1,709,396

Trust Assets

On 6/7/2012, I will be given full control over the assets in a trust for which I am the sole beneficiary. The net value of that trust is currently $1,598,670. On 6/7/2016, I will be given full control over a portion of the assets in another trust for which I am a beneficiary. The net value of my share of that trust is currently $69,735.

AFFIDAVIT

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

6/6/11
(DATE)

(NAME)

(NOTARY)

JEANETTE ANN GRAYEB
Notary Public, State of New York
No. 01GR4995793
Qualified in Kings County
Commission Expires Nov 30, 2013

STATEMENT OF JAMES RODNEY GILSTRAP, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS

Mr. GILSTRAP. Thank you, Senator Schumer.

In addition to my wife, Sherry, of 34 years and my daughter, Dr. Lauren Gilstrap, who had a hard time getting away from Mass General Hospital to come down from Boston today. My son, Stephen, you have been told, is taking the bar exam. I spoke with him last night and I can assure you he would much rather be here than where he is.

But I also have my wife's parents, Bill and Carolyn Sullivan, with us today. I also have my father, Joe Gilstrap, and several friends and fellow Texans in the room, as well as a lot of friends back in east Texas who together are attending a special meeting of the Harrison County Bar Association to watch the Webcast of today's Committee hearing.

I look forward to your questions, and thank you for convening the hearing today.

Senator SCHUMER. Thank you. So will the greater Gilstrap family please stand? The others stood before. Thank you.

And finally, Ms. Zipps, Magistrate Zipps.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   James Rodney Gilstrap

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

   United States District Judge for the Eastern District of Texas

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   100 West Houston Street
   Marshall, Texas 75670

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

   1957; Pensacola, Florida

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1979 – 1981, Baylor University School of Law; J.D., 1981
   1978, Southwestern Baptist Theological Seminary; no degree awarded
   1975 – 1978, Baylor University; B.A. (*magna cum laude*), 1978
   1976, Pensacola Junior College; summer school classes

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

   1984 – present
   Smith and Gilstrap
   100 West Houston Street
   Marshall, Texas 75670
   Attorney/Sole Practitioner

1989 – 2002
Harrison County Courthouse
200 West Houston Street
Marshall, Texas 75670
County Judge

1982 – 1984
East Texas Baptist University
1209 North Grove
Marshall, Texas 75670
Part-time Instructor

1981 – 1984
Abney, Baldwin, and Searcy
107 West Austin Street
Marshall, Texas 75670
Associate/Attorney

1979 – 1980
Naman, Howell, Smith, and Lee
900 Washington Avenue, 7th Floor
Waco, Texas 76701
Law Clerk

1978 – 1979
Central Freight Lines, Inc.
5601 Waco Drive
Waco, Texas 76710
Clerk – Interline Department

Other affiliations (uncompensated unless otherwise indicated):

2008 – present
North East Texas Regional Mobility Authority
108 Market Square Boulevard
Tyler, Texas 75703
Board member

2007 – present
The Tommy B. and Lucille Jackson Slaughter Foundation No. 2
c/o Abney, Simmons, and Company CPAs
215 East Austin Street
Marshall, Texas 75670
Director (receive expense stipend)

2007 – present
Courthouse Preservation Council of Harrison County
c/o Knuckols, Duvall & Hallum CPAs
204 South Wellington Street
Marshall, Texas 75670
Vice-President (2007 – 2008)
President (2008 – present)

2000 – present
Azalea Way Homeowners Association
c/o Knuckols, Duvall & Hallum CPAs
204 South Wellington Street
Marshall, Texas 75670
President

1992 – present
The T. Whitfield Davidson Foundation
c/o Knuckols, Duvall, and Hallum, CPAs
204 South Wellington Street
Marshall, Texas 75670
Director (receive expense stipend)

2008 – 2009
Baylor Law Alumni Association
Sheila & Walter Umphrey Law Center
1114 South University Parks Drive
One Bear Place #97288
Waco, Texas 76798
President

1991 – 1997
Smith Steel Casting Company (no longer in business)
510 Hazelwood Street
Marshall, Texas 75670
Director

1989 – 2002
Marshall/Harrison County Board of Health
805 Lindsey Drive
Marshall, Texas 75670
Director

1989 – 1992
Harrison County United Way
c/o Knuckols, Duvall & Hallum CPAs
204 South Wellington Street
Marshall, Texas 75670
P.O. Box 1322
Marshall, Texas 75671
Director

1985 – 1992
Harrison County Historical Society & Museum
Historic County Courthouse – Peter Whetstone Square
P.O. Box 1987
Marshall, Texas 75671
Director (1985 – 1992)
President (1986 –1988)

1989 – 1990
Marshall Rotary Club
P.O. Box 8109
Marshall, Texas 75671
President

1985 – 1988
Marshall Council of Campfire, Inc. (no longer in existence)
c/o Camp Wacanta
Buffo Road at FM 1997 Road
Marshall, Texas 75670
Director/Vice-President

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have never served in the military. I did not register for selective service because men born between March 29, 1957 and December 31, 1959 were not required to register.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   Texas Supreme Court Recognition for Service as Chair of the Texas Unauthorized Practice of Law Committee, 2008

   Texas Road Hand Award, Texas Department of Transportation, 1997

Hope Pierce Tartt Scholarship, Baylor School of Law, 1979 – 1981

ASCAP Nathan Burkan Award for Copyright Law, Baylor School of Law, 1981

Associate Editor, Baylor Law Review, Baylor School of Law, 1979 – 1981

American Jurisprudence Award for Contracts, Baylor School of Law, 1979

Phi Beta Kappa, Zeta of Texas Chapter, Baylor University, 1978

Participant, Baylor Honors Program, Baylor University, 1975 – 1977

Alpha Chi, Baylor University Chapter, 1976

Eagle Scout with bronze palm, Gulf Coast Council, Boy Scouts of America, 1973

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association

College of the State Bar of Texas

Eastern District of Texas Bar Association

Harrison County Bar Association
President (2006 – 2007)

Hon. T. John Ward American Inn of Court

Northeast Texas Bar Association

State Bar of Texas

The Texas Unauthorized Practice of Law Committee
Committee Member (1984 – 1989, 2009 – present)
Chair (1998 – 2009)

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Texas, 1981. There has been no lapse in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2002
United States Court of Appeals for the Fifth Circuit, 1982
United States District Court for the Eastern District of Texas, 1982

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Azalea Way Homeowners Association (1992 – present)
President (2000 – present)

Baylor Law Alumni Association (1981– 2009)
President (2008 – 2009)

Caddo District-East Texas Council, Boy Scouts of America
Chairman (2001)

Courthouse Preservation Council of Harrison County
Executive Committee (1996 – present)
Vice-President (2007)
President (2008 – present)

Harrison County Historical Society (1981 – present)
Director (1985 – 1992)
President (1986 – 1988)

Harrison County United Way (1989 – present)
Director (1989 – 1992)

Highland Lake Fishing Club (1989 – present)

Marshall Council of Campfire, Inc. (1985 – 1990)
Director/Vice-President (1985 – 1988)

Marshall/Harrison County Board of Health
Board Member (1989 – 2002)

Marshall Lakeside Country Club (1998 – 2010)

Marshall Masonic Lodge, No. 22 AF and AM; Dallas Scottish Rite Bodies 32°; Shriner, Sharon Temple, Tyler, Texas (1983 – present)

Marshall Rotary Club (1983 – present)
President (1989 – 1990)

North East Texas Regional Mobility Authority
Board Member and Finance/Audit Committee (2008 – present)

Smith Steel Casting Company
Director (1991 – 1997)

T. Whitfield Davidson Foundation
Director and Program Chair (1992 – present)

Texas Good Roads & Transportation Association (1990 – present)

Texas Transportation Plan, Institutional and Interjurisdictional Coordination Committee (1994)

The Tommy B. and Lucille Jackson Slaughter Foundation No. 2
Director (2007 – present)

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

Masonic organizations include those for men only (Masons, Scottish Rite and Shriners), for men and women jointly (Eastern Star), for young men only (DeMolay) and for young women only (Rainbow Girls). Rotary International existed as a businessmen's (only) organization from its founding in the 1920s until the early 1980s when businesswomen were admitted. This change occurred about the time I became a Rotarian. To my knowledge, none of the other listed organizations discriminates (or has discriminated) on the basis of race, sex, religion or national origin, either directly or indirectly.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

A Venerable Profession, THE DOCKET CALL (BAYLOR LAW SCHOOL), Vol. 117, Summer 2009, at 3. Copy supplied.

With Leland de la Garza, *UPL: Unlicensed, Unwanted and Unwelcome*, 67 TEX. B.J. 798 (2004). Copy supplied.

Letter to the Editor, Wall Street Journal, September 25, 1987. It responded to an article advocating the merits of allowing the delivery of some legal services by persons not licensed to practice law. Copy supplied.

Video Recorders: Copyright Infringement, 33 BAYLOR L. REV. 695 (1981). Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

North East Texas Regional Mobility Authority, Annual Reports for 2008 and 2009. Copies supplied.

In re Volkswagen AG and Volkswagen of America, Inc., brief for amicus curiae in support of respondents submitted by the Ad Hoc Committee of Trial Lawyers in the Eastern District of Texas (April 25, 2008). Copy supplied.

State Bar of Texas Task Force Recommendations of a New Statutory Definition for the Unauthorized Practice of Law (April 2001). Copy supplied.

Regulations Governing Development of Subdivisions in Harrison County, approved by Harrison County Commissioner's Court (June 27, 1995 and June 27, 2000 Amendment). Copy supplied.

The Texas Transportation Plan, Institutional and Interjurisdictional Coordination Committee, Final Report (1994). Copy supplied.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

April 2010: I made a request on behalf of a client for approval of Emergency Service District elections and for extra early voting days for local voters. I do not recall in what format I made that request, but news coverage is supplied.

June 11, 2009: I spoke on behalf of a client in support of a resolution prohibiting drilling on property my client wanted to purchase. Copy of meeting minutes supplied.

June 1, 2009: I wrote a letter to the Marshall City Manager on behalf of a client about a potential property purchase. Copy supplied.

August 11, 2005: In my capacity as a consultant for Gregg County, I spoke before the County Commissioners about Well Drilling's contract bid. Press coverage supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

February 18, 2010: I read a letter on behalf of John Sharp, candidate for the United States Senate, during an event of the Harrison County Democrats, expressing his regret for being unable to attend the event. I have been unable to obtain a copy of the letter, but press coverage is supplied.

November 18, 2009: I made a presentation representing the Supreme Court of Texas' Unauthorized Practice of Law Committee to the Corpus Christi, Texas Bar Association at their monthly luncheon. This presentation was titled "A Primer on UPL: What every Lawyer Needs to Know about the Unauthorized Practice of Law." Powerpoint supplied.

November 17, 2009: Texas County Judges Judicial Education Conference, Corpus Christi, Texas: "Dealing with the Pro Se Litigant." I have no notes, transcript, or recording. The sponsor of the event was the Texas Association of Counties, which is located at 1210 San Antonio Street, Austin, Texas 78701.

June 30, 2009: Supreme Court of Texas reception in recognition of my service as chair of the Unauthorized Practice of Law Committee. I have no notes, transcript or recording but Texas Bar Association coverage is supplied. The address of the TBA is 1414 Colorado Street, Austin, Texas 78701.

June 20, 2009: Re-dedication ceremony of Harrison County Courthouse. Text of my remarks and press coverage supplied.

January 25, 2008: I gave a report to the State Bar of Texas, Board of Directors on the Unauthorized Practice of Law Committee. Minutes supplied.

February 22, 2006: Texas County Judges Judicial Education Conference, College Station, Texas, "Current Mental Health Considerations." I have no notes, transcript, or recording. The sponsor of the event was the Texas Association of Counties, which is located at 1210 San Antonio Street, Austin, Texas 78701.

November 2005: West Texas County Judges and Commissioners Annual Conference, Midland, Texas: "Dealing with Difficult Litigants." I have no notes, transcript, or recording. The sponsor of the event was the Texas Association of Counties, which is located at 1210 San Antonio Street, Austin, Texas 78701.

June 28, 2005: I participated in the production of a Training DVD for County Judges in Texas as a part of the Texas Judicial Academy, which is administered through the Texas Association of Counties. This training DVD, entitled "Probate Mock Trials," is supplied.

March 23, 2005: Texas County Judges Judicial Education Project, Austin, Texas, Current Probate Practice in Texas. I have no notes, transcript, or recording. The sponsor of the event was the Texas Association of Counties, which is located at 1210 San Antonio Street, Austin, Texas 78701.

December 9-10, 2004: State Bar of Texas Continuing Legal Education Conference, Austin, Texas, "Recognizing the Unauthorized Practice of Law." Video recording supplied.

December 2004: I spoke to Boy Scout Troop 282 in Marshall, Texas about the Bill of Rights. I have no notes, transcript or recording. Troop 282 is sponsored by and meets at the Summit United Methodist Church, which is located at 1901 East End Boulevard North, Marshall, Texas 75670.

November 2004: Texas County Judges Judicial Education Conference, Lubbock, Texas: "The Unauthorized Practice of Law in Texas." I have no notes, transcript, or recording. The sponsor of the event was the Texas Association of Counties, which is located at 1210 San Antonio Street, Austin, Texas 78701.

March 11, 2004: I introduced Mike Childress of the Eastman Chemical Company at a Marshall Rotary Club weekly event. I have no notes, transcript, or recording. The address of the Rotary Club is 410 East Houston Street, Marshall, Texas 75670.

November 2003: Texas County Judges Judicial Education Conference, Lubbock, Texas, "Dealing with the Pro Se Litigant." I have no notes, transcript, or recording. The sponsor of the event was the Texas Association of Counties, which is located at 1210 San Antonio Street, Austin, Texas 78701.

August 14, 2003: I introduced U.S. Representative Max Sandlin at a Marshall Rotary Club meeting. I have no notes, transcript or recording. The address of the Rotary Club is 410 East Houston Street, Marshall, Texas 75670.

December 2002: I delivered the Commencement Address to the Graduating Class at Texas State Technical College, Marshall, Texas. Video recording supplied.

1998: As part of my re-election campaign for Harrison County Judge, three separate television commercials were produced for me. Video recordings supplied.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I made numerous public statements regarding various issues concerning Harrison County to the media in my capacity as Harrison County Judge from 1989 through 2002. Likewise, I made numerous public statements to the media concerning the Texas Unauthorized Practice of Law Committee in my capacity as Chair from 1998 through 2008. None of these are within my possession in written form, but exist within the public domain as published by various media sources during my tenure in these offices. My best efforts to recover these include the following:

Sandra Cason, *Local Lawyer, Community Activist Dies*, MARSHALL NEWS MESSENGER, Dec. 18, 2008. Copy supplied.

John MacCormack, *Corpus Lawyer Spat Back On Television*, SAN ANTONIO EXPRESS-NEWS, Oct. 10, 2007, at 1B. Copy supplied.

Brenda Sapino Jeffreys, *The License and the Law Group; Corpus Christi Counsel Runs TV Ads, Files UPL Complaint Questioning Competitor's Credentials*, TEXAS LAWYER, Oct. 8, 2007. Copy supplied.

Erica Facer, *Fix 'er Upper – Harrison County Courthouse Undergoes Major Renovations*, MARSHALL NEWS MESSENGER, Aug. 5, 2007. Copy supplied.

Keli Silva, *County Courthouse Continues to Reclaim Glory*, LONE STAR EAGLE, Apr. 20, 2007. Copy supplied.

Richard Connolly, *Bishop Is Back*, Houston Press, July 27, 2006. Copy supplied.

Erica Facer, *Making All ESDs Equal – Proportion Would Give ESD No. 3 Same Authority to Raise Funds as the Other Districts*, MARSHALL NEWS MESSENGER, May 10, 2007. Copy supplied.

Staff, *Saturday Foundation Program Features Ex-U.S. Ambassador to Sweden*, MARSHALL NEWS MESSENGER, Sept. 14, 2006. Copy supplied.

John Council, *Lawyers Displaced by Katrina Get OK to Practice in Texas*, BROWARD DAILY BUSINESS REVIEW, Sept. 13, 2005. Copy supplied.

Staff, *Former FBI Head Main Speaker at Davidson Foundation Fall Meeting*, MARSHALL NEWS MESSENGER, Aug. 24, 2005. Copy supplied.

Texas County Eyes Drilling on Airport Grounds, GAS DAILY, July 26, 2005. Copy supplied.

Mary Alice Robbins, *Proposal in the Works to Modernize Foreign Legal Consultant Rule*, TEXAS LAWYER, July 25, 2005. Copy supplied.

Staff, *Carlile Family Recognized for Courthouse Preservation Efforts*, MARSHALL NEWS MESSENGER, Sept. 15, 2004. Copy supplied.

John Council, *Document Service Attacked by Texas Panel*, BROWARD DAILY BUSINESS REVIEW, Oct. 3, 2003. Copy supplied.

John Council, *Bring It On*, TEXAS LAWYER, Dec. 23, 2002. Copy supplied.

John Williams, *Yellow Dogs Lose Bite in East Texas*, HOUSTON CHRONICLE, Nov. 18, 2002. Copy supplied.

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Clay Robison, *For Now, Court Ruling Favors Publisher of Legal Materials*, HOUSTON CHRONICLE, Apr. 16, 1999. Copy supplied.

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Polly Ross Hughes, *Potential Ban on Legal Software Spurs Reform Call*, HOUSTON CHRONICLE, Feb. 14, 1999. Copy supplied.

Susan Barbosa, *More People Go To Court On Their Own; Local Attorneys Suggest Low-Cost Consultations Can Help Spot Problems*, THE LEDGER, Dec. 30, 1998. Copy supplied.

Brenda Sapino Jeffreys, *The People's Protector*, TEXAS LAWYER, Dec. 14, 1998. Copy supplied.

Sam Attlesey, *Candidates Work the Anthill Crowd at Marshall Festival*, DALLAS MORNING NEWS, Oct. 18, 1998. Copy supplied.

Janet Elliott, *Nolo Press Tries to Crack a Closed Book: Publisher Presses UPL Committee for Open Records*, TEXAS LAWYER, Aug. 31, 1998. Copy supplied.

Osler McCarthy, *How-to Legal Software Gets a Day in Texas Court*, AUSTIN AMERICAN-STATESMAN, Aug. 7, 1998. Copy supplied.

Amanda Bishop, *Law Panel Probing Big Six Firms; Attorneys Ask if Accountants Are Practicing Law Without Authorization*, DALLAS BUSINESS JOURNAL, June 5, 1998. Copy supplied.

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Ken Herman, *On Brink of his Dream, Mauro Suddenly Pauses*, AUSTIN AMERICAN-STATESMAN, July 6, 1997. Copy supplied.

The State Has a $3.4 Billion Highway Fund, SAN ANTONIO EXPRESS-NEWS, May 15, 1996. Copy supplied.

Sam Attlesey, *Political Discontent; Fed Up with Candidate Choices, Bellwether County's Voters Consider Alternatives*, DALLAS MORNING NEWS, Dec. 3, 1995. Copy supplied.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I served as County Judge of Harrison County, Texas from August 29, 1989 through December 31, 2002. I was initially appointed in 1989 to fill an unexpired term, and then I was reelected in 1990, 1994, and 1998. During that time, my responsibilities were both judicial and administrative (as provided for by the Texas Constitution). A general description of this court's jurisdiction includes: civil matters within a prescribed dollar amount at issue, original probate jurisdiction, misdemeanor criminal jurisdiction (including juvenile matters), and mental health and involuntary commitment jurisdiction.

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

Approximately 300.

i. Of these, approximately what percent were:

jury trials:	5%
bench trials:	95%
civil proceedings:	60%
criminal proceedings:	40%

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

None. In a typical County Court, judicial orders are dispositive only and do not include a recital of factors (factual and legal) considered in reaching a judgment. After entry of judgment, either party may request formal Findings of Fact and Conclusions of Law, which would cause the trial court to set forth both the factual and legal basis for its dispositive ruling. This is ordinarily done as a predicate to perfecting an appeal. During my service as County Judge, no such requests were made in cases in which I presided.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

The majority of the cases I presided over were sealed under provisions of state law, and are not subject to disclosure. These include all mental health adjudications and criminal matters involving juveniles. Such sealed files can only be unsealed by subsequent court order for good cause shown. Probate matters and criminal matters involving adults are not sealed. Of the matters not sealed, I consider the following cases in which I presided to be substantively significant:

1. *In re West*, Cause No. 90-12,042 (County Court, Harrison County, Texas)

Ms. West's parents sought a guardianship over their adult married daughter alleging that her capacity to deal with her personal affairs had been compromised as a result of her involvement in a remote religious community situated in Oklahoma. The proposed Ward (Ms. West) argued that her conduct was simply her free exercise of her rights as a citizen. Each side presented expert psychiatric testimony and the parties each testified at length. The parents established a material deviation by their daughter from her prior behavior patterns, and the expert testimony showed convincingly that she suffered from delusions and reduced reality levels. After much deliberation, I granted the Guardianship on a temporary basis. The Ward's parents placed her in a program of active counseling, and within a matter of months, Ms. West's relationship with her children and family had been fully restored. Based on updated psychiatric

testimony and the joint application of all parties, the Guardianship was terminated upon my finding that Ms. West's capacity had been fully restored.

Counsel for Applicant:
Edwin E. Buckner, Jr.
Law Offices of E.E. Buckner
(Then with Sandlin and Buckner)
101 Kildare Road
Linden, Texas 75563
(903) 756-8853

Attorneys Ad Litem for the Proposed Ward:
David B. Fugler
The Roth Law Firm
115 North Wellington Street
Marshall, Texas 75670
(903) 935-1665

Terry L. Cox (now deceased)

2. *Estate of Vaughan*, Cause No. 89-11,795-CCL (County Court, Harrison County, Texas)

After a tragic airplane crash which caused the death of a locally prominent oil and gas developer, his will was offered for probate. His estate was extensive and its makeup was complex. He also had surviving children by different spouses. Though no formal objections to the probate of his will were filed, various beneficiaries with differing priorities were present at its admission to probate and carefully scrutinized the process. Disputed claims against his estate were presented after the will was admitted. Extensions to complete the Inventory, Appraisement and List of Claims were granted to allow completion of an extensive rendition.

Counsel for Applicant:
Phillip B. Baldwin, Jr.
Law Offices of Phillip B. Baldwin, Jr.
1900 South Washington Avenue
Marshall, Texas 75670
(903) 938-6345

3. *State of Texas v. Gonzales*, Cause No. 97-409 (County Court, Harrison County, Texas)

In March 1996 the defendant struck a woman in the face. He pleaded *nolo contendere* and I sentenced him to one year in the County Jail with credit for time already served. The defendant refused counsel and entered his own plea of no

contest. This was a Class A offense and the harm done to the victim warranted significant jail time.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

4. *State of Texas v. Wilkerson*, Cause No. 2000-453 (County Court, Harrison County, Texas)

Defendant pleaded *nolo contendere* to possession of marijuana and was sentenced to one year in jail with a fine of $4000. His application for probation was granted and he was placed on 24 months active probation and ordered to pay $500 and all costs of court within 90 days. The defendant knowingly waived counsel and acted *pro se*.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

5. *State of Texas v. McCray*, Cause No. 2000-0121 (County Court, Harrison County, Texas)

In this assault case the defendant pleaded guilty and was sentenced to one year in jail with credit for time already served. The defendant knowingly waived counsel and acted *pro se*. No probation was granted.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

6. *State of Texas v. Keel*, Cause No. 99-0177 (County Court, Harrison County, Texas)

This was a DWI case where the defendant had made bail and was released on bond. He failed to appear for trial. To verify his failure to appear his name was called in open court and from the courthouse door. Afterward his bond was forfeited and a writ was issued for his arrest. He was apprehended and at a subsequent trial before another judge, he pleaded *nolo contendere* to driving while intoxicated and was sentenced.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

7. *State of Texas v. Blassingame*, Cause No. 97-0309 (County Court, Harrison County, Texas)

This defendant had previously pleaded guilty to assault and had been placed on probation. One of the terms of his probation was that he pay restitution to the victim for the costs of medical treatment related to this assault. On the subsequent application of both the defendant and his victim, made in open court, the amount of the restitution was lowered as the related medical costs were less than earlier believed.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

8. *State of Texas v. Thompkins*, Cause No. 93-806 (County Court, Harrison County, Texas)

Defendant was charged with reckless driving. He pleaded guilty and was sentenced to 6 months in jail and a $1500 fine. The jail time portion of the sentence was probated, and he was placed on 12 months active probation. He was ordered to pay half of the fine immediately with the remaining half payable in equal monthly payments over the period of probation. Defendant fully complied and after 12 months was discharged from probation.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

Counsel for Defendant:
George Valton Jones
109 West Austin Street
Marshall, Texas 75670
(903) 927-2220

9. *State of Texas v. Swank*, Cause No. 93-320 (County Court, Harrison County, Texas)

In this misdemeanor theft case, the defendant pleaded guilty and was placed on 24 months active probation. He was also ordered to pay a $300 fine and to perform 250 hours of community service.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

Counsel for Defendant:
Edwin E. Buckner, Jr.
Law Offices of E.E. Buckner
(Then with Sandlin and Buckner)
101 Kildare Road
Linden, Texas 75563
(903) 756-8853

10. *State of Texas v. Williams*, Cause No. 92-1058 (County Court, Harrison County, Texas)

This was a DWI case in which the defendant pleaded guilty. Based on a plea agreement with the prosecutor, he was placed on probation for 24 months but was ordered to actually serve an immediate 120 days in jail prior to the probationary period. He was also ordered to perform community service during probation, and he was ordered not to drive a motorized vehicle while on probation. His Texas

driver's license was surrendered to the District Attorney to be held until his probation was complete and he was discharged.

Counsel for Applicant:
Rick Berry
Berry and Berry, PC
(Then the Harrison County Criminal District Attorney)
111 West Austin Street
Marshall, Texas 75670
(903) 938-6044

Counsel for Defendant:
Steve A. Kattner
428 North Fredonia Street
Longview, Texas 75601
(903) 758-2040

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

I have written no opinions.

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

None.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

None.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

In a typical County Court, judicial orders are dispositive only and do not include a recital of factors (factual and legal) considered in reaching a judgment. After entry of judgment, either party may request formal Findings of Fact and Conclusions of Law, which would cause the trial court to set forth both the factual and legal basis for its dispositive ruling. This is ordinarily done as a predicate to

perfecting an appeal. During my service as County Judge, no such requests were made in cases in which I presided, so I did not issue opinions in any cases.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

None.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

None.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal. (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I am not aware of any matters that arose during my tenure as County Judge in which my recusal was requested by any party or counsel, nor am I aware of any matter in which I recused myself *sua sponte*.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

Since 1994, I have served by appointment of the Texas Supreme Court to the Texas Unauthorized Practice of Law Committee (a standing committee of the Texas Supreme Court). I served as a State Committee Member from 1984 through 1989. I was reappointed to the Committee as its Chair in 1998 and served as Chair until 2009. Since 2009, I have continued to serve as a State Committee Member.

In 2008, I was appointed by the Harrison County Commissioners Court to represent Harrison County on the Board of the Northeast Texas Regional Mobility Authority. This is an appointed public office charged with developing regional transportation policy and implementation within 11 counties in Northeast Texas. Currently, I am serving a two-year term which concludes in February 2012. The position is subject to reappointment at that time.

Other than being commissioned as a Texas Notary Public, these are the only public offices I have sought or held.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held an official position (compensated or uncompensated) in any political campaign other than my own campaigns for County Judge.

On February 18, 2010, I attended an event of the Harrison County Democrats and read a letter on behalf of John Sharp, candidate for the United States Senate expressing his regrets for being unable to attend. In addition, from time to time, I have attended local community Democratic events, but I have not otherwise rendered any services to any political party or election committee.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a law clerk.

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

1991 – present
Smith and Gilstrap
100 West Houston Street
Marshall, Texas 75670

Since the death of my former law partner, Ernest F. Smith, in 1991, I have maintained my practice of law on a solo basis.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1981 – 1984
Abney, Baldwin, and Searcy
107 West Austin Street
Marshall, Texas 75670
Attorney/Associate

1984 – present
Smith and Gilstrap
100 West Houston Street
Marshall, Texas 75670
Partner/Attorney

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

Since 2002, I have been an active mediator, and I have helped settle several significant cases. These have included disputes involving wrongful death, construction of trust agreements, disputes over real property, a variety of personal injury claims, and many others. Several have involved extended parties and multiple claims. Because mediations are confidential and regularly involve settlement provisions that the parties insist be kept private, my notes are intentionally destroyed after the conclusion of each mediation. However, while being consistent with this trust and confidentiality, I can discuss my more significant mediations in general terms.

1. Wrongful Death of a Child: I successfully mediated a wrongful death case where a minor child was struck and killed by a passing motorist in a residential area. In addition to the expected claims of negligence by the plaintiffs, the defendant claimed the plaintiffs were inattentive and failed to properly supervise the child. After a full day of mediation, the

defendant driver's insurance carrier agreed to pay a large sum of money as damages.

2. Breach of Fiduciary Duty Dispute: I successfully mediated a commercial dispute involving a family-owned energy business. The longtime business owner died, leaving a 10% interest in the business to a trusted employee, and a 90% interest to his son. The employee had substantially operated the business for many years prior to the father's death, while the son had no prior experience with the business. After his father's death he relied on the employee and became, in effect, an absentee officer, director and stockholder. Eventually, business disputes arose between the employee and the son. The son accused the employee of a breach of fiduciary duty for entering into bad business deals on behalf of the company; the employee accused the son of breach of contract based on his lack of involvement in the company. After a day of mediation, the employee agreed to pay the son a sum of money and relinquished his 10% interest in the company.

3. Damage to Real Estate Caused by Oil and Gas Drilling: Plaintiff landowner sued an oil company claiming that the oil company's oil and gas drilling location, access roadway and pipelines on his land had exceeded what was reasonable (as allowed under the oil and gas lease in force) and that such excesses had caused consequential damage to the remainder of his farm land. He offered evidence of erosion and chemical discharges which reduced hay production for his cattle. The oil company showed that the landowner had damaged some of its fixtures and had locked out oil company employees from coming onto the land. After much time exploring non-monetary solutions whereby the oil company could carry out its mineral production in alternate ways that would lessen the impact of same on the landowner's cattle operations, the parties entered into a confidential and comprehensive settlement agreement which called for a small cash payment to the landowner, a list of repairs to the land that the oil company agreed to make, along with several specific alterations in how the oil company carried out their mineral production activities on this land.

4. Division of Martial Assets Upon Divorce: This was a divorce proceeding in which the marital estate was extensive but almost totally illiquid, and neither spouse's income could service their substantial debts alone. The wife attempted to pierce one of the husband's trusts that had been established by his parents during their marriage, and she sought a recovery of half of the corpus of the trust. After much effort, the parties agreed to a cash payment to the wife in lieu of her claims against the trust along with an agreed division of the marital estate. This division included provisions to liquidate some of their joint assets through a third party receiver and use the proceeds to pay down certain of their debts.

5. Damage to Home Caused by Utility Company: Homeowners sued an electric utility that had reworked buried power lines in the right of way of the city street where the homeowners' home was located. The utility's digging accidentally ruptured a sewer line which flooded raw sewage into the home, causing extensive damage to the home and its contents. The utility asserted a statute of limitations defense and disputed the valuations tendered by the homeowners as to repair costs for the home and replacement costs of certain contents. After mediating all these issues, the utility agreed to pay the homeowners a substantial sum and obtain a full release of all claims.

6. Wrongful Discharge and Breach of Contract: An employee sued his employer for wrongfully discharging him and for breaching its contract to pay him commissions for sales that he initiated or played a substantial role in bringing to the employer's manufacturing company. The employer filed a counterclaim asserting that the employee had misrepresented his contributions to the sales of the company thereby being paid substantial commissions he was not due. After mediating these issues, the employer agreed to pay the employee a sum of money in return for a full and mutual release of all claims by both parties. The employee also agreed to execute a voluntary resignation from the company.

7. Partition of Real Property: Multiple joint owners (tenants in common) of rural land with frontage on Interstate 20 sought a judicial partition of the commonly held lands but disagreed on how to structure a division of same in a way that was fair and reasonable. After mediating this over two separate days, the parties agreed to allow owners with development plans to obtain interstate frontage and owners with agricultural plans to obtain larger acreage amounts by foregoing claims to the frontage along Interstate 20. A confidential settlement memorandum was signed evidencing the agreed terms and including a method to share the costs of the new survey necessary to carry out the property division.

8. Dispute regarding Restoration of Commercial Office Building: Owners of a downtown commercial building sought to construct a residential apartment for their own use within their commercial building. The building was over 75 years old and the city issued a building permit but required certain additional steps be taken to lessen any future fire dangers which were not expressly contained within the city's Building Code. Owners undertook construction and remodeling but as the project neared a conclusion the City Inspector indicated that a Certificate of Occupancy would be withheld until certain additional construction measures were undertaken. The owners filed suit seeking an injunction ordering the city to issue its Certificate of Occupancy without such additional measures.

Following mediation, the owners agreed to make modified construction changes in order for the city to issue its Certificate of Occupancy.

9. Residential Construction Dispute: Owners contracted with a builder to construct a residence for them pursuant to specific plans and specifications. The builder drew advances as construction progressed, but as the project neared completion the owners asked for several upgrades/change-orders as to the internal finishes within the home. The builder made these changes and expended his funds without making additional draws from the owner. When these upgrades were done, the owners refused to accept the home or pay the remaining contract balance, including the owners' holdback retainage. During mediation, various additional changes and corrections addressing the owners' objections were agreed upon and the owners agreed to pay their contract balance due and their retainage to a third party escrow agent to facilitate final payment after these additional changes were made.

10. Personal Injury Matter: Plaintiff was injured in a multi-vehicle accident at the intersection of two U.S. Highways, and sustained serious and permanent personal injuries. The defendant and his insurance carrier disputed fault and alleged contributory negligence by the plaintiff. After mediating the matter, a settlement resulted in which the defendant's insurance carrier agreed to pay an amount acceptable to the plaintiff. Both parties agreed to execute releases and dismiss the pending suit with prejudice.

b. Describe:

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

I have a broad-based general practice of law on both sides of the docket, involving both litigation and transactional matters. While the overall general nature of my practice has not changed, the internal components of my practice vary. These changes are dictated by the area and regional economy. By way of example, times of intense oil and gas activity in East Texas have generally caused an increase in energy-related matters within my practice, from both a trial and transactional perspective. However, when energy related activity in the general economy slows, so does this corresponding component of most general practices, including my own. Similar illustrations could be drawn in other areas of my practice, which despite these shifts has consistently remained a general and broad-based practice.

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

My typical clients are broad and diverse. In addition to representing individuals and families in varied situations, I also represent nine local governmental entities (municipalities and emergency services districts), as well as corporate clients that include (or have included) such national companies as: Kansas City Southern Railway (FELA and contract litigation), Texas Eastman Chemical Company (real estate; oil and gas matters), CapitalOne Bank (banking and patent litigation), and local/regional businesses such as: Louis A. Williams and Associates (a general managing insurance agent), Ark-La-Tex Energy, LLC (a regional oil and gas exploration company), and Smith Steel Casting Company (a local steel foundry). I am not certified in any area by the Texas Board of Legal Specialization.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I would estimate that I appear in Court (either State or Federal) on average three or four times a month. These appearances relate to various matters including trials, motions and hearings.

i. Indicate the percentage of your practice in:
   1. federal courts: 25%
   2. state courts of record: 75%
   3. other courts: 0%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 90%
   2. criminal proceedings: 10%

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Cases tried to verdict/judgment where I was sole or chief counsel: 50
Cases tried to a verdict/judgment where I was non-lead (local) counsel: 40

i. What percentage of these trials were:
   1. jury: 20%
   2. non-jury: 80%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have never appeared or practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *In The Matter of Johnson*, Cause No. CCL07G0003, Cass County Court at Law; 2007

This case commanded statewide attention when a mentally-challenged African-American male was brutally attacked and left for dead on the side of a rural Cass County Road by several white teenagers who were engaged in underage drinking. After the entry of a nine million dollar verdict in a resulting civil damages case, a guardianship case was instituted to provide a safe and accountable method for supervising the use of the damage recovery for the benefit and care of the victim, Mr. Johnson. I was appointed in June 2007 by Judge Donald Dowd of the Cass County Court at Law to represent Mr. Johnson as his Attorney Ad Litem. As a result, I met with Mr. Johnson on several occasions and I worked closely with Mr. Morris Dees of the Southern Poverty Law Center, who was lead counsel in the damages case. Immediately after the judgment in the damages case was rendered, multiple persons came forward claiming direct interests in the judgment and asserted an interest in serving as Guardian for Mr. Johnson as a means of obtaining possession and control of the award. A Special Needs Trust judicially imposed (in lieu of a permanent guardianship) was ultimately settled on as a secure means of administering these funds for Mr. Johnson's benefit. I participated in developing this as an alternative to a typical guardianship. Also, after the judgment in the damages case, efforts were made to use suspicious employment contracts to assert partial ownership in the award by at least one attorney who had not participated in the damages trial but had conspired with distant relatives of Mr. Johnson in an attempt to claim a contingent interest in the judgment. The efforts of pro bono counsel protected Mr. Johnson's rights and then his recovery.

Co-counsel:
Morris Dees
Southern Poverty Law Center
P.O. Box 2087
Montgomery, Alabama 36102
(334) 956-8200

Glenn A. Perry
Sloan, Bagley, Hatcher, and Perry
P.O. Drawer 2909
Longview, Texas 75606
(903) 757-7574

Opposing counsel:
Claudene T. Arrington
Arrington Law Firm, PLLC
111 East Second Street
Hope, Arkansas 71802
(870) 777-0017

2. *Friberg v. Kansas City S. Ry. Co.*, Case No. 2:98-CV-00253-TJW, U.S. District Court for the Eastern District of Texas; on appeal at 267 F.3d 439 (5th Cir. 2001); 1998 – 2000

In this case, plaintiffs sought money damages based on an alleged violation of the Texas Anti-Blocking Statute [Tex. Trans. Code § 471.007(a)]. Plaintiff contended that the defendant railroad damaged their nursery business by allowing idle trains on a side-track to block the primary entrance to their nursery. Defendant alleged federal pre-emption under the Supremacy Clause of the U.S. Constitution due to the application of the Interstate Commerce Commission Termination Act of 1995 (codified at 49 U.S.C. § 10101 *et seq.*). I acted as co-counsel for the Kansas City Southern Railroad through the trial and the entry of the judgment. I conducted the voir dire, examined selected fact witnesses, and presented the closing arguments for the defendant. When the jury was unable to reach a unanimous verdict, both parties waived their right to a unanimous verdict and entered into a High-Low Agreement as to the jury's verdict. Judgment was entered by U.S. District Judge T. John Ward based on the verdict of all the jurors, save one juror who prevented a unanimous decision. The jury was unanimous on the issue of liability, but split on the issue of damages.

The trial court's earlier denial of summary judgment based on federal pre-emption grounds was appealed to the U.S. Court of Appeals for the Fifth Circuit, 267 F.3d 439 (5th Cir. 2001). The appellate court reversed the trial court. I did not participate in the appeal.

Co-counsel:
William Stephen Boyd
Baylor Health Care System
3500 Gaston Avenue
Dallas, Texas 75246
(214) 820-7465

Paul O. Wickes
5600 Tennyson Parkway, Suite 285
Plano, Texas 75024
(972) 473-6900

Opposing counsel:
John M. Smith
Kelly A. Williams
Harbour, Smith, Harris, and Merritt
P.O. Drawer 2072
Longview, Texas 75606
(903) 757-4001

3. *Amburn v. Cottrell*, Cause No. 254-96, 276th Judicial District Court, Marion County, Texas; on appeal at 1999 WL 1101360 (6th Texas Court of Appeals at Texarkana 1998); 1996 – 1998

   This case involved the question whether a prescriptive easement claimed by plaintiff Amburn was enforceable against land owned by defendant Cottrell. Judge William R. Porter presided. I represented defendant as lead counsel at trial and on appeal. There was no evidence that the use of an established oil-field roadway by the plaintiff over and across the defendant's land was adverse. In fact, undisputed evidence showed that the defendant had freely consented to the plaintiff's use of the roadway across her land. After an adverse verdict imposing a prescriptive easement was returned by the jury, the trial court denied Cottrell's motion for entry of a judgment *non obstante veredicto*. The Texas 6th Court of Appeals unanimously reversed the jury's verdict and rendered judgment for defendant, finding there was no evidence of adverse use by the plaintiff.

   Co-counsel:
   William Gleason (Now District Attorney for Marion County)
   c/o Marion County Courthouse
   102 West Austin Street
   Jefferson, Texas 75657
   (903) 665-7111

Opposing counsel:
Jesse M. DeWare IV
P.O. Box 668
Jefferson, Texas 75657
(903) 665-2567

4. *Abney v. Slaughter*, Cause No. 7030, County Court at Law, Harrison County, Texas; on appeal at 305 S.W.3d 804 (Tex. App.-Texarkana 2010, n.w.h.); 2008 – 2010

   I represented plaintiff Abney in his posture as Executor of the Estate of Tommy B. Slaughter at trial and on appeal. At issue was the meaning and effect of a section of a holographic will where a George Slaughter devised certain specific tracts of land to each of his three sons to be theirs alone, but reserved the "production and nonproduction royalty" from all his lands to vest equally in his three sons. Tommy Slaughter's Estate sued the remaining two brothers to obtain a judicial declaration of the meaning of "production and nonproduction royalty." Judge Jim Ammerman II ordered that each son owned all the minerals under the specific tracts of land set aside to them individually in their father's will. The Estate appealed to the 6th Texas Court of Appeals, which reversed and rendered in favor of the Estate, holding that "production royalty" was the typical royalty paid when oil and gas is produced and marketed. The appellate court also construed the language "unproduction royalty" to be a shut-in payment, a term that has a longstanding meaning and application under Texas oil and gas law and within the energy industry.

   Opposing counsel:
   R. Ned Dennis
   Law Offices of R. Ned Dennis
   308 West Houston Street
   Marshall, Texas 75670
   (903) 938-3746

5. *Michel v. EnCana Oil and Gas (USA) Inc.*, Cause No. 08-0618, 71st District Court, Harrison County, Texas; 2008 – 2009

   This case addressed (as a matter of first impression in Texas) the application of a horizontal severance clause in oil and gas leases and whether continuous operations under an oil and gas lease would suspend or delay the application of such a severance beyond the stated primary term in the leases. I represented nine mineral-owner plaintiffs as lead counsel in the trial court. After the entry of summary judgment in favor of plaintiffs by 71st District Court Judge Bonnie Leggat Hagan, a mediated settlement was reached wherein defendants purchased new leases from plaintiffs, which made the contested issues moot.

Co-counsel:
Mark Mann
The Mann Firm
300 West Main Street
Henderson, Texas 75652
(903) 657-8540

Opposing counsel:
Thomas F. Lillard (Counsel for EnCana)
Lillard, Wise, and Szygenda PLLC
5949 Sherry Lane, Suite 1255
Dallas, Texas 75225
(214) 739-2000

Donald Jackson (Lead Counsel for NFR Energy)
Haynes and Boone
One Houston Center, Suite 2100
Houston, Texas 77010
(713) 547-2026

W. F. Palmer (Local Counsel for NFR Energy)
The Palmer Law Firm
P.O. Drawer M
Marshall, Texas 75671
(903) 935-9331

6. *Positive Techs., Inc. v. LG Display Co., LTD.*, Case No. 2:07-CV-67-TJW, U.S. District Court for the Eastern District of Texas; 2008

This patent infringement case was brought before the Hon. T. John Ward, United States District Judge, Eastern District of Texas-Marshall Division. It involved advanced technology as to the process effecting the transmission and delivery of light through LCD television screens and similar LCD-based electronic products. As co-counsel for defendant LG Display Co., Ltd., I participated in preparing the case for trial, all pre-trial hearings before the court, and in the mediation that occurred on the eve of trial and which resulted in a settlement. The mediation lasted over twenty consecutive hours and resolved significant disputed damages claims.

Co-counsel:
William S. Sessions
Jon B. Crocker
Sunwoo Lee
Holland and Knight, LLC
2099 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 419-2410

Jennifer P. Ainsworth
Wilson, Robertson and Cornelius
909 ESE Loop 323, Suite 400
Tyler, Texas 75711
(903) 509-5001

Opposing counsel:
Otis Carroll
Collin Maloney
Ireland, Carroll and Kelley, PC
6101 South Broadway, Suite 500
Tyler, Texas 75703
(903) 561-1600

Thomas J. Friel
Cooley, Godward, Kornish, LLP
101 California Street, 5th Floor
San Diego, California 94111
(415) 693-2000

7. *London v. Timberlake*, Cause No. 28,478, 71st District Court, Harrison County, Texas; 1981 – 1982

This was a boundary-line dispute that turned on a question of whether a predecessor in title was married or single at the time he acquired this real property. I was lead trial counsel for plaintiff London. I handled all aspects of this case, from its filing through the entry of judgment based on a jury verdict. The central issue was whether the predecessor in title to plaintiff London was married in 1908. The defendant based his case on the testimony of several elderly witnesses who each testified unequivocally that the predecessor did not marry until 1910. Plaintiff was able to produce no live witnesses who professed any personal knowledge of the date of marriage, but we discovered the original marriage license stored in a non-indexed cardboard box in the basement of the Gregg County Courthouse, which showed the predecessor's marriage date as February 7, 1901. Presented with the actual marriage license at trial, the jury disregarded the conflicting live testimony and found for plaintiff. The Honorable Ben Z. Grant, of the 71st Texas District Court, entered judgment on the jury's verdict for the plaintiff. No appeal was perfected.

Co-counsel:
Ruben K. Abney (now deceased)

Opposing counsel:
Sam R. Moseley
Law Offices of Sam R. Moseley
110 West Houston Street
Marshall, Texas 75670
(903) 938-2393

Bailey C. Moseley (Now Associate Justice of the 6th Texas Court of Appeals)
100 North Stateline Avenue, Suite 20
Texarkana, Texas 75501
(903) 798-3047

8. *Philpot v. Fields*, Cause No. 34,794, 71st District Court, Harrison County, Texas; appeal reported at 633 S.W.2d 546 (Tex. App.-Texarkana 1982, n.w.h.); 1981 – 1982

I represented defendant Fields as lead counsel at trial and on appeal in this dispute over the enforceability of a surface lease. The lease at issue stated that it existed for a term of 20 years "and so long thereafter" as certain uses of the land were made by the lessee (plaintiff). The 20-year initial term had expired but the plaintiff had continued to use the land in the manner prescribed under the terms of the lease. Judge Ben Z. Grant held that the lease remained valid and enforceable beyond the initial 20-year term and despite its indefinite duration, for as long as Fields continued to meet the use requirements specified under the lease. The 6th Texas Court of Appeals affirmed.

Co-counsel:
Ruben K. Abney (now deceased)

Opposing counsel:
Bailey C. Moseley (Now Associate Justice of the 6th Texas Court of Appeals)
100 North Stateline Avenue, Suite 20
Texarkana, Texas 75501
(903) 798-3047

9. *C-2 Communications Techs., Inc. v. AT&T, Inc.*, Case No. 2:06-CV-241-TJW, U.S. District Court for the Eastern District of Texas; 2006 – 2008

This was a patent infringement case brought before the Hon. T. John Ward, United States District Judge, Eastern District of Texas-Marshall Division. It involved advanced technology as to the process of transmitting voice communications over an internet-based system rather than by a traditional trunkline system. I was co-counsel defending Qwest Communications Corporation. I participated in preparing the case for trial, all pre-trial hearings (including the claim construction or "Markman" hearing), the voir dire, and several days of active trial prior to settlement.

Co-counsel:
Steven Bauer
Jake Baron
Proskauer Rose, LLP
One International Place
Boston, Massachusetts 02110
(617) 526-9700

David J. Beck
Beck, Redden and Secrest, LLP
1221 McKinney Street, Suite 4500
Houston, Texas 77010
(713) 951-3700

Opposing counsel:
William Christopher Carmody
Ian B. Crosby
Susman Godfrey, LLP
901 Main Street, Suite 5100
Dallas, Texas 75202
(214) 754-1900

Robert M. Parker
Parker and Bunt, PC
100 East Ferguson, Suite 1114
Tyler, Texas 75702
(903) 531-3535

10. *Knuckols, as Trustees of the Smyrna Cemetery v. Ormes*, Cause No. 40,017, 71st District Court, Harrison County, Texas; appeal reported at 744 S.W.2d 337 (Tex. App.-Texarkana, 1988, n.w.h); 1985 – 1988

In this case the plaintiff Smyrna Cemetery Association sought a permanent injunction to force the removal of a stone border constructed by defendant Ormes around the gravesite of his wife, in contravention of the Cemetery's rules and guidelines which prohibited construction of a "retaining wall" within the Cemetery. I was counsel for the Cemetery and its trustees at trial and on appeal. The Hon. Sam F. Baxter, 71st District Judge, granted summary judgment for the Cemetery and defendant appealed. The 6th Texas Court of Appeals reversed the summary judgment and remanded the case for a full trial, finding that a material question of fact existed as to whether the stone grave border constituted a "retaining wall" as prohibited by the Cemetery's rules. Midway through trial, the parties resolved the case by agreeing that the current structure surrounding the grave could be maintained, but no additional structures of a similar nature could be built around any graves not already affected.

Co-counsel:
Max A. Sandlin, Jr.
Mercury Public Affairs
601 Pennsylvania Avenue, NW
Suite 1000/North Building
Washington, DC 20004
(202) 551-1440

E. E. Buckner
E. E. Buckner, Esq.
101 East Kildare Street, P.O. Box 629
Linden, Texas 75563
(903) 756-8853

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    I have served on the Unauthorized Practice of Law Committee (UPLC), a standing committee of the Texas Supreme Court, since 1984, and as its Chair from 1998 to 2009. The Committee is charged with enforcing existing statutory prohibitions regarding the unauthorized practice of law in Texas, and at its core is a consumer protection entity. The inability of Texas consumers, untrained in the law, to give informed consent to unauthorized legal services which often directly impact their lives and property has been the driving force leading scores of Texas lawyers to volunteer countless hours (on a pro bono basis) to carry out this charge of the Texas Supreme Court. The particular instances of the unauthorized practice of law encountered during my tenure as Chair were both varied and creative. As examples, the UPLC sought and obtained injunctions against do-it-yourself divorce kits being sold out of cars at retail parking lots in Houston; offers of free Wills from funeral homes in Dallas (with help from funeral directors in completing these pre-printed Wills) as an incentive for those who would view available cemetery spaces for sale; and the sale of Living Trust kits by non-lawyers who targeted the elderly and used free dinner meetings coupled with scare tactics about the probate process to sell these living trusts for sums many times more than a lawyer would charge.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    From 1982 to 1984, I taught Business Law for Undergraduates at East Texas Baptist University in Marshall, Texas. I no longer have a syllabus for this course.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    I have no such arrangements.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    None.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Statement.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

    a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

       I know of no actual or potential conflicts of interest at present. However, my son, Stephen Gilstrap, recently graduated from Yale Law School and will take the Texas Bar Examination. Should he become licensed to practice law in Texas and should he also become licensed to practice before the United States District Court for the Eastern District of Texas, I would carefully comply with the federal recusal statutes as applied to him and to any future law firm or firms he might become associated with.

    b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will comply fully with the Code of Conduct for United States Judges. In cases where any uncertainty exists I will err on the side of recusal rather than non-recusal.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

    I have been a regular and active provider of pro bono services throughout my practice. While I have not maintained records of the time spent, I estimate that I spend an average of at least 80 hours per year providing pro bono services. As a general rule, the pro bono matters I have undertaken over the course of my practice have typically been in the areas of family law, real estate practice, probate and guardianship matters. My pro bono efforts while serving as Chair and Member of the Texas Unauthorized Practice of Law Committee and my efforts in the *Johnson* case, discussed above, illustrate my commitment to pro bono service.

26. **Selection Process**:

    a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

    In January 2009, United States District Judge Thad Heartfield announced he would take senior status effective in January 2010. I submitted my application to the Texas Democratic House Delegation on July 3, 2009 and interviewed with the twelve-member delegation in late 2009. In March 2010, the delegation unanimously recommended me and two other applicants to the President for his consideration.

    In April 2010, Senators Kay Bailey Hutchison and John Cornyn invited interested persons to apply through them for this vacant position. In July 2010, their judicial screening committee personally interviewed the three persons named in the Texas Democratic House Delegation's letter to the President. In late September 2010, the Senators invited the same three applicants to interview with them in Washington. On October 12, 2010, Senator Hutchison advised me that both

Senators had decided to recommend me to the White House for the vacant position in the Eastern District of Texas.

Since October 15, 2010, I have been in contact with pre-nomination officials from the Department of Justice. On December 1, 2010, I interviewed with officials from the White House Counsel's Office and the Department of Justice. On May 19, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2010

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Gilstrap, James R.	2. Court or Organization US District Court, Eastern District of Texas	3. Date of Report 05/19/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge	5a. Report Type (check appropriate type) ☑ Nomination, Date 05/19/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 04/30/2011
7. Chambers or Office Address 100 West Houston Street Marshall, TX 75670	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☐ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Trustee	Foundation #1
2.	Trustee	Foundation #2
3.	Trustee	Trust #1
4.	Co-Trustee	Trust #2
5.		

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

☐ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.	2002	Texas County & District Employees Pension Fund; pension upon retirement age 63
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 2009	Smith & Gilstrap- salary and distributions	$969,296.00
2. 2010	Smith & Gilstrap-salary and distributions	$420,000.00
3. 2011	Smith & Gilstrap-salary and distributions	$140,000.00
4. 2009	Foundation #1	$2,400.00
5. 2010	Foundation #1	$1,400.00
6. 2011	Foundation #1	$600.00
7. 2009	Foundation #2	$600.00
8. 2010	Foundation #2	$600.00
9. 2011	Foundation #2	$200.00
10.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1. 2010	Marshall Floral Co.-salary
2. 2011	Marshall Floral Co.-salary
3.	
4.	

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				

FINANCIAL DISCLOSURE REPORT Page 3 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

2.
3.
4.
5.

FINANCIAL DISCLOSURE REPORT Page 4 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT
Page 5 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS -- *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. American Electric Power common stock	C	Dividend	L	T					
2. Bank of America common stock	A	Dividend	J	T					
3. Boeing Co. common stock	B	Dividend	L	T					
4. Citigroup common stock		None	J	T					
5. Dillards Department Stores common stock	A	Dividend							
6. Disney Co. common stock	A	Dividend	K	T					
7. Exxon Mobil common stock	A	Dividend	K	T					
8. Ford Motor Co. common stock		None	K	T					
9. General Electric common stock	D	Dividend	N	T					
10. Home Depot common stock	A	Dividend	K	T					
11. Intel common stock	B	Dividend	K	T					
12. JNJ common stock	C	Dividend	M	T					
13. McDonalds Corp. common stock	B	Dividend	L	T					
14. Norfork Southern Co. common stock	C	Dividend	M	T					
15. Pfizer common stock	B	Dividend	K	T					
16. Southern Co. common stock	B	Dividend	K	T					
17. MMM common stock	C	Dividend	M	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 6 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Woodside Petroleum common stock		None	J	T					
19. Weyerhaeuser common stock	A	Dividend	J	T					
20. Mineral Rights, Harrison Co. TX, Comstock Ros.#2 GU	A	Royalty	J	Q					
21. Mineral Rights, Harrison Co. TX, Comstock-Kennedy GU	C	Royalty	J	Q					
22. Mineral Rights, Harrison Co. TX H.T. Newman GU	B	Royalty	J	Q					
23. AT&T common stock	A	Dividend	J	T					
24. Alcatel Lucent common stock		None	J	T					
25. BP common stock		None	K	T					
26. Berkshire Hathaway Class B common stock		None	J	T					
27. Comcast Corp. common stock	A	Dividend	J	T					
28. Cisco Systems common stock		None	J	T					
29. Coca Cola Co. common stock	B	Dividend	K	T					
30. Corning Inc. common stock	A	Dividend	J	T					
31. Dell Inc. common stock		None	J	T					
32. Microsoft common stock	A	Dividend	J	T					
33. Proctor & Gamble common stock	B	Dividend	L	T					
34. Invesco Large Cap. Growth Fund class B		None	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 7 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. Alliance-Bernstein Large Cap Growth Fund class A		None	J	T					
36. Mass Investors Growth Stock Fund class A		None	J	T					
37. Target Stores common stock	A	Dividend	J	T					
38. Schlumberger Ltd. common stock	A	Dividend	K	T					
39. JP Morgan Chase common stock	A	Dividend	J	T					
40. Emerson Electric common stock	A	Dividend	J	T					
41. IBM common stock	A	Dividend	J	T					
42. Frontier Communications common stock	A	Dividend	J	T					
43. Verizon Communications common stock	A	Dividend	J	T					
44. Muni Bond-Bell Co. TX Cert of Oblig.	B	Interest	K	T					
45. Muni Bond-El Paso TX Cert of Oblig.	B	Interest	K	T					
46. Muni Bond-Harris Co. TX Util Dist.	B	Interest	L	T					
47. Muni Bond-Irving TX ISD GO	B	Interest	L	T					
48. Muni Bond-Lake Worth TX ISD GO	B	Interest	L	T					
49. Muni Bond-Montgomery Co. TX GO	B	Interest	K	T					
50. Muni Bond-Mt. Pleasant TX Util Dist Rev	A	Interest	L	T					
51. Muni Bond-N. Ft. Bend TX Water Dist	B	Interest	L	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C3)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 8 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. Muni Bond-N. TX Water Dist Rev.	A	Interest	K	T					
53. Muni Bond-Pearland TX Cert of Oblig.	A	Interest	K	T					
54. Muni Bond-Remington Util Dist Rev	A	Interest	L	T					
55. Muni Bond-San Marcos TX Water Rev.	B	Interest	L	T					
56. Muni Bond-Univ of Houston Rev	B	Interest	K	T					
57. Muni Bond-Victoria TX Cert of Oblig.	B	Interest	K	T					
58. Muni Bond-West Harris Co. TX Water	B	Interest	L	T					
59. Muni Bond-VA. Housing Dev. Auth Rev.	A	Interest	K	T					
60. Muni Bond-San Marcos TX Wastewater Rev.	B	Interest	K	T					
61. Muni Bond-Galveston Co. TX Housing Rev.	B	Interest	K	T					
62. Muni Bond-Valley AL Hosp. Rev	B	Interest	K	T					
63. Muni Bond-TN Housing Dev Rev.	B	Interest	K	T					
64. Muni Bond-Denver CO. Convention Ctr. Rev.	B	Interest	K	T					
65. Muni Bond-Zapata Co. TX GO	B	Interest	K	T					
66. Muni Bond-Destin FL Rev.	B	Interest	K	T					
67. Muni Bond-MS State GO	B	Interest	K	T					
68. Muni Bond-MS State Univ. Rev	B	Interest	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 9 of 28

Name of Person Reporting	Date of Report
Clutrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-88 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
69. Muni Bond-Tyler TX Jr. College Rev.	A	Interest	K	T					
70. Muni Bond-Dickens Co. TX Pub. Fac. Rev.	B	Interest	K	T					
71. Muni Bond-Leander TX ISD Zero Coupon Bond		None	L	T					
72. Muni Bond-Williamson Co. TX GO	B	Interest	K	T					
73. Muni Bond-TN Energy Acq. Rev.	B	Interest	K	T					
74. Muni Bond-Moneit MO Tax Incr. Rev.	A	Interest	J	T					
75. Muni Bond-Bowling KY GO	B	Interest	K	T					
76. Muni Bond-Harris Co. TX Toll Road Rev	A	Interest	K	T					
77. Muni Bond-Knox Co. TN Health Fac. Rev.	B	Interest	K	T					
78. Muni Bond-Mineola TX GO	B	Interest	K	T					
79. Mineral Rights, Harrison Co. TX NFR-Dinkle GU	D	Royalty	K	Q					
80. Mineral Rights, Harrison Co. TX NFR-Blalock GU	C	Royalty	K	Q					
81. Mineral Rights, Harrison Co. TX Forest Oil-Dickard GU	A	Royalty	J	Q					
82. Mineral Rights, Harrison Co. TX BP-Frank Davis GU	B	Royalty	J	Q					
83. Mineral Rights, Harrison Co. TX PennVa-Foreman GU	D	Royalty	K	Q					
84. Mineral Rights, Harrison Co. TX Valence Oper-Mobley GU	B	Royalty	K	Q					
85. Mineral Rights, Harrison Co. TX Valence-A. Snider GU	A	Royalty	J	Q					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 10 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-86 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
86. 70 acres Harrison Co., TX Timber Tract		None	M	Q					
87. 178.66 acres Harrison Co. TX Timber Tract		None	L	Q					
88. 52 acres Harrison Co. TX Timber Tract		None	M	Q					
89. 23.06 acres Harrison Co. TX Timber Tract		None	L	Q					
90. 476 acres Cass Co. TX Timber Tract		None	N	Q					
91. Mineral Rights, Panola Co. TX Vice Shivers GU	A	Royalty	J	Q					
92. CapitalOne Bank-Marshall TX various bank accts	D	Interest	N	T					
93. BancorpSouth-Marshall TX checking acct.		None	J	T					
94. First St. Bank-Hallsville TX CD	B	Interest	M	T					
95. Chase Bank-Marshall TX M/Mkt. acct #1	A	Interest	J	T					
96. First St. Bank Carthage TX M/Mkt. acct	D	Interest	N	T					
97. Edward Jones Cash Mgm. Acct.#1	B	Interest	M	T					
98. TX Bank & Trust; M/Mkt accts	B	Interest	M	T					
99. CapitalOne Bank-Marshall TX Agency CMA acct.	A	Interest	K	T					
100. Chase Bank-Marshall, TX M/Mkt. acct. #2	B	Interest	L	T					
101. BancorpSouth Marshall, TX CD	B	Interest	M	T					
102. Panola Nat'l Bank CD	B	Interest	M	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 11 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
103. Edward Jones Cash Mgn. Acct. #2	C	Interest	O	T					
104. Denton TX Util. Dist. Rev Muni	C	Interest	L	T					
105. Sumter Co. AL GO Muni	C	Interest	L	T					
106. Carriage Service Corp. common stock		None	J	T					
107. Reassure America universal life policy	B	Interest	K	T					
108. Foundation #1	F	Int./Div.	P1	T					
109. -CapOne checking acct.									
110. -Fidelity MMkt Acct.									
111. -Accenture common stock									
112. -Frontline Common stock									
113. -AT&T common stock									
114. -Altria Group common stock									
115. -American Express common stock									
116. -Amgen common stock									
117. -Apache corp. common stock									
118. -Auto Data Processing common stock									
119. -Becton Dickinson common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 12 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset excerpt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
120. -Boeing common stock									
121. -CF Holdings common stock									
122. -Cme Group common stock									
123. -CSX common stock									
124. -CVS Corp. common stock									
125. -Chevron common stock									
126. -Coca Cola common stock									
127. -ConocoPhillips common stock									
128. -Corning common stock									
129. -Devon Energy common stock									
130. -Disney common stock									
131. -Dominion Res. common stock									
132. -DuPont common stock									
133. -El Paso Corp. common stock									
134. -Entergy common stock									
135. -ExxonMobil common stock									
136. -Fastenal common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 13 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 31-69 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
137. -Fluor Corp. common stock									
138. -GE common stock'									
139. -Goldman Sachs common stock									
140. -HP common stock									
141. -Home Depot common stock									
142. -Honeywell common stock									
143. -Intel common stock									
144. -IBM common stock									
145. -EAFE Index Fund									
146. -Russell 2000 Value Index Fund									
147. -Chase common stock									
148. -JNJ common stock									
149. -Eli Lilly common stock									
150. -McDonald's common stock									
151. -McKesson common stock									
152. -Medtronic common stock									
153. -Microsoft common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 14 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
154. -Molson-Coors common stock									
155. -Monsanto common stock									
156. -Nike common stock									
157. -Northern Trust common stock									
158. -Novartis common stock									
159. -Oracle common stock									
160. -Pepsico common stock									
161. -Philip Morris common stock									
162. -PG common stock									
163. -Qualcomm common stock									
164. -S&P 500 Eft Trust									
165. -S&P 400 Midcap Eft Trust									
166. -Schumberger common stock									
167. -Sempra Energy common stock									
168. -Simon Ppty Group common stock									
169. -Sysco common stock									
170. -Teva Pharma common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 15 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS -- *income, value, transactions (includes those of spouse and dependent children; see pp. 31-40 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
171. -Texas Instr. common stock									
172. -3M common stock									
173. -Travelers common stock									
174. -United Tech.s common stock									
175. -Verizon common stock									
176. -Visa common stock									
177. -Vodafone Group common stock									
178. -Wal-Mart common stock									
179. -Wells Fargo common stock									
180. -Thornburg Internat'l Value Fund class I									
181. -Am. Gen. Med. Term Sr. Notes due 04/01/2013									
182. -Am. Gen. Med. Term Sr. Notes due 12/15/2011									
183. -Am. Gen. Med. Term Sr. Notes due 09/15/2012									
184. -Bear Sterns Sr. Notes due 02/01/2012									
185. -Verizon Deb. Ser. A due 03/15/2013									
186. -Wells Fargo new Sub. Notes due 08/01/2011									
187. -Vanguard Total Bond Mkt. Index Fund									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =Above than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 16 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
188. -CapitalOne checking/operating acct.									
189. -Mineral Rights; BP-W.E. Jackson GU									
190. -Mineral Rights; BP-Findley-B GU									
191. -Mineral Rights; BP-Geo. Slaughter-B GU									
192. Trust #1	E	Royalty	K	Q					
193. -Mineral Rights; Comstock-Winston #1 GU									
194. -Mineral Rights; WIMCO-Longwood Well #1									
195. -Mineral Rights; Matador Energy GU									
196. -CapitalOne Bank; checking acct.									
197. Foundation #2	E	Int./Div.	P1	T					
198. -CapitalOne Bank-checking									
199. -3300 acres timberland in NW Harrison Co., TX									
200. -Ally Bank CD									
201. -Emerson Electric common stock									
202. -JNJ common stock									
203. -Pepsico common stock									
204. -PG common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less M =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 N =$500,001 - $1,000,000 P4 =More than $50,000,000	L =$50,001 - $100,000 O =$1,000,001 - $5,000,000	P1 =$1,000,001 - $5,000,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 17 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
205. -Royal Dutch Shell common stock-ADR									
206. -Mineral Rights; TexOk-Davidson #3 oil unit									
207. -Mineral Rights; TexOk-Davidson #7 oil unit									
208. -Mineral Rights; TexOk-Davidson #13 oil unit									
209. -Mineral Rights; Harleton O&G-Davidson well									
210. Trust #2	G	Int./Div.	P2	T					
211. -Bancorp South Bank-checking account									
212. -925 acres timerland, NW Harrison County Texas									
213. -Muni Bond-Williamson Co., TX GO series A									
214. -Muni Bond-Austin, TX Water Sys Rev Bond									
215. -Muni Bond-Washington State GO									
216. -Muni Bond-S. Lyon MI Schools GO									
217. -Muni Bond-Bryan TX Water Sys Rev Bond									
218. -Muni Bond-Lower Colo. River Auth. Rev. Bond									
219. -Muni Bond-Springdale AR. School GO Bond									
220. -Muni Bond-Burleson, TX GO Bond									
221. -Muni Bond-Port Nueces Groves ISD GO Bond									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 18 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
222. -Muni Bond-McKinney, TX GO Bond									
223. -Muni Bond-Seattle, WA. Light & Power Rev. Bond									
224. -Muni Bond-Lubbock Co, TX Cert of Oblig. GO Bond									
225. -Muni Bond-Webster, TX GO Bond									
226. -Muni Bond-Decatur, AL. GO series E Bond									
227. -Muni Bond-Riverdale, Ill. GO series E Bond									
228. -Muni Bond-Pearland, TX GO Bond									
229. -Muni Bond-Yavapi Co. AZ College Dist GO Bond									
230. -Muni Bond-McKinney, TX Water Sys Rev. Bonds									
231. -Muni Bonds-Carson City NV water GO Bond									
232. -Muni Bond-St Charles, Ill. GO Bond									
233. -Muni Bond-Richardson, TX ISD GO Bond									
234. -Muni Bond-Bryan, TX Waterworks Rev Bond									
235. -Muni Bond-Ennis, TX GO Bond									
236. -Muni Bond-Indiana Power Agency Rev Bond									
237. -Muni Bond-Dorchester Co., SC Trans. GO Bond									
238. -Muni Bond-N. TX Tollway Auth. series A Bond									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,001 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 19 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset excerpt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
239. -Muni Bond-Laredo TX Comm. Col. Dist. GO Bond									
240. -Muni Bond-Temple, TX Util Rev Bond									
241. -Muni Bond-Texas State Water Finl. series A GO Bond									
242. -Muni Bond-Harris Co. TX Mun. Util. Dist. GO series A									
243. -Muni Bond-Dallas, TX ISD GO Bond									
244. -Muni Bond-Irving, TX ISD GO Bond									
245. -Muni Bond-Spring TX ISD GO Bond									
246. -Muni Bond-Klein TX ISD GO Bond									
247. -Muni Bond-Tyler TX Jr. Coll. Dist. Rev. Bond									
248. -Muni Bond-Rockwall, TX ISD GO Bond									
249. -Muni Bond-Aledo, TX ISD GO Bond									
250. -AT&T common stock									
251. -Caterpillar common stock									
252. -Chevron common stock									
253. -Conocophillips common stock									
254. -Coca Cola common stock									
255. -Emerson Electric common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 20 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-40 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
256. -JNJ common stock									
257. -Kellogg common stock									
258. -Nextera Energy common stock									
259. -PG common stock									
260. -Realty Incom Corp. common stock									
261. -MMM common stock									
262. -Enbridge Energy Partners Ltd Partnership									
263. -Energy Transfer Equity LP									
264. -Enterprise Products Partners, LP									
265. -Kinder-Morgan Energy Partners, LP									
266. -ONEOK Partners, LP									
267. -Edward Jones M/Mkt. Account									
268. -Muni Bond-Travis Co. TX Cert of Oblig Bond									
269. -Muni Bond-Merced CA Comm. Coll. Imp. Dist. Bond									
270. -Muni Bond-Highland Village TX GO Bond									
271. -Muni Bond-Hillsborough CA Sch. Dist.GO series A									
272. -Muni Bond-Brazos River Auth. Rev. Bond									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less M =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 N =$500,001 - $1,000,000	L =$50,001 - $100,000 O =$1,000,001 - $5,000,000	M =$100,001 - $250,000 P1 =$5,000,001 - $25,000,000 P4 =More than $50,000,000	P2 =$25,000,001 - $25,000,000
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 21 of 28

Name of Person Reporting	Date of Report
Glistrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
273. -Muni Bond-Freemont CA Sch. Dist. GO Bond									
274. -Muni Bond-Rowlett, TX GO Bond									
275. -Muni Bond-San Francisco CA Airport Rev Bond									
276. -Muni Bond-San Diego CA Sch Dist GO series C									
277. -Muni Bond-N TX Tollway Rev. Bond series A									
278. -Muni Bond-Laredo TX Comm. Coll. GO Bond									
279. -Muni Bond-Temple TX Util Sys. Rev. Bond									
280. -Muni Bond-Harris Co TX Mun Util Dist GO series A									
281. -Muni Bond-Harris Co TX Health Facs Dev. Rev Bond									
282. -Muni Bond-Spring TX ISD GO Bond									
283. -Muni Bond-Klein TX ISD RFDG GO Bond									
284. -CenturyLink common stock									
285. -Exxon Mobil common stock									
286. -GE common stock									
287. -Kimberly Clark common stock									
288. -Lockheed common stock									
289. -Medco Health Sys common stock									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-69 of filing instructions.)*

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period (1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	C. Gross value at end of reporting period (1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	D. Transactions during reporting period (1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
290. -Merck common stock									
291. -Pfizer common stock									
292. -United Technologies common stock									
293. -Disney common stock									
294. -Wal-Mart common stock									
295. -Mineral Rights-NFR-Marshall Pottery GU, Harrison Co TX									
296. -Mineral Rights-NFR-Moseley #1 & #2 GU Harrison CO TX									
297. -Mineral Rights-Samson-SW Med Found GU Harrison Co TX									
298. -Mineral Rights-Forest Oil Co-Wms GU Harrison Co TX									
299. -Mineral Rights-Berry Oil Co-Byrne GU Harrison Co TX									
300. -Mineral Rights-XTO-Della Hughes GU Harrison Co TX									
301. -Mineral Rights-BP-Findley GU Harrison Co. TX									
302. -Mineral Rights-McElroy GU Harrison Co TX									
303. -Mineral Rights-T Mosely GU Harrison Co TX									
304. -Mineral Rights-BP Nesbitt GU Harrison Co TX									
305. -Mineral Rights-Exco-Jville GU Harrison Co TX									
306. -Mineral Rights-Waldron GU Harrison Co TX									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 23 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
307. -Mineral Rights-Crockett B GU Harrison Co TX									
308. -Mineral Rights-BP-Brune GU Harrison Co TX									
309. -Mineral Rights-Shelby-HC Fee GU Harrison Co TX									
310. -Mineral Rights-BP-Hynson GU Harrison Co TX									
311. -Mineral Rights-BP-Resch GU Harrison Co TX									
312. -Mineral Rights-GMX-Blocker Ware Harrison Co TX									
313. -Mineral Rights-GMX S Moore GU Harrison Co TX									
314. -Mineral Rights-NFR-Pilot GU Harrison Co TX									
315. -Mineral Rights-Beckham GU Harrison Co TX									
316. -Mineral Rights-Berry-Haynes GU Harrison Co TX									
317. -Mineral Rights-BP- Allen GU Harrison Co TX									
318. -Mineral Rights-BP-JE Jackson GU Harrison Co TX									
319. -Min.RightsGMX-Underwood GU Harrison Co TX									
320. -Mineral Rights-Gill GU Harrison Co TX									
321. -Mineral Rights-SD Hall GU Harrsion Co TX									
322. -Mineral Rights-PennVa Hordern GU Harrison Co TX									
323. -Mineral Rights-BP-Hurd GU Harrsion Co TX									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 24 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
324. -Mineral Rights-Chopper GU Harrison Co TX									
325. -Mineral Rights-BP-Davis GU Harrison Co TX									
326. -Mineral Rights-BP-Lee GU Harrison Co TX									
327. -Mineral Rights-BP-Pope GU Harrison Co TX									
328. -Mineral Rights-BP-Allen GU Harrison Co TX									
329. -Mineral Rights-BP-JG Brown GU Harrison Co TX									
330. -Mineral Rights-BP-Lewis GU Harrison Co TX									
331. -Mineral Rights-BP-Britton GU Harrison Co TX									
332. -Mineral Rights-BP-Caldwell GU Harrison Co TX									
333. -Mineral Rights-BP-Slaughter GU Harrison Co TX									
334. -Mineral Rights-Hutchinson GU Harrison Co TX									
335. -Mineral Rights-NFR-Emmitt GU Harrison Co TX									
336. -MIN. Rights-Tex-OK-Baker GU Harrison Co TX									
337. -Mineral Rights-Tex OK-Ben Gens Field Harrison Co TX									
338. -Mineral Rights-Blalock GU Harrison Co TX									
339. -Mineral Rts-GMX-Bradley GU Harrison Co TX									
340. -Mineral Rights-Buffin GU Harrison Co TX									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT
Page 25 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
341. -Mineral Rights-R Cain GU Harrison Co TX									
342. -Mineral Rights-ETBC GU Harrison Co TX									
343. -Mineral Rights-Corde GU Harrison Co TX									
344. -Mineral Rights-BP-Dudeck GU Harrison Co TX									
345. -Mineral Rights-XTO-Dunn GU Harrison Co TX									
346. -Mineral Rights-Dunkee GU Harrison Co TX									
347. -Mineral Rights-Gilstrap GU Harrison Co TX									
348. -Mineral Rights-Fair Oil-Fox GU Harrison Co TX									
349. -Mineral Rights-Exco-Jobe GU Harrison Co TX									
350. -Mineral Rights-Comstock Kennedy GU Harrison Co TX									
351. -Mineral Rights-BP Kingstree GU Harrison Co TX									
352. -Mineral Rights-Kirkpatrick GU Harrison Co TX									
353. -Mineral Rights-XTO-Dee Knox GU Harrison Co TX									
354. -Mineral Rights-BP-Roden GU Harrison Co TX									
355. -Mineral Rights-Matthews GU Harrison Co TX									
356. -Mineral Rights-Newton GU Harrison Co TX									
357. -Mineral Rights-BP-Peggy Pierce GU Harrison Co TX									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$1,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 26 of 28

Name of Person Reporting	Date of Report
Gilstrap, James R.	05/19/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
358. -Mineral Rights-Rosoborough GU Harrison Co Tx									
359. -Mineral Rights-Exco-Rudd GU Harrison Co TX									
360. -Mineral Rights-Vincent GU Harrison Co TX									
361. -Mineral Rights-weir GU Harrison Co TX									
362. -Mineral Rights-BP-P. Whaley GU Harrison Co TX									
363. -Mineral Rights-XTO-Wilson GU Harrison Co TX									
364. -Mineral Rights-Woodlawn GU Harrison Co TX									
365. -CapitalOne Bank-checking account									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 27 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

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

FINANCIAL DISCLOSURE REPORT Page 28 of 28	Name of Person Reporting Gilstrap, James R.	Date of Report 05/19/2011

IX. CERTIFICATION.

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

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

Signature James Rodney Gilstrap

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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks	2	718	282	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	803	552	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-see schedule			
Real estate owned – see schedule	1	569	040	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		50	000				
Cash value-life insurance		27	360				
Other assets itemize:							
- Municipal bonds	1	333	652				
				Total liabilities			0
				Net Worth	7	501	886
Total Assets	7	501	886	Total liabilities and net worth	7	501	886
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	NO		
On leases or contracts				Are you defendant in any suits or legal actions?	NO		
Legal Claims				Have you ever taken bankruptcy?	NO		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
3M Company stock	$ 217,680
Alcatel-Lucent stock	115
American Electric Power Co. stock	53,321
AT&T Inc. stock	469
Bank of America Corp. stock	5,366
Berkshire Hathaway Inc. stock	10,588
Boeing Co. stock	91,756
BP plc (ADR) stock	14,740
Carriage Services, Inc. stock	1,516
Cisco Systems Inc. stock	1,756
Citigroup Inc. stock	3,469
Coca-Cola Co. stock	39,316
Comcast Corp. stock	1,221
Corning Inc. stock	4,060
Dell Inc. stock	1,601
Emerson Electric stock	9,348
Exxon Mobil Corp. stock	26,523
Ford Motor Co. stock	17,093
Frontier Communications Corp. stock	197
General Electric Co. stock	339,362
Home Depot Inc. stock	22,194
IBM Corp. stock	7,338
Intel Corp. stock	46,042
Johnson & Johnson stock	352,544
J. P. Morgan Chase stock	6,915
McDonalds Corp. stock	57,202
Microsoft Corp. stock	16,521
Norfolk Southern Co. stock	163,575
Pfizer Inc. stock	31,140
Proctor & Gamble Co. stock	126,223
Schlumberger, Ltd. stock	22,382
Southern Co. stock	26,600
Target Corp. stock	12,502
Verizon Communications, Inc. stock	3,854
Walt Disney Co. stock	48,665
Weyerhaeuser Co. stock	10,816
Woodside Petroleum Ltd. stock	2,440
AllianceBernstein Large Cap Growth Fund –Class A	1,270
Invesco Large Cap Growth Fund –Class B	2,260
MFS Massachusetts Investors Growth Stock Fund –Class A	3,572
Total Listed Securities	$ 1,803,552

Real Estate Owned		
Personal residence		521,500
Timber tracts		937,650
Oil & gas interests		109,890
	Total Real Estate Owned	1,569,040

AFFIDAVIT

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

May 9th, 2011
(DATE)

James Rodney Gilstrap
(NAME)

EVALEEN C. LANDERS
NOTARY PUBLIC
STATE OF TEXAS
My Commission Expires 01-16-2012

Evaleen C. Landers
(NOTARY)

STATEMENT OF JENNIFER GUERIN ZIPPS, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

Ms. ZIPPS. Thank you, Senator Schumer.

In addition to my family members that were introduced earlier, I have my friends from law school here in the District, Mary McCord and Sheldon Snook, and my friend, Serra Tsethlikai, who is detailed here to the District from Arizona.

I know my mother is watching by Webcast and wanted to be here, but couldn't make it, as well as my sisters, my friends and colleagues back in Arizona, and the Zipps and the Guerin families. Thank you.

And thank you, Senator Kyl and Senator McCain for the kind introductions, and to this Committee for having this hearing; and, of course, to President Obama for his nomination.

[The biographical information follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Jennifer Guerin Zipps (since marriage August 2008)
   Jennifer Christine Guerin
   Jennifer Christine Pifer (maiden name)

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

   United States District Judge for the District of Arizona

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

   United States District Court for the District of Arizona
   Evo A. DeConcini United States Courthouse
   405 West Congress, Suite 3180
   Tucson, Arizona 85705

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

   1964; Ashland, Ohio

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

   1987 – 1990, Georgetown University Law Center; J.D., *cum laude*, 1990

   1982 – 1986, University of Arizona; B.A. in English, with honors, 1986

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2005 – present
United States District Court for the District of Arizona
Evo A. DeConcini United States Courthouse
405 West Congress, Suite 3180
Tucson, Arizona 85705
United States Magistrate Judge

1995 – 2005
United States Attorney's Office for the District of Arizona
Evo A. DeConcini United States Courthouse
405 West Congress Street, Suite 4800
Tucson, Arizona 85705
Chief Assistant (2002 –2005)
Civil Chief (2002)
Assistant United States Attorney (1995 – 2001)

Spring 2001; Spring 2002
University of Arizona James E. Rogers College of Law
1201 East Speedway
Tucson, Arizona 85721
Adjunct Professor

1991 – 1995
Molloy, Jones & Donahue (no longer in business)
32 North Stone, Suite 2200
Tucson, Arizona 85701
Associate Attorney

1990 – 1991
Honorable William C. Canby
United States Court of Appeals for the Ninth Circuit
Sandra Day O'Connor United States Courthouse
401 West Washington Street, Suite 612, SPC 55
Phoenix, Arizona 85003
Judicial Clerk

Summer 1989
Meyer, Hendricks, Victor, Osborne & Maledon (no longer in business)
2929 North Central, Suite 2100
Phoenix, Arizona 85067
Summer Associate

Summer 1989
Rogers & Wells LLP
607 14th Street, NW
Washington, D.C. 20005
Summer Associate

1988 – 1989
Professor Barry Carter
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, D.C. 20001
Research Assistant

1987
K-Temp Temporary Agency (no longer in business)
101 North Wilmot, Suite 455
Tucson, Arizona 85711
Temporary Secretary

1987
Desert Sports & Fitness
7315 North Oracle (no longer in business at this location)
Tucson, Arizona 85704
Weekend Receptionist

1983 – 1987
Carl's Jr. Restaurant
615 West Congress Street
Tucson, Arizona 85745
Assistant Manager

Other Affiliations (uncompensated unless otherwise indicated):

2006 – present
St. Cyril School Parent and Alumni Foundation (f/k/a St. Cyril Education Foundation)
No physical address
Member, Board of Directors

2006 – present
Princess Jennifer, LLC
4050 East Camino Montecillo
Tucson, Arizona 85718
Limited Partner (receive investment income)

2004 – 2005
Tucson Defense Bar
No physical address
President

2003 – 2005
Federal Bar Association, Tucson Chapter
No physical address
Executive Committee

1997 – 2000
Pima County Bar Association
177 North Church Avenue #101
Tucson, Arizona 85701
Board of Directors, Young Lawyers Division

7. **Military Service and Draft Status**: Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

   I have not served in the military. I was not required to register for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

   U.S. Attorney's Office
   - Time Off Award for leadership, 2004
   - Special Act Award for performance as Civil Chief, 2002
   - Time Off Award for work on employment discrimination trial, 2002
   - Special Act Award for performance, 2001
   - Time Off Award for work on bankruptcy case, 2000
   - Employee Volunteer Service Award, Department of Justice, 1999
   - Time Off Award for work on employment discrimination case, 1998

   Lifetime Achievement Award, University of Arizona James E. Rogers College of Law, 2002

   Outstanding Service Recognition for Lawyers for Literacy, 1999

   Georgetown University Law Center
   - American Jurisprudence Award in Constitutional Law I
   - Dean's List
   - Member, *Georgetown Law Review*

University of Arizona
Dean's List all semesters
Phi Beta Kappa
Golden Key National Honor Society, 1984 – 1986

9. **Bar Associations**: List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

District of Arizona, Local Rules Committee, 2008 – present
Federal Bar Association, 2003 – present
Executive Committee, 2003 – 2005
Magistrate Reappointment Review Committee, 2003
Ninth Circuit Lawyer Representative, 2003 – 2005
Ninth Circuit Public Information & Community Outreach Committee, 2009 – present
Pima County Bar Association, 1993 – present
Young Lawyer Division, 1993 – 2000
Board of Directors, 1997 – 2000
Chairperson, Lawyers for Literacy, 1995 – 1999
Volunteer, Guardian Ad Litem Program, 1997 – 2000
Pima County Superior Court Judicial Performance Conference Team, 2004
Tucson Defense Bar, 1996 – 2005
President, 2004 – 2005

10. **Bar and Court Admission**:

a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Arizona, 1990. There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Ninth Circuit, 1990
United States District Court for the District of Arizona, 1991
Arizona State Courts, 1990

There have been no lapses in any membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which

you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Pima County Attorney's Office
Victim Witness Volunteer, 1984 – 1987
St. Cyril School Parent and Alumni Foundation (f/k/a/ St. Cyril Education Foundation)
Board of Directors, 2006 – present
St. Cyril of Alexandria Church, Renew 2000, 1999 – 2000
Women's book club, 2002 – 2004

b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of the organizations to which I have belonged currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

As a second-year law student, I wrote portions of and updated the New Trial and Appeals sections of the *Georgetown Law Journal*, Eighteenth Annual Review of Criminal Procedure, Vol. 77, No. 4, February 1989. Copies supplied.

Senior Editor, *Georgetown Law Journal*, Nineteenth Annual Review of Criminal Procedure, Vol. 78, No. 4, April 1990.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the

name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

To my best recollection, I have not prepared reports, memoranda or policy statements on behalf of a bar association, committee, conference, or organization of which I was or am a member.

c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

On January 20, 2010, I testified before the United States Sentencing Commission regarding the Court's procedures for implementing the United States Border Patrol's Arizona Denial Initiative, an initiative also referred to as Operation Streamline. A copy of my statement and a transcript is supplied.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have not maintained a record of my public speaking appearances. To respond to this question, I have reviewed my files and calendars, conducted an extensive Internet search, and contacted court staff to compile a list that is as complete as possible. There may be other speeches or talks I have given that I have been unable to recall or identify.

June 9, 2011: I spoke to two groups of children as part of Take Your Child to Work Day. I explained the roles of the various participants in a criminal case and allowed the children to act in the various roles. I have no notes, transcript or recording. These talks were held at the United States Courthouse located at 405 West Congress, Tucson, Arizona 85705.

February 9, 2011: Speaker, Issue Day, Green Fields Country Day School. The 10-minute presentation was repeated to four groups and focused on immigration proceedings in federal court. One session was recorded, but I have been unable to obtain a copy. Notes supplied.

On the following dates I presided over Naturalization ceremonies and offered congratulatory remarks: April 25, 2008; July 25, 2008; October 23, 2008; January

9, 2009; April 24, 2009; July 10, 2009; February 19, 2010; April 16, 2010; May 14, 2010; May 28, 2010; September 10, 2010; September 17, 2010; December 3, 2010; March 25, 2011; and June 10, 2011. I have no transcripts, notes or recordings of my congratulatory remarks, except for the September 17, 2010 event. From that event, press coverage is supplied and a copy of the KMSB video is supplied. All but two of those ceremonies were held at the United States Courthouse located at 405 West Congress, Tucson, Arizona 85705. The April 16, 2010 ceremony was held at St. Cyril's of Alexandria school, which is located at 4725 East Pima Street, Tucson, Arizona 85712. The September 17, 2010 ceremony was held at Saguaro National Park, Tucson, Arizona.

October 29, 2010 and November 18, 2008: I and other judges of this Court participated in an informal round table discussion regarding United States Courts' procedures and operations. The discussions were with a delegation of judges and lawyers from the Ukraine and Kazakhstan, respectively. I have no notes, transcripts or recordings. The address of the U.S. Courthouse is 405 West Congress, Tucson, Arizona 85705.

September 16, 2010: Panelist, Federal Bar Association, Tucson Chapter, Bench & Bar Luncheon. The topic of my presentation was recent changes in court procedures and proceedings before magistrate judges. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

May 4, 2010, April 23, 2010, July 21, 2008, July 11, 2008, and December 4, 2008: In my courtroom, I spoke to groups about court procedures and defendants' rights in a criminal case. An Assistant United States Attorney, a Federal Public Defender, and I explained the roles of the various participants in a criminal case, presented a mock trial scenario and allowed group members to act as the various participants in a criminal proceeding. I have no notes, transcripts or recordings of these presentations. The groups presented to are as follows:

May 4, 2010 – Fifth and sixth grade students from St. Cyril of Alexandria, 4725 East Pima Street, Tucson, Arizona 85712.

April 23, 2010 – students from Challenger Middle School, 100 East Elvira Road, Tucson, Arizona, 85756.

July 21, 2008 – international exchange students from the Ulster Project. The group contact was Miriam Matz, 4419 North Via Bellas Catalinas, Tucson, Arizona, 85718.

July 11, 2008 – Boy Scout troop. I do not have any information regarding the name of the troop.

December 4, 2008 – Third graders from Manzanita Elementary School, 3000 East Manzanita Avenue, Tucson, Arizona 85718.

November 16, 2009: Panelist, Nuts & Bolts Courtroom Advocacy Series sponsored by the Tucson Chapter of the Federal Bar Association. The topic of the advocacy series was Motions to Suppress Statements. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

October 21, 2009, April 27, 2009 and October 29, 2007: Speaker. I met with international visitors, at the request of the Tucson Council for International Visitors, and spoke about United States Courts' procedures and processes. I have no notes, transcripts or recording. The address of the Council is 3900 Timrod, Tucson, Arizona 85711.

March 6, 2009: Panelist, Ninth Circuit Lawyer Representative District Conference, Arizona Biltmore. The panel of judges answered questions from the audience. I have no notes, transcript or recording. The Lawyer Representative Coordinating Committee that sponsored the event does not have a physical address.

March 3, 2009: Guest speaker, Criminal Fact Investigation and Discovery class at the University of Arizona, James E. Rogers College of Law. A Pretrial Services Officer and I spoke to students about the process for making detention and release decisions in federal court. Notes supplied.

January 26, 2009: Panelist, Federal Bar Association, Tucson Chapter, Detention Nuts and Bolts Training, United States Courthouse, Tucson, Arizona. The topic of the training was Detention Decisions and the Bail Reform Act. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

October 31, 2008: Speaker, Career Day, St. Cyril of Alexandria School, Tucson, Arizona. The topic I spoke about was having career as a judge or in the practice of law and the education and experience required. Notes supplied.

September 20, 2007: Panelist, Federal Bar Association, Tucson Chapter, Bench & Bar Luncheon, Arizona Inn. The topic was practice in the Court from the perspective of a new judge. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

September 17, 2007: Panelist, University of Arizona College of Law, Ninth Annual Supreme Court Review CLE, Tucson, Arizona. Video supplied.

November 17, 2005: Moderator, Federal Bar Association, Federal Criminal Practice seminar, Manning House. I moderated the panel discussion "Advocacy in Magistrate Court." Notes supplied.

June 24, 2005: Speaker, Investiture Ceremony of United States Magistrate Judge, Jennifer C. Guerin, United States Courthouse, Tucson, Arizona. My remarks and a DVD of the ceremony are supplied.

May 2005: Speaker, eighth grade graduation commencement, St. Joseph Catholic School, Tucson, Arizona. Remarks supplied.

October 22, 2004: Panelist, Arizona Women Lawyers Association's 2004 Statewide Convention, "Advancing Your Career: A Woman's Leadership Conference," Manning House. The topic was advancing one's legal career. I have no notes, transcript or recording. The address of AWLA is P.O. Box 676, Gilbert, Arizona 85299.

October 31, 2003: Speaker, United States District Court, District of Arizona, Open Doors to Federal Courts Program. The topic was the role of an Assistant United States Attorney and career opportunities as an attorney. I have no notes, transcript or recording. The address of the Court is 405 West Congress, Tucson, Arizona 85705.

April 18, 2002: CLE Presentation, "I'm in Federal Court, Now What Do I Do?" sponsored by the State Bar of Arizona, held at the United States Courthouse in Tucson, Arizona. Presentation outline supplied.

2001: Presenter, "Basics of Civil Litigation in Arizona," sponsored by Half Moon LLC, 2001. The course was directed to legal assistants and provided an overview of civil matters, courts, filing a lawsuit, discovery, trial preparation, preparing legal paperwork and notices, and legal writing. I have no transcript or recording, but the written materials are supplied.

November 1993: Presenter, "Small Business Law," sponsored by the People's Law School and held at the University of Arizona College of Law. The topic was business formation and litigation. I have no notes, transcript or recording. The organizer and contact was John Tully, Esq., 4562 North First Avenue, Tucson, Arizona 85718.

e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have not maintained a record of interviews I have given to newspapers, magazines or other publications, or radio or television stations. To respond to this question, I have reviewed my files and calendars and conducted an extensive Internet search to compile a list that is as complete as possible. In conducting the Internet search, I discovered news sources that repeated statements that I had made in prior interviews. My list includes the original interview and the date of

that interview. It may not include every source that repeated my comments. There may be other interviews I have given that I have been unable to recall or identify.

September 17, 2010: After a naturalization ceremony at Saguaro National Park, in Tucson, Arizona, I spoke with two KOLD media representatives. Video is available at http://www.kold.com/global/Category.asp?C=179377&clipId=5122860&topVideoCatNo=undefined&autoStart=true. I also spoke to representatives of KSMB. A copy of that video is supplied.

September 24, 2004: As Chief Assistant of the United States Attorney's Office, I spoke at a press conference regarding criminal charges initiated against Motor Vehicle Division employees for producing or distributing fake Arizona drivers licenses. Related press coverage is listed below:

> Eric Swedlund and Barrett Marson, *34 at MVD Charged in Fake-ID Case*, Arizona Daily Star, Sept. 24, 2004. Copy supplied.
>
> Sheryl Kornman and Irene Hsiao, *New Watchdog to Monitor MVD*, Tucson Citizen, Sept. 24, 2004. Copy supplied.

Jennifer Girardin, *Court Workers Honor Late Friend*, Arizona Daily Star, Aug. 6, 2004. Copy supplied.

Tim Vanderpool, *Klump Country Blues*, Tucson Weekly, May 20, 2004 [quotes re-printed in multiple outlets]. Copy supplied.

May 12, 2004: I was interviewed by KOLD news regarding the case of *United States v. Klump*, 00-cv-00432-JMR. I have been unable to obtain a recording, but a news article based on the interview is supplied.

On or about February 11, 2004, I was interviewed by local television station KVOA regarding the case of *United States v. Klump*, 00-cv-00432-JMR. I have been unable to obtain a recording.

Arek Sarkissian II and L. Anne Newell, *Setting Fires No Small Crime*, Arizona Daily Star, May 26, 2002. Copy supplied.

May 4, 1998: I was interviewed by local television station KVOA about the volunteer program Lawyers for Literacy. I have been unable to obtain a recording.

13. **Judicial Office**: State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

On April 4, 2005, I was appointed a United States Magistrate Judge by the United States District Court for the District of Arizona. The Court is a court of limited jurisdiction. As a magistrate judge in that Court, I am authorized to perform those responsibilities set forth in 28 U.S.C. § 636 and those responsibilities designated to magistrate judges by the District Court judges in the Rules of Practice of the United States District Court for the District of Arizona.

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

   I have presided over one jury trial involving a class A misdemeanor and four bench trials involving class A and/or B misdemeanors. By consent of the parties, I have presided over 14 civil cases which have gone to judgment and over the plea and sentencing of approximately 900 Class A misdemeanors. I have presided over the plea and sentencing of approximately 3,800 Class B misdemeanor cases.

   i. Of these, approximately what percent were:

jury trials:	20%
bench trials:	80%
civil proceedings:	1%
criminal proceedings:	99%

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

   See attached list of opinions. The attached list, to the best of my knowledge, contains all of the opinions and reports and recommendations I have written as a magistrate judge. The majority of reports and recommendations in criminal cases in this district are forms that are used by the United States District Court in Arizona in proceedings involving a change of plea or admission to violation of condition of supervised release; the attached list includes the non-form reports and recommendations such as those pertaining to motions to dismiss, motions to suppress, motions for summary judgment and pretrial matters.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1) *Giles Const., Inc. v. Comm. Fed. Bank*, No. 04-cv-258-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.), *adopted at* 2006 WL 2711501 (D. Ariz. Sept. 21, 2006).

Plaintiff was a general contractor who filed an action against Defendant Commercial Federal Bank in district court on the basis of diversity jurisdiction, alleging claims for fraudulent misrepresentation, negligent misrepresentation, concealment and non-disclosure. Defendant moved for summary judgment; the motion was referred to me for a recommended ruling. I recommended granting the Motion for Summary Judgment; District Judge Cindy K. Jorgenson adopted my Report and Recommendation.

For Plaintiff: Brenda J. Lee & Craig Gerard Travers, Lee & Travers PLC, 2421 East Sixth Street, Suite 1, Tucson, AZ 85719, Tel: (520) 322-5575.

For Defendant: Craig H. Kaufman, Quarles & Brady LLP, 1 South Church Avenue, Suite 1700, Tucson, AZ 85701, Tel: (520) 770-8700.

2) *Newport v. Dell, Inc.*, No. 08-cv-96-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.); 2008 WL 4347311 (D. Ariz. Aug. 21, 2008), *adopted at* 2008 WL 4629987 (D. Ariz. Oct. 17, 2008).

Plaintiff filed a class action lawsuit against Dell, Inc., several of its subsidiaries and two computer repair businesses in Pima County Superior Court; the action was removed to federal court on the basis of federal question jurisdiction under the Class Action Fairness Act of 2005. Dell moved to dismiss Plaintiff's Amended Complaint; the motion was referred to me for a recommended ruling. I recommended that Plaintiff's Amended Complaint be dismissed in part; portions of the Amended Complaint were facially barred by the statute of limitations and class actions filed in other jurisdictions did not toll Plaintiff's statute of limitations. The parties did not object to my Report and Recommendation and District Judge Cindy K. Jorgenson adopted my Report and Recommendation. The parties have stipulated to stay the case pending approval of a global settlement in the Northern District of California.

For Plaintiff: Brian Strange & Gretchen Carpenter, Strange & Carpenter, 12100 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90025, Tel: (310) 207-5055; Bruce A. Burke, Law Office of Bruce A. Burke PC, 115 West Washington Street, Tucson, AZ 85701, Tel: (520) 622-3596; Randall Rothschild, Randall S. Rothschild PC, 12100 Wilshire Boulevard, Suite 800, Los Angeles, CA 90025, Tel: (310) 806-9245.

For Defendants: John P. Phillips, Richard Elder, Sean Unger, Christopher Mooney, Paul Hastings, Janofsky & Walker LLP, 55 2nd Street, 24th Floor, San Francisco, CA 94105, Tel: (415) 856-7000; Andrew Jacobs, Snell & Wilmer LLP, 1 South Church Avenue, Suite 1500, Tucson, AZ, 85701, Tel: (520) 882-1200; Kristine Brown, Alston & Bird LLP, 1201 West Peachtree

Street, Atlanta, GA 30309, Tel: (404) 881-7584; Paul W. Schlaud, Reeves & Brightwell LLP, 221 West Sixth Street, Suite 1000, Austin, TX 78701, Tel: (512) 334-4500; Michael S. Blanton, Roberts Raspe & Blanton LLP, 445 South Figueroa Street, Suite 2300, Los Angeles, CA 90071, Tel: (213) 430-0216; Aaron Christopher Gundzik, Cotton & Gundzik LLP, 624 South Grand Avenue, 22nd Floor, Los Angeles, CA 90017, Tel: (213) 312-1335.

3) *Valles v. Pima Cnty.*, No. 08-cv-09-FRZ (JCG) (CM/ECF) (D. Ariz.), *adopted at* 642 F. Supp. 2d 936 (D. Ariz. July 31, 2009), and 2011 WL 814974 (D. Ariz. Mar. 4, 2011).

Plaintiffs were purchasers of lots in a failed subdivision. In their Third Amended Complaint, Plaintiffs alleged federal claims against Pima County and state law claims against various subcontractors and real estate agents involved in the subdivision's development. The subcontractors and real estate agents moved to dismiss the complaint, and the motions were referred to me for a recommended ruling. In my Report and Recommendation, I concluded that the federal claims asserted against Pima County involved substantially different factual and legal foundations compared to the state law claims, and therefore the state law claims should be dismissed. District Judge Frank R. Zapata adopted my Report and Recommendation. The remaining defendant Pima County filed a motion for summary judgment, which I recommended granting. Judge Zapata adopted my Report and Recommendation; judgment was entered in favor of Defendant. Plaintiffs appealed the decision to the Ninth Circuit where the case is currently pending.

For Plaintiffs: Joane E. Hallinan, Hallinan Law Firm, 5240 East Pima Street, Tucson, AZ 85712, Tel: (520) 320-5240; Norris L. Ganson, Law Office of Norris L. Ganson, 6700 North Oracle Road, Suite 326, Tucson, AZ 85704, Tel: (520) 544-0608.

For Defendants: Thomas Weaver, Pima County Attorney's Office, 32 North Stone Avenue, Tucson, AZ 85701, Tel: (520) 740-5750; Scott David McDonald, Fennemore Craig PC, 1 South Church, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6827; L. Anthony Fines, Law Office of L. Anthony Fines PC, 33 North Stone Avenue, Suite 1850, Tucson, AZ 85701, Tel: (520) 547-2890; William G. Walker, William G. Walker PC, 177 North Church Avenue, Suite 700, Tucson, AZ 85701, Tel: (520) 622-3330; Howard L. Baldwin, Baldwin Law Office, 22 East University Boulevard, Tucson, AZ 85705, Tel: (520) 624-8527; Neal Allen Eckel, Durazzo & Eckel PC, 45 North Tucson Boulevard, Tucson, AZ 85716, Tel: (520) 792-0448; Richard M. Rollman, Gabroy Rollman & Bosse PC, 3507 North Campbell Avenue, Suite 111, Tucson, AZ 85719, Tel: (520) 320-1300.

4) *Morgan v. Ariz.*, No. 06-cv-346-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.), *adopted at* 2007 WL 2808477 (D. Ariz. Sept. 27, 2007).

Plaintiff, an inmate housed by the Arizona Department of Corrections, filed an Amended Complaint in Pima County Superior Court asserting federal and state law claims against the Arizona Department of Corrections and its wardens. Defendants removed the action to the District Court of Arizona on the basis of federal question jurisdiction and filed a Motion to Dismiss; the motion was referred to me for a recommended ruling. I recommended dismissal of Plaintiff's § 1983 claim for failure to exhaust administrative remedies; that Plaintiff be permitted to amend his complaint in order to bring his pendent state law claims into compliance with A.R.S. § 31-201.01(F); that the ADOC be dismissed as a non-jural entity not subject to suit; and that Plaintiff's negligence claim be dismissed pursuant to A.R.S. § 12820.02(A)(4). District Judge Frank R. Zapata adopted my Report and Recommendation. Plaintiff ultimately sought and was granted remand to the state court.

For Plaintiff: G. David DeLozier, DeLozier & Dutton PLLC, 4016 East Forest Pleasant Place, Cave Creek, AZ 85331, Tel: (480) 575-6660.

For Defendant: Paul Edward Carter, Office of the Attorney General Liability Management Section, 177 North Church Street, Suite 1105, Tucson, AZ 85701, Tel: (520) 638-2800.

5) *Cox v. Yamaha Motor Corp.*, No. 06-519-TUC-DCB (JCG) (CM/ECF) (D. Ariz.), *adopted at* 2008 WL 2328356 (D. Ariz. June 4, 2008).

Plaintiff was injured in a motocross race and filed an action against Yamaha, the manufacturer of his motorcycle, alleging product liability, breach of warranties and negligence. Yamaha moved for summary judgment on each of Plaintiff's claims; the motion was referred to me for a recommended ruling. I recommended that the motion be granted because Plaintiff's only evidence contradicting expert testimony of no defect was his own non-expert opinion affidavit. The parties did not object to my Report and Recommendation and District Judge David C. Bury adopted the Report and Recommendation.

For Plaintiff: John G. Stompoly, Stompoly & Stroud PC, 3567 East Sunrise Drive, Suite 133, Tucson, AZ 85718, Tel: (520) 628-9824.

For Defendant: Donald Bernard Petrie, Gallagher & Kennedy PA, 2575 East Camelback Road, Suite 1100, Phoenix, AZ 85016, Tel: (602) 530-8000.

6) *Autotel v. Qwest Corp.*, No. 05-cv-327-TUC-JCG, Doc. 89 (CM/ECF) (D. Ariz. Sept. 28, 2007); copy of unreported decision supplied.

Plaintiff was a telecommunications carrier that brought an action for declaratory and injunctive relief under § 252(e)(6) of the Telecommunications Act of 1996 and 42 U.S.C. § 1983, against Defendants Qwest, the Arizona Corporation Commission (ACC) and its Commissioners, appealing an arbitration decision of the ACC regarding an interconnection agreement between Autotel and Qwest. The parties consented to the jurisdiction of the magistrate. Autotel filed a Motion for Summary Judgment, challenging the ACC's ruling on 13 grounds. I construed the motion as an appeal of the ACC's decision; and denied the motion; judgment was entered in favor of Defendants. Autotel appealed the decision to the Ninth Circuit, which affirmed. *See* Ninth Circuit Case No. 07-17112, mandate issued August 17, 2009 (unpublished).

For Plaintiff: Marianne G. Dugan, Marianne Dugan Attorney at Law, 259 East 5th Avenue, Suite 200-D, Eugene, OR 97401, Tel: (541) 338-7072.

For Defendants: Christopher P. Staring, Fennemore Craig PC, 1 South Church Avenue, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6800; David L. Elmont, Stoel Rives LLP, 201 South Main, Suite 1100, Salt Lake City, UT 84111, Tel: (801) 578-6972; Maureen Ann Scott, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-6022.

7) *Madsen v. Schriro*, No. 04-cv-1452-JWS, Docs. 103, 121 (JCG) (CM/ECF), 2007 WL 2696864 (D. Ariz. July 9, 2007), *adopted at* 2007 WL 2696864 (D. Ariz. Sept. 11, 2007); 2008 WL 4849632 (D. Ariz. Sept. 3, 2008), *adopted at* 2008 WL 4849571 (D. Ariz. Nov. 7, 2008).

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Prior to my assignment, District Judge Sedwick rejected a Report and Recommendation and referred the matter back for an evidentiary hearing on statute of limitations and actual innocence issues. Upon the magistrate judge's retirement, the case was re-referred to me. After an evidentiary hearing, I issued two Reports and Recommendations recommending that Petitioner was not entitled to equitable tolling, that Petitioner had failed to articulate either a "gateway" or a "freestanding" actual innocence claim and that his petition should be denied. District Judge Sedwick adopted my Reports and Recommendations.

For Petitioner: Saul Huerta and Jason Mark Hannan, Federal Public Defenders Office, 407 West Congress Street, Suite 501, Tucson, AZ 85701, Tel: (520) 879-7500.

For Respondent: Aaron Jay Moskowitz, Office of the Attorney General, Criminal Appeals Section, 1275 West Washington, Phoenix, AZ 85007, Tel: (602) 542-4686.

8) *Brown v. Tucson Unified Sch. Dist.*, No. 04-586-TUC-RCC (JCG), Doc. 50; *adopted at* 2007 WL 625923 (D. Ariz. Feb. 27, 2007); copy of unreported Report and Recommendation supplied.

Plaintiff filed an action under Title VII of the Federal Civil Rights Act and the Arizona Civil Rights Act alleging retaliation and racial discrimination as well as state law claims of negligent supervision and intentional/negligent infliction of emotional distress. Defendant moved for summary judgment on all claims; the motion was referred to me for a recommended ruling. I recommended granting the motion with respect to all claims except Plaintiff's claim of retaliation. District Judge Raner C. Collins adopted my Report and Recommendation. The parties ultimately reached a resolution of the case.

For Plaintiff: Stephen M. Weiss, Karp & Weiss PC, 3060 North Swan Road, Suite 100, Tucson, AZ 85712, Tel: (520) 325-4200.

For Defendants: Christopher Robert Houk, Office of the Attorney General, 1275 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-8606; Michelle Lynn Swann, Curtis Goodwin Sullivan Udall & Schwab PLC, 501 East Thomas Road, Phoenix, AZ 85012, Tel: (602) 393-1700; Gordon Lewis, Jones Skelton & Hochuli PLC, 2901 North Central Avenue, Suite 800, Phoenix, AZ 85012, Tel: (602) 263-1700.

9) *United States v. Staton*, No, 09-mj-4580-TUC-JCG (CM/ECF) (D. Ariz.); not reported; no written opinion issued.

Defendant was charged by information with one count of knowingly littering, disposing and dumping garbage on the Buenos Aires National Wildlife Refuge in violation of 50 C.F.R. § 27.94(a) and 16 U.S.C. § 668dd(f)(1). Defendant consented to proceed before a magistrate judge and the matter was assigned to me. This case received a great deal of public attention because Defendant argued that he was leaving water for migrants attempting to enter the United States and therefore his actions did not constitute "littering" within the meaning of the applicable regulation and statute. I presided over the trial; the jury convicted Defendant as charged. Defendant appealed. While his appeal was pending, the Ninth Circuit issued a decision in *United States v. Millis*, 621 F.3d 914 (9th Cir. 2010), reversing the district court in a similar case. Following the decision in *Millis*, the parties filed a joint motion for summary reversal and remand, which the Ninth Circuit granted.

For the Government: Lawrence Lee, United States Attorney's Office, 405 West Congress Street, Suite 4800, Tucson, AZ 85701, Tel: (520) 620-7300.

For Defendant: William G. Walker, William G. Walker PC, 177 North Church Avenue, Suite 700, Tucson, AZ 85701, Tel: (520) 622-3330.

10) *United States v. Mikels*, No. 10-cr-1589-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.); 2010 WL 5247430(D. Ariz. Nov. 3, 2010), *adopted at* 2010 WL 5247279 (D. Ariz. Dec. 16, 2010).

Defendant was charged with possession with intent to distribute 112 kilograms of marijuana. Defendant moved to suppress the narcotics, contending that her vehicle was stopped without reasonable suspicion. I presided over the hearing on the motion to suppress. After an evidentiary hearing, I recommended that the motion to suppress be granted. Neither party objected to the Report and Recommendation which was subsequently adopted by District Judge Frank R. Zapata. The government dismissed the indictment.

For the Government: Robert A. Fellrath, United States Attorney's Office, 405 West Congress Street, Suite 4800, Tucson, AZ 85701, Tel: (520) 620-7473.

For Defendant: John D. Kaufmann, Law Office of John D. Kaufmann, 177 North Church Avenue, Suite 905, Tucson, AZ 85701, Tel: (520) 623-2016.

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1) *Giles Const., Inc. v. Comm. Fed. Bank*, No. 04-cv-258-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.); *adopted at* 2006 WL 2711501 (D. Ariz. Sept. 21, 2006).

For Plaintiff: Brenda J. Lee & Craig Gerard Travers, Lee & Travers PLC, 2421 East Sixth Street, Suite 1, Tucson, AZ 85719, Tel: (520) 322-5575.

For Defendant: Craig H Kaufman, Quarles & Brady LLP, 1 South Church Avenue, Suite 1700, Tucson, AZ 85701, Tel: (520) 770-8700.

2) *Newport v. Dell, Inc.*, No. 08-cv-96-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.); 2008 WL 4347311 (D. Ariz. Aug. 21, 2008), *adopted at* 2008 WL 4629987 (D. Ariz. Oct. 17, 2008).

For Plaintiff: Brian Strange & Gretchen Carpenter, Strange & Carpenter, 12100 Wilshire Boulevard, Suite1900, Los Angeles, CA 90025, Tel: (310) 207-5055; Bruce A. Burke, Law Office of Bruce A. Burke PC, 115 West Washington Street, Tucson, AZ 85701, Tel: (520) 622-3596; Randall

Rothschild, Randall S. Rothschild PC, 12100 Wilshire Boulevard, Suite 800, Los Angeles, CA, 90025, Tel: (310) 806-9245.

For Defendants: John P. Phillips, Richard Elder, Sean Unger, Christopher Mooney, Paul Hastings, Janofsky & Walker LLP, 55 Second Street, 24th Floor, San Francisco, CA 94105, Tel: (415) 856-7000; Andrew Jacobs, Snell & Wilmer LLP, 1 South Church Avenue, Suite 1500, Tucson, AZ 85701, Tel (520) 882-1200; Kristine Brown, Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, GA 30309, Tel: (404) 881-7584; Paul W. Schlaud, Reeves & Brightwell LLP, 221 West Sixth Street, Suite 1000, Austin, TX 78701, Tel: (512) 334-4500; Michael S. Blanton, Roberts Raspe & Blanton LLP, 445 South Figueroa Street, Suite 2300, Los Angeles, CA 90071, Tel: (213) 430-0216; Aaron Christopher Gundzik, Cotton & Gundzik LLP, 624 South Grand Avenue, 22nd Floor, Los Angeles, CA 90017, Tel: (213) 312-1335.

3) *Valles v. Pima County*, No. 08-cv-09-FRZ (JCG) (CM/ECF) (D. Ariz.); *adopted at* 642 F. Supp. 2d 936 (D. Ariz. July 31, 2009).

For Plaintiffs: Joane E. Hallinan, Hallinan Law Firm, 5240 East Pima Street, Tucson, AZ 85712, Tel: (520) 320-5240; Norris L. Ganson, Law Office of Norris L. Ganson, 6700 North Oracle Road, Suite 326, Tucson, AZ 85704, Tel: (520) 544-0608.

For Defendants: Thomas Weaver, Pima County Attorney's Office, 32 North Stone Avenue, Tucson, AZ 85701, Tel: (520) 740-5750; Scott David McDonald, Fennemore Craig PC, 1 South Church, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6827; L. Anthony Fines, Law Office of L. Anthony Fines PC, 33 North Stone Avenue, Suite 1850, Tucson, AZ 85701, Tel: (520) 547-2890; William G. Walker, William G. Walker PC, 177 North Church Avenue, Suite 700, Tucson, AZ 85701, Tel: (520) 622-3330; Howard L. Baldwin, Baldwin Law Office, 22 East University Boulevard, Tucson, AZ 85705, Tel: (520) 624-8527; Neal Allen Eckel, Durazzo & Eckel PC, 45 North Tucson Boulevard, Tucson, AZ 85716, Tel: (520) 792-0448; Richard M. Rollman, Gabroy Rollman & Bosse PC, 3507 North Campbell Avenue, Suite 111, Tucson, AZ 85719, Tel: (520) 320-1300.

4) *Morgan v. Ariz.*, No. 06-cv-346-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.); *adopted at* 2007 WL 2808477 (D. Ariz. Sept. 27, 2007).

For Plaintiff: G. David DeLozier, DeLozier & Dutton PLLC, 4016 East Forest Pleasant Place, Cave Creek, AZ 85331, Tel: (480) 575-6660.

For Defendants: Paul Edward Carter, Office of the Attorney General Liability Management Section, 177 North Church Street, Suite 1105, Tucson, AZ 85701, Tel: (520) 638-2800.

5) *Cox v. Yamaha Motor Corp.*, No. 06-519-TUC-DCB (JCG) (CM/ECF) (D. Ariz.); *adopted at* 2008 WL 2328356 (D. Ariz. June 04, 2008).

For Plaintiff: John G. Stompoly, Stompoly & Stroud PC, 3567 East Sunrise Drive, Suite 133, Tucson, AZ 85718, Tel: (520) 628-9824.

For Defendant: Donald Bernard Petrie, Gallagher & Kennedy PA, 2575 East Camelback Road, Suite 1100, Phoenix, AZ 85016, Tel: (602) 530-8000.

6) *Autotel v. Qwest Corp.*, No. 05-cv-327-TUC-JCG, Doc. 89 (CM/ECF) (D. Ariz. Sept. 28, 2007); copy of unreported decision supplied in response to 13c.

For Plaintiff: Marianne G. Dugan, Marianne Dugan Attorney at Law, 259 East Fifth Avenue, Suite 200-D, Eugene, OR 97401, Tel: (541) 338-7072.

For Defendant: Christopher P. Staring, Fennemore Craig PC, 1 South Church Avenue, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6800; David L. Elmont, Stoel Rives LLP, 201 South Main, Suite 1100, Salt Lake City, UT 84111, Tel: (801) 578-6972; Maureen Ann Scott, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-6022.

7) *Madsen v. Schriro*, No. 04-cv-1452-JWS, Docs. 103, 121 (JCG) (CM/ECF) 2007 WL 2696864 (D. Ariz. July 9, 2007), *adopted at* 2007 WL 2696864 (D. Ariz. Sept. 11, 2007); 2008 WL 4849632 (D. Ariz. Sept. 3, 2008), *adopted at* 2008 WL 4849571 (D. Ariz. Nov. 7, 2008).

For Petitioner: Saul Huerta and Jason Mark Hannan, Federal Public Defenders Office, 407 West Congress Street, Suite 501, Tucson, AZ 85701, Tel: (520) 879-7500.

For Respondent: Aaron Jay Moskowitz, Office of the Attorney General, Criminal Appeals Section, 1275 West Washington, Phoenix, AZ 85007, Tel: (602) 542-4686.

8) *Brown v. Tucson Unified Sch. Dist.*, No. 04-cv-586-TUC-RCC (JCG), Doc. 50; *adopted at* 2007 WL 625923 (D. Ariz. Feb. 27, 2007); copy of unreported Report and Recommendation supplied in response to 13c.

Plaintiff's Counsel: Stephen M. Weiss, Karp & Weiss PC, 3060 North Swan Road, Suite 100, Tucson, AZ 85712, Tel: (520) 325-4200.

Defendants' Counsel: Christopher Robert Houk, Office of the Attorney General, 1275 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-8606; Michelle Lynn Swann, Curtis Goodwin Sullivan Udall & Schwab PLC, 501 East Thomas Road, Phoenix, AZ 85012, Tel: (602) 393-1700; Gordon

Lewis, Jones Skelton & Hochuli PLC, 2901 North Central Avenue, Suite 800, Phoenix, AZ 85012, Tel: (602) 263-1700.

9) *Martin-Sanchez v. Stebbins*, No. 08-cv-284-TUC-JCG, Doc. 122; copy of unreported opinion supplied.

Plaintiff's Counsel: Miguel Martin-Johnston, 856 West Nelson, Suite 706 Chicago, IL 60657, Tel: (312) 927-6925.

Defendant, proceeding *pro se*.

10) *United States v. Mikels*, No. 10-cr-1589-TUC-FRZ (JCG), Doc. 30 (CM/ECF) (D. Ariz.); 2010 WL 5247430(D. Ariz. Nov. 3, 2010), *adopted at* 2010 WL 5247279 (D. Ariz. Dec. 16, 2010).

For the Government: Robert A. Fellrath, United States Attorney's Office, 405 West Congress Street, Suite 4800, Tucson, AZ 85701, Tel: (520) 620-7473.

For Defendant: John D. Kaufmann, Law Office of John D. Kaufmann, 177 North Church Avenue, Suite 905, Tucson, AZ 85701, Tel: (520) 623-2016.

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

To the best of my knowledge, certiorari has not been requested or granted in any of my cases.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not maintained a list of my opinions or reports and recommendations which were reversed. To respond to this question, I have made an extensive review of my case organizer and made inquiries of my law clerk and court staff. To the best of my recollection, the following cases are responsive to this question.

1) *Hodge v. TMC Healthcare*, No. 04-cv-723-TUC-FRZ (JCG) (CM/ECF) (D. Ariz. May 17, 2006); opinions supplied.

I recommended granting four motions for summary judgment filed by Defendant in this employment discrimination case. District Judge Frank R. Zapata adopted my Report and Recommendation with respect to one of the motions (Plaintiff's claim for punitive damages) and rejected my Report and Recommendation with respect to the other three motions (Plaintiff's claims of

retaliation, gender discrimination and breach of contract). The parties ultimately reached a resolution of the case.

2) *Haley v. La Paloma Family Serv.*, No. 08-127-TUC-JMR (JCG) (CM/ECF) (D. Ariz. Aug. 16, 2010); opinions supplied.

   The parties in this ADA case filed cross motions for summary judgment on the issue of whether Plaintiff was discriminated against on the basis of her disability when Defendant failed to hire her. I recommended denial of both motions. District Judge John M. Roll declined to adopt my Report and Recommendation and awarded summary judgment to Defendant. Plaintiff has appealed; the appeal is pending before the Ninth Circuit.

3) *Szalay v. Pima Cnty. Bd. of Sup.*, No. 02-cv-479-TUC-JMR (JCG) (CM/ECF) (D. Ariz. Sept. 5, 2007); copy of unreported Report and Recommendation supplied; district court opinion reported at 2008 WL 880551 (D. Ariz. Mar. 28, 2008).

   In this employment case, I recommended granting a motion for summary judgment filed by Defendants on all three of Plaintiff's claims: retaliation, violation of due process and violation of the Family Medical Leave Act. District Judge John M. Roll adopted my Report and Recommendation with respect to Plaintiff's claims for violation of due process and the Family Medical Leave Act, but declined to adopt my recommendation with respect to Plaintiff's retaliation claim. After a four-day jury trial, the jury entered a verdict in favor of Defendants.

4) *United States v. Gaeta*, No. 06-cr-1954-TUC-CKJ (JCG) (CM/ECF) (D. Ariz. Nov. 26, 2007); opinions supplied.

   Defendant was indicted on charges of concealment and falsifying documents. I recommended that Defendant's motion to dismiss the indictment be granted. District Judge Cindy K. Jorgenson declined to adopt the Report and Recommendation. A mistrial was declared when the jury could not reach a verdict. The government eventually dismissed the indictment.

5) *United States v. Martinez-Carrizosa*, No. 08-cr-311-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.); no written opinion issued; district court opinion supplied.

   District Judge Frank Zapata reversed the conviction of a defendant charged with illegal entry, who pleaded guilty in a group proceeding over which I presided. The District Court was reversed by the Ninth Circuit in *United States v. Roblero-Solis*, 588 F.3d 692 (9th Cir. 2009). *Roblero-Solis* consolidated five cases from two different hearing dates. The Ninth Circuit agreed with Judge Zapata that the court's method of taking group pleas

violated Rule 11 but affirmed the convictions of the five appealing defendants, in three cases due to my follow up questioning and defendants' failure to specify any additional objection, and in two cases, due to the defendants' waiver of objections.

6) *United States v. Alas*, No. 08-cr-874-TUC-CKJ (JCG), No. 65 (CM/ECF) (D. Ariz.); copy of unreported decision supplied; district court opinion reported at 2009 WL 504687 (D. Ariz. Feb. 27, 2009).

I denied a Motion for Production of Work Record of a border patrol agent. District Judge Cindy K. Jorgenson sustained Defendant's objection and ordered production of the records.

(7) *Catz v. Chalker*, No.03-cv-00091-FRZ (JCG) (CM/ECF) (D. Ariz); 2010 WL 3855198 (D. Ariz. Mar. 18, 2010); district court opinion reported at 2010 WL 3834953 (D. Ariz. Sept. 28, 2010).

After entering judgment in favor of Defendants, Judge Zapata referred the Defendants' motions for attorneys fees to me for calculation. My report recommended awarding the two Defendants fees based on the district court's determination of the merits of the action. Judge Zapata adopted the recommendation. Subsequently, the Ninth Circuit reversed in part Judge Zapata's decision on the merits as to one of the Defendants and the fees calculation associated with that Defendant. After remand, Judge Zapata referred the matter to me for recalculation of attorney's fees consistent with the Ninth Circuit's decision. Judge Zapata adopted my report and recommendation as to these fees.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

All of my opinions, orders and reports and recommendations are filed electronically in the court's Electronic Case filing system (CM/ECF), making them available to the public. I have not submitted any of my orders or opinions for publication to reporting services such as Westlaw and LEXIS; Westlaw and LEXIS independently decide whether to publish opinions and have published some of my opinions.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

In the following civil cases, I issued a Report and Recommendation or Order that involved a federal constitutional issue:

1) *Ariz. Landlord Research Serv., LLC v. State of Arizona*, No. 04-cv-683-TUC-JCG (CM/ECF) (D. Ariz. July 20, 2006); copy of unreported decision supplied.

2) *Warden v. Fell*, No. 05-cv-20-TUC-JCG (CM/ECF) (D. Ariz. June 30, 2008); copy of unreported decision supplied.

3) *Jenkins v. Sw. Gas Corp.*, No. 09-cv-382-TUC-JMR (JCG) (CM/ECF) (D. Ariz.); 2009 WL 6302956 (D. Ariz. Oct. 5, 2009).

4) *Valles v. Pima Cnty.*, No. 08-cv-09-TUC-FRZ (JCG) (CM/ECF) (D. Ariz. Jan. 20, 2011), *adopted at* 2011 WL 814974 (D. Ariz. Mar. 4, 2011).

In criminal cases, numerous pretrial motions involving constitutional claims have been referred to me for Report and Recommendation, most commonly motions to dismiss indictments or motions to suppress. I also routinely issue reports and recommendations in prisoners' rights cases arising under 42 U.S.C. § 1983 and petitions for habeas corpus relief brought pursuant to 28 U.S.C. § 2254. To the best of my knowledge, each Report and Recommendation that I have issued with respect to these criminal pretrial motions and civil prisoner actions involved application of long-standing and well-settled constitutional principles and did not constitute "significant" opinions on federal issues.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I follow the federal recusal statutes and the Code of Conduct for United States Judges. I maintain a standing recusal list which requires my recusal consistent with these authorities, including recusal in any case that was pending at the United States Attorney's Office during the time in which I was the supervisor and in cases in which my spouse or a close friend represents a party. Our court does not utilize an "automatic" recusal system. Under our notification system, if a case randomly assigned to me involves a party listed on my standing recusal list, a notice of potential conflict is sent to chambers. After receiving the notice, I determine if I should recuse myself from the case.

Based on my standing recusal guidelines, I have recused myself *sua sponte* in the criminal cases listed in the attachments.

In addition, I recused myself *sua sponte* in the following civil matters based on my prior involvement in the case as an attorney or supervisor:

United States v. Mondragon, No. 97-cv-700-TUC-WFN (D. Ariz.)
Bothwell v. Ashcroft, No. 02-cv-200-TUC-JMR (D. Ariz.)
Apolinar v. Baum, No. 06-cv-560-TUC-FRZ (D. Ariz.)

In *Konarski v. Tucson*, No. 98-cv-528-TUC-CKJ (D. Ariz.), I previously represented Defendants in similar actions brought by Plaintiff. My familiarity with the Plaintiff and his prior lawsuit provided an appropriate ground for recusal.

In *United States v. 423 Camino Brizza Bonell*, No. 07-cv-61-TUC-JMR (D. Ariz.), the government filed a motion for reassignment on the grounds that this forfeiture action was related to criminal charges initiated during the time parameters for my conflicts with the United States Attorney's Office. I granted the motion and recused myself.

On one occasion I denied a motion for recusal: In *Burdon v. Tucson*, No. 09-cv-258-TUC-DCB (D. Ariz. July 17, 2009), Plaintiff's counsel sent a letter to chambers which I construed as a motion for recusal. The letter, which was filed under seal, suggested that my law clerk might be biased against Plaintiff's attorney based on the clerk's involvement in litigation with counsel prior to her employment at my office. As the events did not involve me, I denied the motion for recusal. In order to avoid the appearance of impropriety, my law clerk had no substantive involvement in the case.

Plaintiff's counsel in *Burdon v. Tucson*, No. 09-cv-258-TUC-DCB (D. Ariz. July 17, 2009) also represented the Defendant in *United States v. Hong*, No. 09-cr-17-TUC-DCB (JCG) (July 10, 2009). After District Judge David C. Bury adopted

my Report and Recommendation that Defendant's motion to suppress be denied, defense counsel filed a request for status conference supported by an affidavit under seal. The affidavit alleged that my law clerk might be biased against defense counsel. District Judge Bury denied the request for status conference, concluding that defense counsel's concerns were unfounded.

In *Jebril v. Graber*, 10-002-TUC-FRZ (D. Ariz. May 20, 2010), a petitioner seeking a writ of habeas corpus filed a motion requesting that the Honorable Frank R. Zapata recuse me and strike my Report and Recommendation, which had recommended denial of his petition. Judge Zapata adopted my recommendation, denying the request.

15. **Public Office, Political Activities and Affiliations**:

a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public offices other than judicial office. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held any office in any political party or held a position or played a role in any political campaign.

16. **Legal Career:** Answer each part separately.

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

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the Honorable William C. Canby, United States Court of Appeals for the Ninth Circuit, from 1990 to 1991.

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

I have never practiced alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1991 – 1995
Molloy, Jones & Donahue
32 North Stone, Suite 2200
Tucson, Arizona 85701
Associate Attorney

1995 – 2005
United States Attorney's Office for the District of Arizona
405 West Congress Street, Suite 4800
Tucson, Arizona 85705
Assistant United States Attorney (1995 – 2001)
Civil Chief (2002)
Chief Assistant (2002 – 2005)

iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From October 1991 to January 1995, I was an associate attorney at Molloy, Jones & Donahue, a law firm in Tucson, Arizona. As an associate, I represented creditors in bankruptcy and collection matters, prosecuted and defended commercial litigation cases, and represented businesses and individuals in corporate transactional matters. I counseled businesses and individuals on business formation, transactions and compliance with federal and state law.

From February 1995 to February 2005, I served as an Assistant United States Attorney in Tucson, Arizona. From 1995 to 2001, I worked in the Civil Division, representing the United States, its agencies and employees in tort, employment discrimination, bankruptcy and other litigation matters

brought against or by the government. I was promoted to Civil Chief in January 2002; in addition to my own cases, as Civil Chief, I supervised employees of the Division. In 2002, I was promoted to Chief Assistant. As Chief Assistant, I was responsible for the Criminal, Civil and Appeal Divisions and the operations and policies of the United States Attorney's office in Tucson.

In 2005, I was appointed as a Magistrate Judge for the District Court of Arizona in Tucson.

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

At the law firm of Molloy, Jones & Donahue, my typical clients were small businesses, financial institutions, developers and corporations. At the U.S. Attorney's office, my clients were the United States, its agencies and its employees.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Approximately 90 percent of my overall law practice was in litigation. While at Molloy, Jones & Donahue, 80 percent of my practice was litigation. I appeared regularly in United States bankruptcy court and infrequently in the state trial court. As an Assistant United States Attorney in the Civil Division, 100 percent of my practice was litigation. I appeared regularly in United States Bankruptcy Court and occasionally in United States District Court. As the Chief Assistant at the United States Attorney's office, approximately 10 percent of my practice involved litigation. I appeared occasionally in United States District Court for trial and to argue motions.

i. Indicate the percentage of your practice in:
   1. federal courts: 97 %
   2. state courts of record: 3 %
   3. other courts: 0 %
   4. administrative agencies: 0 %

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 60 %
   2. criminal proceedings: 40 %

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried six cases to verdict. Two cases were felony jury trials. I was lead counsel in one and co-counsel in the second. One case was a misdemeanor bench trial in which I was sole counsel. Three cases were civil cases. I was sole counsel in one, co-counsel in one, and associate counsel in the third.

i. What percentage of these trials were:
   1. jury: 50 %
   2. non-jury: 50 %

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Klump*, No. 00-cv-00431-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; July 2000 to June 2004.

On behalf of the United States, I filed a complaint for trespass against two ranchers, a father and son, whose cattle were grazing on federal lands. I filed a motion for summary judgment, seeking removal of the cattle and trespass damages. District Judge John M. Roll granted the motion. The son removed his cattle, but the father refused. Judge Roll found the father in contempt. Counsel was appointed to represent the father and periodic hearings were held to determine whether the father would comply with the court's order. During the subsequent hearings, counsel argued that Judge Roll should require the government to remove the cattle as a lesser alternative to the imprisonment. Given the history of trespass and the defendant's threats of violence, I opposed the motion. Judge Roll denied the motion and the

defendant remained imprisoned until he purged the contempt by agreeing to remove the cattle.

Defendant's Attorney: Heather Williams, Federal Public Defender, 407 West Congress Street, Suite 501, Tucson, Arizona 85701, Tel: (520) 879-7601.

2. *In re Lind*, B-97-00212-TUC-RTB, United States Bankruptcy Court, District of Arizona, Hon. Redfield T. Baum; January 1997 to February 2000.

   I represented the United States, on behalf of the Internal Revenue Service, in the personal Chapter 11 bankruptcy proceeding initiated by debtors Mr. and Mrs. Lind. After conducting discovery, which the debtors resisted, I opposed confirmation of the plan of reorganization on the grounds that the debtors acted in bad faith by their post-petition transfer of valuable land and because the plan was not feasible. By order dated February 4, 2000, Bankruptcy Judge Redfield T. Baum denied plan confirmation on both grounds.

   Debtors' Attorney: Michael Baldwin, Law Offices of Michael Baldwin PLC, 177 North Church, Suite 913, Tucson, Arizona 85701, Tel: (520) 792-3600.

3. *United States v. Lind*, 01-000035-TUC-JMR (GEE), United States District Court, District of Arizona, Hon. John M. Roll; January 2001 to January 2005.

   I referred the Lind bankruptcy matter to the Criminal Division of the United States Attorney's Office. Mr. Lind was subsequently indicted for bankruptcy fraud, perjury and three counts of engaging in a transaction with property derived from unlawful activity. I co-tried the case to a jury in a five-day trial. After disputes with counsel, Lind elected to represent himself. District Judge John M. Roll appointed advisory counsel to assist Lind. The jury found Lind guilty on all charges. I represented the government at sentencing and filed post-conviction motions regarding the calculation and means of distributing restitution to Lind's creditors. Lind appealed to the Ninth Circuit Court of Appeals, which affirmed his conviction and remanded for resentencing in an unpublished decision found at 2005 WL 1899288 (9th Cir. 2005).

   Co-counsel: Robert L. Miskell, United States Attorney's Office, 405 West Congress, Suite 4800, Tucson, Arizona, 85701, Tel: (520) 620-7345.

   Defendant's advisory counsel at trial: Ralph E. Ellinwood, 177 West Washington Street, Tucson, Arizona 85718, Tel: (520) 545-1665.

   Defendant's attorney on appeal: Harriette P. Levitt, Law Offices of Harriette P. Levitt, 1147 North Howard Boulevard, Tucson, Arizona 85716, Tel: (520) 622-3308.

4. *Kolar v. Reno*, No. 96-cv-426-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; June 1996 to June 1998.

   I represented the government in an employment discrimination action brought by a teacher at the Federal Correctional Institution in Tucson, Arizona. Plaintiff asserted gender discrimination, retaliation and hostile work environment claims. There were several discovery disputes which were resolved in favor of the government. As a result of the additional information obtained through discovery, the government was able to negotiate a settlement. District Judge John M. Roll dismissed the case with prejudice, each party to bear its own costs.

   Plaintiff's counsel: Thabet Khalidi, Khalidi & Ferrier, PLLC, 88 West Cushing Street, Tucson, Arizona 85701, Tel: (520) 629-9909.

5. *Long v. Peters*, No. 97-744-TUC-ACM, United States District Court, District of Arizona, Hon. Alfredo Marquez; November 1997 to December 2002.

   Long, a civilian employee of the United States Air Force, alleged race discrimination, retaliation, and violations of the Rehabilitation and Civil Service Reform Acts. I co-wrote a motion for summary judgment. District Judge Alfredo C. Marquez granted the motion in part and dismissed all but the racial discrimination claim. The proceedings were very contentious and numerous motions *in limine* were presented, briefed and argued. I co-tried the case; after a seven-day trial, the jury returned a verdict in favor of the government. The Plaintiff appealed to the Ninth Circuit Court of Appeals, which affirmed the verdict in a decision found at 47 Fed. Appx. 501 (9th Cir. 2002).

   Co-counsel: Janet K. Martin, United States Attorney's Office, 405 West Congress, Suite 4800, Tucson, Arizona 85701, Tel: (520) 620-7493.

   Plaintiff's counsel: Minnette Burges, Minnette Burges Law Office, 177 North Church Avenue, Suite 808, Tucson, Arizona 85701, Tel: (520) 884-5514; Merle Turchik, 300 North Main Avenue, Suite 106, Tucson, Arizona 85701, Tel: (520) 882-7070.

6. *Wartell v. United States*, No. 95-103-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; February 1995 to September 1997.

   Plaintiff brought a malpractice action pursuant to the Federal Tort Claims Act. After discovery, co-counsel and I filed a motion for summary judgment on behalf of the government on the grounds that the statute of limitations had expired and the conduct of the employee was outside the scope of employment. District Judge John M. Roll granted the government's motion on both grounds. The ruling was affirmed on appeal. *Wartell v. United States*, 124 F.3d 215, 1997 WL 599989 (9th Cir. 1997) (unpublished decision). The district court case file has been sealed and the appellate decision removed from Westlaw due to the sensitive nature of the case.

Co-counsel: Cindy K. Jorgenson, United States District Court, Judge Evo A. DeConcini U.S. Courthouse, 405 West Congress Street, Suite 5180, Tucson, Arizona 85701, Tel: (520) 205-4550. Judge Jorgenson left the United States Attorney's Office after the motion for summary judgment was filed.

Plaintiff's counsel: Gregory Muir, Young Wooldridge LLP, 1800 30th Street, 4th Floor, Bakersfield, California 93301, Tel: (661) 327-9661.

7. *Salinas v. United States*, No. 97-cv-00125-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; February 1997 to July 2001.

   Plaintiffs brought an action under the Federal Tort Claims Act alleging a United States Border Patrol agent injured their daughter when he fired his weapon negligently or recklessly. I met initially with Plaintiffs' counsel and suggested that Plaintiffs seek compensation through an Attorney General fund for persons inadvertently injured by law enforcement officials. The Plaintiffs declined. After discovery, the government filed a motion for summary judgment on the grounds that the victim was not a foreseeable plaintiff and that the agent acted in self defense. District Judge John M. Roll granted the motion for summary judgment and entered judgment in favor of the government. The Plaintiffs appealed. The Ninth Circuit affirmed the judgment in a decision reported at *Salinas v. United States*, 9 Fed. Appx. 662 (9th Cir. 2001). After appeal, I assisted the Plaintiffs in applying for compensation from the Attorney General, which I believe they received.

   Co-counsel: Janet K. Martin, United States Attorney's Office, 405 West Congress, Suite 4800, Tucson, Arizona 85701, Tel: (520) 620-7493.

   Plaintiffs' counsel: William Bacon, Goldberg & Osborn, 33 North Stone, Suite 1850, Tucson, Arizona 85701, Tel: (520) 620-3991.

8. *Gainey v. Reno*, No. 93-CV-00809-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; December 1996 to May 1997.

   Plaintiff alleged his employer Federal Correctional Institute (FCI) Tucson discriminated and retaliated against him based on race. I was asked to represent the government after the case had been pending three years and court deadlines were impending. I defended depositions, obtained an expert witness, and interviewed numerous employees, co-workers, and supervisors. The parties reached settlement after a lengthy mediation.

   Co-counsel: Don B. Overall, 3150 East Camino Miraval, Tucson, Arizona 85718, Tel: (520) 730-4747 or (520) 299-4499.

   Plaintiff's counsel: Mark Alan Hubble and Mark David Williamson, Dorsey & Whitney LLP, 50 South Sixth Street, Minneapolis, Minnesota 55402, Tel: (612) 340-2600.

9. *Thompson v. United States*, 01-CV-590-CKJ, United States District Court, District of Arizona, Hon. Cindy K. Jorgenson; November 2001 to April 2003.

   Plaintiff brought an action under the Federal Tort Claims Act alleging that government doctors at the Veterans Administration Medical Center in Tucson committed medical malpractice in discharging a mental health patient who was subsequently involved in a car accident. I filed a motion for summary judgment on behalf of the government asserting the discharging physicians were independent contractors for whom the government could not be held liable. District Judge Cindy K. Jorgenson granted the motion for summary judgment and the case against the government was dismissed with prejudice.

   Plaintiff's counsel: Kathleen Rogers, Slutes, Sakrison & Rogers, P.C., 4801 East Broadway, Suite 301, Tucson, Arizona 85711, Tel: (520) 624-6691.

10. *Elmore v. Reno*, 99-CV-00286-ACM, United States District Court, District of Arizona, Hon. Alfredo Marquez; November 1998 to January 2000.

    Plaintiff, an employee of the Bureau of Prisons, filed an employment discrimination action. I filed a motion for summary judgment on the pleadings. Plaintiff conducted discovery to respond to the motion. After Plaintiff's response and the government's reply, District Judge Alfredo Marquez granted the motion in favor of the government.

    Plaintiff's counsel: Rosemary Stathakis Cook, Law Office of Rosemary Cook, 818 North Fifth Avenue, Phoenix, Arizona 85003, Tel: (602) 271-0589.

18. **Legal Activities**: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

    I have not performed any lobbying activities on behalf of any client or organization.

    As an associate in private practice, I reviewed and edited documents for the purchase and development of a golf course community. I reviewed and prepared employment handbooks; reviewed standard forms to be used by a mail-order business to ensure compliance with state and federal law; and prepared buy-sell agreements, partnership agreements, and documentation for formation of corporations, LLCs, and partnerships. I also prepared an application and supporting documents for the formation of a 501(c)(3) charitable organization.

As an Assistant United States attorney I participated in numerous cases which were resolved by dispositive motion or through settlement negotiations or mediation. Most of these cases involved employment discrimination claims. As the Chief Assistant of the Tucson United States Attorney's Office, my legal responsibilities included oversight of cases and development of policies regarding criminal prosecutions, case dispositions, and case management.

19. **Teaching**: What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

    Legal Research and Writing. University of Arizona James E. Rogers College of Law. Spring semester, 2001 and 2002. As an adjunct professor, I taught first year law students how to prepare legal memoranda and motions, legal citation, and general writing skills. Syllabi supplied.

20. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

    None.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

    I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the Court.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding $500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

    See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

    See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

My husband is an Assistant United States Attorney. As is my current practice, I would recuse myself in any case in which he is involved or has had any involvement. I would follow the Judicial Code of Conduct and federal recusal statutes in recusing myself in any matter involving litigants I know personally. I am not aware of any category of litigation or financial arrangement that is likely to present potential conflicts of interest.

b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If I am confirmed, I will continue to follow the federal recusal statutes and the Code of Conduct for United States Judges. If any issue of a potential conflict were to arise, I would consult the applicable statutes and the Code and, if necessary, would seek advice from the Code of Conduct Committee of the Judicial Conference. In cases of uncertainty, I would err on the side of disqualification or recusal.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

From 1984 to 1987, I was a victim witness volunteer for the Pima County Attorney's Office. I aided crime victims by providing assistance at the time of the crime when called upon by police officers. I also aided victims by providing assistance during the criminal prosecution. I explained to victims the legal process and their rights in that process and accompanied victims to court.

From 1989 to 1990, I was a volunteer tutor at Walker Jones Elementary School in Washington, D.C. I met weekly with several fourth and fifth grade students who needed individualized assistance with school work.

From 1995 to 1999, I was the Chairperson of Lawyers for Literacy, which pairs lawyer tutors with elementary school children who are experiencing difficulty reading. The lawyers met weekly to tutor the students. I coordinated the program at four schools, recruited and trained lawyers to serve as mentors, and worked with the schools to ensure the success of the program and to encourage development of reading skills.

From 1997 to 2000, I was a volunteer for the Guardian Ad Litem program. As a volunteer I represented *pro bono* mentally disadvantaged adults in proceedings for the appointment of guardians and conservators. The program focused on assisting those who could not afford representation and ensuring that developmentally disadvantaged adults would have appropriate guardians.

Since 1997, I have served many summers as a mentor in the Courts-R-Us summer program. Courts-R-Us is an educational work program at the Pima County Superior Court for disadvantaged teens. Each summer students are provided the opportunity to work in various positions at the superior court and are assigned an attorney mentor to talk about their experience and work opportunities in the legal profession.

Since 2006, I have been a board member of the St. Cyril Educational Foundation. The Foundation strives to enrich educational opportunities at the St. Cyril of Alexandria school, including providing access to activities and opportunities for those with financial disadvantages.

26. **Selection Process**:

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On February 19, 2010, I met with Arizona Senators Jon Kyl and John McCain in Tucson, Arizona. On February 23, 2010, I sent letters to all members of the Arizona Congressional Delegation indicating my interest in the judicial vacancy created by Judge Frank R. Zapata's decision to take senior status in August 2010.

On January 25, 2011, I sent a letter application to Representative Ed Pastor in response to the notice on his web site of the procedure which would be used to make recommendations to fill judicial vacancies. I sent a copy of the letter to United States Representatives Raul Grijalva and Gabrielle Giffords, the two United States Representatives which Representative Pastor's website indicated would be involved in the recommendation decision. On February 3, 2011, Representative Grijalva called to inform me that he was recommending me to the President for appointment to the United States District Court.

Since February 10, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 22, 2011, I interviewed with officials from the

White House Counsel's Office and the Department of Justice in Washington, DC. On June 23, 2011, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AO 10
Rev. 1/2011

FINANCIAL DISCLOSURE REPORT
NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial)	2. Court or Organization	3. Date of Report
Zipps, Jennifer G.	United States District Court, District of Arizona	06/23/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5a. Report Type (check appropriate type)	6. Reporting Period
District Judge	☑ Nomination, Date 06/23/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	01/01/2010 to 05/30/2011
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations.	
405 W. Congress, Ste 3180 Tucson, AZ 85701	Reviewing Officer_____ Date_____	

IMPORTANT NOTES: *The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.*

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

☑ NONE *(No reportable positions.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.		
2.		
3.		
4.		
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT Page 2 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*

A. Filer's Non-Investment Income

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

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1. 1/09-12/09	Arizona State Retirement System Annuity	$14,158.00
2. 1/10-12/10	Arizona State Retirement System Annuity	$14,158.00
3. 1/11-5/11	Arizona State Retirement System Annuity	$5,899.00
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.*

(Dollar amount not required except for honoraria.)

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

DATE	SOURCE AND TYPE
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT Page 3 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

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

☑ NONE *(No reportable liabilities.)*

	CREDITOR	DESCRIPTION	VALUE CODE
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT Page 4 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Bank of America (Accounts)	A	Interest	M	T	Exempt				
2. Princess Jennifer LLC (LLC owns shopping ctr in NM)		None	K	R					
3. Metropolitan Life money market	D	Interest	O	T					
4. Bank of America (Accounts)	A	Interest	M	T					
5. Fidelity Emerging Euro Mid East Africa mutual fund	A	Dividend	J	T					
6. Fidelity Int'l Discovery mutual fund	A	Dividend	L	T					
7. Fidelity Intern'tl Small cap mutual fund	A	Dividend	K	T					
8. Fidelity China Region mutual fund	A	Dividend	K	T					
9. Fidelity Emerging Markets mutual fund	A	Dividend	K	T					
10. Fidelity Stock Selector Small Cap mutual fund	A	Dividend	K	T					
11. Fidelity Capital Appreciation mutual fund	A	Dividend	L	T					
12. Fidelity Mega Cap Stock fund mutual fund	A	Dividend	K	T					
13. Fidelity Growth Co. mutual fund	A	Dividend	L	T					
14. Fidelity Select Energy mutual fund	A	Dividend	K	T					
15. Fidelity Value Strategies mutual fund	A	Dividend	K	T					
16. Fidelity AZ Municipal money market fund (checking acct)	A	Dividend	J	T					
17. Traveler's Insurance, common stock	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 5 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

VII. INVESTMENTS and TRUSTS – *income, value, transactions (Includes those of spouse and dependent children; see pp. 34-50 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. Fidelity Arizona Municipal Income Fund	D	Dividend	M	T					
19. Fidelity 401(k) (Y)	A	Dividend							
20. -Fidelity Capital App mutual fund									
21. -Fidelity Contrafund mutual fund									
22. -Fidelity Diversified Int'l mutual fund									
23. -Fidelity Europe mutual fund									
24. -Fidelity Growth Co mutual fund									
25. -Fidelity Int'l Discovery mutual fund									
26. -Fidelity Large Cap Stock mutual fund									
27. -Fidelity Small Cap Stock mutual fund									
28. Northwestern Mutual IRA	A	Dividend	N	T					
29. -Alliance Bernstein International Fund (Y)									
30. -The Bond Fund of America Class F-1 (Y)									
31. -Columbia Acorn International Fund									
32. -Credit Suisse Commodity Return									
33. -DWS Dreman Small Cap Value Fund									
34. -Davis NY Venture Class A									

1. Income Gain Codes: (See Columns B1 and D4)
A =$1,000 or less
B =$1,001 - $2,500
C =$2,501 - $5,000
D =$5,001 - $15,000
E =$15,001 - $50,000
F =$50,001 - $100,000
G =$100,001 - $1,000,000
H1 =$1,000,001 - $5,000,000
H2 =More than $5,000,000
2. Value Codes (See Columns C1 and D3)
J =$15,000 or less
K =$15,001 - $50,000
L =$50,001 - $100,000
M =$100,001 - $250,000
N =$250,001 - $500,000
O =$500,001 - $1,000,000
P1 =$1,000,001 - $5,000,000
P2 =$5,000,001 - $25,000,000
P3 =$25,000,001 - $50,000,000
P4 =More than $50,000,000
3. Value Method Codes (See Column C2)
Q =Appraisal
R =Cost (Real Estate Only)
S =Assessment
T =Cash Market
U =Book Value
V =Other
W =Estimated

FINANCIAL DISCLOSURE REPORT
Page 6 of 9

Name of Person Reporting	Date of Report
Zipps, Jennifer G.	06/23/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-40 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. -Delaware Emerging Markets Fund Class A									
36. -Dodge & Cox Income Fund									
37. -Eagle Capital Appreciation Trust									
38. -Eagle Small Cap Growth Fund Class A									
39. -Fidelity Advisor Leverage Company (Y)									
40. -Fidelity Advisor Mid Cap II Fund									
41. -Fidelity Advisor New Insights Fund Class									
42. -Harbor Bond Fund Institutional Class									
43. -The Oakmark International Fund									
44. -The Oakmark International Small Cap Fund									
45. -Perkins Mid Cap Value Fund									
46. -Loomis Sayles Bond Fund Retail									
47. -MFS Value Fund Class W									
48. -MFS High-Yield Opportunities Fund									
49. -Mainstay Icap Select Equity Fund									
50. -Marisco International Opportunities Fund (Y)									
51. -T Rowe Price Emerging Markets									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT Page 7 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

VII. INVESTMENTS and TRUSTS – *Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)*

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

A. Description of Assets (including trust assets)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. -T Rowe Price Real Estate									
53. -Scout International Fund									
54. -NW Mutual General Money Mkt Fund Class B									
55. -MFS International Growth Fund Class W									
56. Northwestern Mutual Whole Life Policy	A	Dividend	K	T					
57. Mass Mutual Variable Life Policy	A	Interest	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less F =$50,001 - $100,000	B =$1,001 - $2,500 G =$100,001 - $1,000,000	C =$2,501 - $5,000 H1 =$1,000,001 - $5,000,000	D =$5,001 - $15,000 H2 =More than $5,000,000	E =$15,001 - $50,000
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less N =$250,001 - $500,000 P3 =$25,000,001 - $50,000,000	K =$15,001 - $50,000 O =$500,001 - $1,000,000	L =$50,001 - $100,000 P1 =$1,000,001 - $5,000,000 P4 =More than $50,000,000	M =$100,001 - $250,000 P2 =$5,000,001 - $25,000,000	
3. Value Method Codes (See Column C2)	Q =Appraisal U =Book Value	R =Cost (Real Estate Only) V =Other	S =Assessment W =Estimated	T =Cash Market	

FINANCIAL DISCLOSURE REPORT Page 8 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

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

Part VII.

Value for LLC listed on line 2 is the cost of the interest in the LLC when obtained just prior to the purchase of the shopping center in August, 2006.

During the reporting period, the 401(k) listed on line 19 was rolled over to the Northwestern Mutual IRA listed on line 28.

The account or assets listed in lines 19, 29, 30, 39, and 50 were held during the reporting period, but are no longer owned.

FINANCIAL DISCLOSURE REPORT Page 9 of 9	Name of Person Reporting Zipps, Jennifer G.	Date of Report 06/23/2011

IX. CERTIFICATION.

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

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

Signature _____

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

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		971	439	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	053	311	Notes payable to relatives			
Unlisted securities – see schedule		36	000	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends		175	566	Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		364	191
Real estate owned – personal residence		575	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		63	247				
Cash value-life insurance		23	904				
Other assets itemize:							
Thrift Savings Plan		535	003				
Arizona Retirement System 15-Year Annuity		136	860				
				Total liabilities		364	191
				Net Worth	3	206	139
Total Assets	3	570	330	Total liabilities and net worth	3	570	330
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Travelers Insurance stock	$993
Fidelity Mutual Funds	
Fidelity Capital Appreciation	$54,903
Fidelity Growth Company	84,416
Fidelity Stock Selector Small Cap	26,270
Fidelity Emerging Markets Euro Mideast Africa	7,712
Fidelity Emerging Markets	38,877
Fidelity Mega Cap Stock Fund	36,383
Fidelity China Region	25,693
Fidelity International Discovery	51,338
Fidelity International Small Cap	29,628
Fidelity Select Energy	33,702
Fidelity Value Strategies	21,178
Fidelity AZ Municipal Money Market	4,073
Fidelity AZ Municipal Income	181,754
Northwest Mutual IRA	
Columbia Acorn International Fund	$16,394
Credit Suisse Commodity Return	23,888
DWS Dreman Small Cap Value Fund	9,493
Davis NY Venture Class A	27,652
Delaware Emerging Markets Fund Class A	18,321
Dodge & Cox Income Fund	12,550
Eagle Capital Appreciation Trust	27,994
Eagle Small Cap Growth Fund Class A	10,891
Fidelity Advisor Mid Cap II Fund	18,537
Fidelity Advisor New Insights Fund Class	32,571
Harbor Bond Fund Institutional Class	20,632
The Oakmark International Fund	27,972
The Oakmark International Small Cap Fund	16,493
Perkins Mid Cap Value Fund	18,705
Loomis Sayles Bond Fund Retail	13,239
MFS Value Fund Class W	37,505
MFS High-Yield Opportunities Fund	8,817
Mainstay Icap Select Equity Fund	32,975
MFS International/Growth Fund	19,373
T Rowe Price Emerging Markets	13,236
T Rowe Price Real Estate	23,385
Scout International Fund	23,274
NW Mutual General Money Mkt Fund Class B	2,494
Total Listed Securities	$1,053,311
Unlisted Securities	
Princess Jennifer LLC	$36,000
Total Unlisted Securities	$36,000

AFFIDAVIT

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

6/21/11
(DATE)

(NAME)

SANDRA M. MCCULLAR
Notary Public - Arizona
PIMA COUNTY
My Commission Expires
DECEMBER 4, 2011

(NOTARY)

Senator SCHUMER. Thank you. And I think there is no one extra—there is one person. Do they want to stand? They do not have to. I think we should end right here, we are having such a good time.

I will be brief. I have a few questions for the nominees in general and then a few for each nominee. And so let me ask the general questions. I am going to ask them all at once, all three, and ask you each to just speak a little about those.

First, tell us about why you want to be a judge and how you believe your experiences up to this point will help you to do the job well.

Second, what do you believe are the most important characteristics for a judge to have?

And, third, I have always said that moderation and judicial modesty are two qualifies very important to me in a potential judge. What do these two concepts mean to you?

So we will start with Mr. Ramos and work our way over.

Mr. RAMOS. Thank you, Senator, for that question. I want to be a judge, Senator, because I am a public servant at heart and I believe that service to the legal community as a judge is the very finest service that an attorney can provide.

It has been a long-term aspiration, and I am very grateful to have the opportunity to be considered for the position.

I believe that the most important characteristics that a judge should have are a deep and abiding respect for the rule of law and a willingness to try each matter before him or her in a fair and impartial manner, and that the judge also run his or her courtroom in a manner that provides or that accords respect to all of the individuals that may come before the bench, not only litigants, but, also, witnesses, jurors, and court personnel.

With respect to your third question, I could not write so quickly. I did get the part about moderation. I agree that moderation is a wonderful quality for a judge to have. I think that we have to be humble before the position.

I think that judges need to have an appreciation for our constitutional structure and, in particular, the role of judges within that structure, and, therefore, I believe that judges need to exercise restraint by trying, in all cases, only the issues that are before him or her and applying binding precedent, when appropriate.

Senator SCHUMER. Thank you, Mr. Ramos.

Mr. Carter.

Mr. CARTER. Thank you for the question, Senator.

I truly enjoy being a Federal magistrate judge. It is the best job that I've ever had and I wish to continue to serve the Federal judiciary with a larger role.

In terms of the characteristics that a judge should have, I believe that the characteristics are intelligence, dedication, and humility. And in terms of your last question, I do think moderation is extremely important, because you don't want—judges, as my fellow nominee has indicated, should try only the issues before them and decide those issues as narrowly and practically as possible. And if you have a judge who is at an extreme on the political spectrum, there may be a lack of faith by the public that this person is actually going to decide those issues narrowly and practically.

And I, like my fellow nominee, didn't write—didn't get the last part of that third question. What was the last part? It was moderation and?

Senator SCHUMER. Just what do these—you answered it. What do these two concepts mean to you?

Mr. CARTER. OK. Thank you very much.

Senator SCHUMER. Mr. Furman.

Mr. FURMAN. Thank you, Senator.

First, in answer—or in answer to your first question, why I would want to be a judge, I have two passions in life. One is the law, the other is public service, and becoming a judge would be an extraordinary way to combine those two things and continue to serve my country, and I would be honored and privileged to serve in that way.

No. 2, I think important qualities in a judge are adherence to the rule of law, integrity, fairness, and moderation; also, the ability to keep an open mind.

And with respect to your final question, I agree that moderation and modesty are essential qualities in a judge, as I just mentioned. To me, I would say they mean three things. One is an adherence to the rule of law, a recognition of the judge's limited role in our democratic system, that it is the job of the political branches to make policy, the job of a court to apply law, as well as an obligation, particularly of the lower court judge, to follow precedent.

Two, as Judge Carter mentioned, an obligation to decide cases as narrowly as possible; and, three, I would say moderation and modesty are an essential quality in terms of management of a courtroom. One should give equal dignity and respect to all parties appearing before the court.

Senator SCHUMER. Thank you, Mr. Furman.

Mr. Gilstrap.

Mr. GILSTRAP. Thank you, Senator.

I, too, am passionate about the law and about public service. I believe that the characteristics of a good judge start with a faithfulness to the law and the rule of law. It also involves a mindset of fundamental fairness in whatever comes before the court—whoever comes before the court.

I've been privileged, in almost 30 years of practicing law in east Texas, to find that almost without exception, the best prepared person in the courtroom is usually the judge, and I think that a good judge leads by example, an example of diligence and preparedness.

And if I'm fortunate enough to be confirmed, I, too, would hope to be the most prepared person in the courtroom.

I agree with my colleagues that a modest approach involves focusing on what's before the court, limiting the rulings to the issues that are fairly raised and not going beyond that. And I believe that these characteristics are something I can add to.

I've always believed that there is a difference between the office and the officeholder. We all come to an important office that will long be there after we're gone. But if we're fortunate enough to be confirmed, we have an opportunity to add to that and to be a part of the ongoing legacy of our judicial system.

Senator SCHUMER. Thank you.

Magistrate Judge Zipps.

Ms. ZIPPS. Senator Schumer, I want to be a district court judge because I do enjoy the role of a judge. I think we have a great legal system in this country. It's one of the best in the world, if not the best and it's by people who have passion to serve in that role and, as lawyers, that will keep this legal system the great system that it is.

I think important characteristics for a judge would be conscientiousness, honesty, and a respect for the law and the legal process. Modesty is necessary for management of a courtroom, for relation to the people who appear in that courtroom, and to have a humble disposition in understanding your role and that you're one of the people to sit in judgment of others is a very important role and it's one that requires humility.

Senator SCHUMER. Thank you.

Now, I have a question for each of the witnesses, and then we will get on to my colleagues.

You know what? I do not want to keep you folks here. So let me call—since I am over my time, I am going to go for a second round and I will ask you each specific questions.

But I will call on Senator Kyl and then Senator Franken, and then we will do a second round, if anyone has any. And Senator Lee. I apologize.

Senator KYL. Thank you, Mr. Chairman.

Might I begin by asking unanimous consent to put a statement in the record of the Ranking Member, Senator Grassley from Iowa.

Senator SCHUMER. Without objection.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Senator KYL. Thank you.

And let me ask a couple of you specific questions, starting with Mr. Furman, if I could start with you. There are a couple of things I suspect you would like the opportunity to clear up and I am going to give you that opportunity.

You wrote an article when you were in college, the title "Bang, Bang, You're Dead, the NRA Supplied the Lead." I do not know whether you chose the title or the publication did, but in any event.

You blamed the NRA for gun violence in the United States and voiced support for the Brady bill, which the Supreme Court later ruled partly unconstitutional in the *Prince* case, and stated your view that the right of an individual to own a firearm is not the right envisioned by the framers, but merely it is a right reserved for those who serve in a militia.

That was before, of course, the Supreme Court's recent decisions in *D.C.* v. *Heller* and *McDonald* v. *Chicago*. Together, they hold that the Second Amendment protects an individual's right to possess a firearm unconnected with service in a militia, and that the right is incorporated to the states by the due process clause of the Fourteenth Amendment.

Two questions. One, do you recognize that that is the Supreme Court precedent now, and will you faithfully apply that precedent in any case that were to come before you raising the issue?

Mr. FURMAN. Thank you, Senator, for the opportunity to address that.

Now, the short and to-the-point answer to your questions is absolutely. More broadly, let me just say that I do not adhere to the views that I expressed in that article for two reasons.

First, as you noted, I wrote that article when I was an 18-year-old freshman in college. I had little college education and I certainly had no legal education, training or experience. Candidly, I didn't have an appreciation of what it takes to answer a difficult legal question, the kinds of sources that you look at, the kind of deliberation that is required.

Like many 18-year-olds and, I dare say, particularly, 18-year-olds at Harvard University. I thought I knew a lot more than I actually did.

Senator SCHUMER. (Off microphone.]

[Laughter.]

Mr. FURMAN. No defamation intended.

Number two is, as you noted, the Supreme Court held forcefully in *Heller* and resolved any ambiguity there had been whatsoever that the right to keep and bear arms in the Second Amendment is an individual right, and held in *McDonald* that that right is fundamental and applies against the states.

If confirmed as a district judge, I would faithfully apply those precedents as I would any Supreme Court case.

Senator KYL. Thank you. You also wrote, as a college student, an article in which you criticized former President George H.W. Bush for a variety of misstatements or malapropisms or other statements which you said you thought were symptoms of a brain disorder called aphasia.

Obviously, a district court judge has to demonstrate a balanced temperament, as well as a thoughtful application of legal precedence, as well as other scientific matters if they would come before the court.

Can you talk to us about how your views may have matured in this matter, as well?

Mr. FURMAN. Sure, Senator. I wrote that article when I was a sophomore in college.

[Laughter.]

Mr. FURMAN. And the word sophomoric comes to mind.

Senator SCHUMER. Does this mean your 1 year of Harvard education did not do much good?

[Laughter.]

Mr. FURMAN. No, no. As I said, the word sophomoric comes to mind and not merely because I was a sophomore.

That article was intended to be tongue-in-cheek. It was an attempt at political humor. I can't say I have or had the skills of Senator Franken in that regard.

It was not meant—there was no disrespect intended to President Bush and I have the utmost respect for him.

Senator KYL. In retrospect, would you consider that it was probably not the best of things to have written?

Mr. FURMAN. I would certainly agree with that, Senator. I am not sure it accurately characterizes who I was even at the age of 19, but I can assure you that, sitting here before you today, it does not characterize who I am. And I think if you were to ask the judges that I have appeared in front of, my opposing counsel, the

witnesses I've dealt with, I think you would find that I am known for treating people with respect that I did not show President Bush in that article, and I apologize for that.

Senator KYL. I have talked to one of the judges with whom you worked very closely and he would agree with the statement that you just made and supports your nomination wholeheartedly. And it happens to be a Republican, I might add.

Let me just ask you one more, slightly more recent, but, again, an opportunity for you to put to rest any issue. And I am just a little perplexed by this one.

You write in a law review article in 1997 that criminals, and I am quoting now, "should be told that society's norms contribute to their misfortune," and I am perplexed at what you meant by that.

Mr. FURMAN. Senator, sitting here today, I'm not sure what I meant by that particular statement either. But that article that you quoted from is a work really more of philosophy than of law. It, obviously, addressed sort of quasi-legal issues and, in particular, the disenfranchisement of felons.

I think I made very clear in the article that it was not intended to address the legality of that. That's something the Supreme Court addressed clearly in the case *Richardson* v. *Ramirez* and held was constitutional.

I've spent the last 7 years of my life prosecuting criminals, trying to put people who violate our laws in prison. I think that record speaks to my views on the matter and I'd leave it at that.

Senator KYL. Thank you.

I am over my time, as well, Mr. Chairman.

Senator SCHUMER. Thank you.

Senator Franken.

Senator FRANKEN. Thank you, Mr. Chairman.

I thought it was very interesting that Judge Carter and Mr. Ramos did not hear the second part of your last question, and yet both of them talked about—your question was about moderation and judicial modesty, and each of them used the word—well, you used the word "humble" and you used the word "humility."

So either that was subliminal or, as president George W. Bush said, subliminable.

[Laughter.]

Senator FRANKEN. And which I do not think was a sign of any kind of aphasia or anything like that.

[Laughter.]

Senator FRANKEN. I just wanted to make that clear. OK. So that was interesting. I just thought it was an interesting thing I would point out.

Senator SCHUMER. Thank you, Al.

Senator FRANKEN. You are very welcome, Mr. Chairman.

Before I begin, I would like to enter a few letters in support of Mr. Furman's nomination. Here are the dates: July 1, 2011, a joint letter from 30 fellow Supreme Court of the United States clerks; July 6, 2011, joint letter from over 90 Yale Law School classmates; July 13, 2011, from the New York City Bar; and, July 27, 2011, from Attorney General Mukasey.

And without objection, I would like to submit them all, Mr. Chairman, without objection.

Senator SCHUMER. Without objection.

[The letters appear as a submission for the record.]

Senator FRANKEN. And I would like to call special attention to the last letter, which, of course, as I said, is from the former attorney general under President George W. Bush.

Mr. Furman served General Mukasey as a law clerk when he was a judge and as an attorney when General Mukasey was attorney general.

And as far as your writings are concerned, I never wrote anything like that ever.

[Laughter.]

Senator FRANKEN. And I am, frankly, scandalized. Scandalized.

My first question will be for you. As a Federal prosecutor, you have worked on and advised a number of significant financial fraud, public corruption, and terrorism cases, including the Times Square bomber case, the prosecution of employees from Bernie Madoff's securities firm, and the prosecution of Bernie Kerik, the former New York City police commissioner.

In addition, I understand you helped draft the 80-page indictment against Khalid Sheikh Mohammed, the criminal mastermind of the September 11 attacks.

Can you tell me how these experiences have shaped your view of our criminal justice system and how that has prepared you to serve on the Federal bench?

Mr. FURMAN. Thank you very much for the question, Senator. Thank you for putting those letters into the record.

I've been privileged to serve as United States attorney in the southern district of New York in the last 2 years as the deputy chief appellate attorney in that office.

In that capacity, I've been consulted on and advised on various cases in a variety of areas, which has been a very enjoyable experience and, also, I think, exposed me to really the range of cases on the criminal side at least that a judge sitting in the southern district of New York would likely hear.

I think it has allowed me to develop the kinds of skills that one needs as a judge to research difficult questions of law, figure out what the law is, and then apply it to the facts, and I would hope to bring that to the bench, if confirmed.

Senator FRANKEN. Thank you.

Mr. Ramos, you have also had a broad range of experience in criminal law, both as a Federal prosecutor and as an attorney in private practice.

In one case that caught my eye, you successfully prosecuted a defense contractor who had manufactured faulty equipment for Apache attack helicopters.

Can you tell us about the facts and legal arguments involved in that case?

Mr. RAMOS. Yes, Senator.

That case was against a company that manufactured very technical optical equipment that was used to bore-sight the weapons systems of the Apache attack helicopter. It was able—the equipment was meant to be able to bore-sight the weapons systems while on the ground, which was a significant improvement from the

prior technology that was used. And each piece of equipment that the Army purchased cost approximately $250,000.

We learned that contrary to the contracts with the government, the company was not using the appropriate testing protocols that were called out in the contracts, and the investigation was commenced after a whistleblower within the company approached the Federal Government.

The company was investigated, ultimately pled guilty, because the chief engineer on the project pled guilty and, therefore, criminal liability was able to be put on the company, as well.

Because the engineer pled guilty, the company did not go to trial and the issues that were involved, they were really one of the quantum of evidence that the government had.

There were substantial negotiations over a number of months, because the defense believed that because our witnesses were mere technicians, that we would not have been able to prove beyond a reasonable doubt that the appropriate tests were not conducted. But with the plea of the engineer, that took care of those issues.

Senator FRANKEN. Thank you. And I am out of time. So I want to just congratulate all of you on the nominations, and go back to the Chair.

Senator SCHUMER. Thank you, Senator Franken.

Senator Lee.

Senator LEE. Thank you. I have a couple of questions for Mr. Furman. But before I do that, I would just like to note that this would involve a lot of concentration of legal brain power in one family, between you and your law professor wife. I trust that your children are experts by now in the rule against perpetuities, the doctrine of worthier title, and the rule in Shelley's case.

Mr. FURMAN. Absolutely, Senator.

Senator LEE. Wonderful. I wanted to talk to you about a brief you submitted as amicus curiae in a case called *Good News Club* v. *Milford School District*.

In that brief, which you filed on behalf of the Anti-Defamation League, you argued that the existence of a faith-based extracurricular club at an elementary school eroded values that are protected by the establishment clause.

The brief argued that because the club was designated to, quote, "label people as saved or unsaved and, thus, to promote Christian belief, in particular," the school could reasonably refuse to allow the club to use the school for its meetings.

Can you describe the establishment clause values that you believed supported this proposition?

Mr. FURMAN. Thank you for that question, Senator.

As you know, I worked on that brief when I was working at the law firm of Wiggin & Dana. I, obviously, did so in my capacity as an attorney. I had a client and, in that regard, took a view that the client wanted to advance.

The Supreme Court, as you know, held in that case that the exclusion of the Good News Club from the Milford Central School District was a violation of the free speech clause of the First Amendment. And, obviously, if confirmed as a district judge, I would faithfully apply that decision as I would any Supreme Court decision.

Senator LEE. So in what instances might a religiously affiliated group be permitted to convene a club at a public school under the proper standard, as you understand it?

Mr. FURMAN. Senator, it has been a while since I've engaged in that material. I'm not a scholar in that area. I've certainly spent the last number of years prosecuting cases and dealing with criminal law.

My recollection is with respect to the establishment clause, for example, the Supreme Court has established various tests regarding sort of the avoidance of excessive entanglement between the state and religion.

Sitting here today, I couldn't necessarily articulate what those tests are, but I would, obviously, apply them, if confirmed as a judge.

Senator LEE. So to the extent your client's position in *Milford* was at odds with the Supreme Court's ruling in that case, you, as a Federal district judge, if confirmed to that position, would not have difficulty applying that precedent, and notwithstanding the fact that it would leads to a different outcome than the one you were advocating there.

Mr. FURMAN. That's correct, Senator.

Senator LEE. Thank you.

I want to go back briefly to the 1991 Harvard article, not for the point—not for the major points that were discussed by Senator Kyl, but for a point that was raised in the penultimate paragraph of that article, in which you said, "According to the NRA, the right to bear arms is as 'crucial to the maintenance of democracy' as the other basic freedoms guaranteed by the Bill of Rights, namely, the freedom of speech and the press. But times have changed. The right to bear arms is no longer as crucial to the maintenance of democracy as it was 200 years ago. The rights to free speech and press are."

Is this a statement that still reflects your views today?

Mr. FURMAN. No, Your Honor. Excuse me. You're not a judge. But, no, Senator. I'm more used to appearing before judges than Senators.

It is not. Again, I wrote those words as an 18-year-old with no legal experience or training and, frankly, spoken with more confidence than I—than was warranted.

As you know, the Supreme Court held in the *McDonald* case that the right to keep and bear arms is a fundamental right and it actually explicitly rejected the proposition that there is a hierarchy of rights among the ones that are mentioned in the article, the right to free speech and the right to bear arms.

And if confirmed as a district judge, I would apply that as I would any Supreme Court case.

Senator LEE. And if confirmed as a district judge, I assume you would no longer harbor the position that if one right, as you perceive it, is no longer as important relative to democracy as it might have been in the perception and time of the Founding Fathers, that is not a reason not to accord it protection.

Mr. FURMAN. That's absolutely correct, Senator. If something is a right, then it would be my obligation to apply that right consistent with law.

Senator LEE. Great. Thank you very much.

Senator SCHUMER. Thank you, Senator Lee.

Senator Kyl wanted to make a brief statement before I get to my questions.

Senator KYL. And then I might have one other question or two of the witnesses. But I wanted to especially thank the Chairman of the full Committee, Senator Leahy, for adding to the witness list here Judge Zipps, who was not on the original panel.

But I think because of the need to fill the vacancy of Judge Roll, he was in mind of the need to act as quickly as possible to fill this vacancy, and I wanted just to express my appreciation to him for doing that.

Senator SCHUMER. Thank you.

I will follow-up with my first question to Mr. Furman, since it is along the lines of Mr. Lee's question. Mr. Lee and I, our views on gun control would be quite different. I am the author of the Brady law.

But I have always felt, and I want to get you to comment on this, Mr. Furman, that it is really not fair for liberals, if you will, who believe in an expansive First, Third, Fourth, Fifth, Sixth Amendment to then see the Second Amendment through sort of a pinhole, only applying to militias.

I have always felt there is a right to bear arms, as the *Heller* case enumerated. But I say to my colleagues on the other side, just as the First Amendment is not absolute, you cannot scream "fire" in a crowded—falsely scream "fire" in a crowded theater. We have libel laws and anti-pornography laws and all kinds of other laws that limit the First Amendment, because even our amendments, a great resider of rights in the individual, even they have balancing tests.

And just as we have limits on the First Amendment or some of these others, there are reasonable limits on the Second Amendment, of which Brady might be one.

So I am interested in, given Mr. Lee's question, which was sort of similar and we talked a little bit about this when I interviewed you at first, do you agree with that basic sentiment that it is sort of—you cannot see one amendment through sort of the narrowest of interpretations and see all the others through very broad interpretation?

That would not be fair, no matter what your political philosophy is.

Mr. FURMAN. Thank you, Senator. Again, I would point to the majority opinion in *McDonald*, which I think made clear exactly that, that the Second Amendment right is not given any lesser weight than the other rights in the Bill of Rights. And if confirmed as a district judge, I would, obviously, faithfully apply that.

With respect to the question of whether a balancing test is applicable, I think the Court made clear in *Heller* that the test is not one of balancing interests, per se. At the same time, the Court made clear that there are certain forms of restrictions on guns, for example, the possession of guns by convicted felons, and the like that would be permissible under the Court's view. And if confirmed as a district judge, I would, obviously, apply that.

Senator SCHUMER. Thank you.

I have questions for a few of the other witnesses.

Mr. Gilstrap, I have been concerned about the reputation of the court in the eastern district of Texas—I do not know if you have followed this a little bit—in terms of bias toward plaintiffs in patent cases, particularly business method patents, where 56 percent of all the cases in the country are litigated there, and it seems the plaintiff almost always wins.

Again, this is a view maybe where I am more in accord with this side than that side.

But some of these are almost what is called patent trolls, you know. They try to have long suits and the eastern district of Texas seems to allow these suits to go on forever. And so the people who are sued for very logical things that, in my judgment, would never really be patented if they were given a real fair court test, and often on appeal, if they ever get to appeal, they are overturned in the eastern district.

So what can you do, simply, to assure me that in these cases, you will see things down the middle, shall we say, without a bias toward plaintiffs in these cases, which, frankly, at least I believe exists in the eastern district of Texas?

Mr. GILSTRAP. Thank you for the question, Senator.

I think the best way I can assure you in that regard is to mention that my record of service as a local official for almost 14 years was clearly one of moderation, one of taking a middle path.

If you talk to the people in east Texas who know me, I think they will uniformly assure you that I am not someone who veers to one extreme or the other. That's my natural take on most issues.

I can assure you that whatever—if I'm fortunate enough to be confirmed, whatever is filed and comes before me will get careful scrutiny. And it's my hope that in looking back, in the years to come, my legacy as a judge will not be that you favored one side or favored the other side, but that everybody got a fair hearing.

I've heard it said that to be an effective district judge, you have to be willing to disappoint your friends and astound and please your detractors sometimes, and I think we approach the business of judging not from a standpoint of what the outcome should be, but what the law requires and a faithful application of that law to the facts as established.

And I can promise you that, if confirmed, that will be the approach I will take.

Senator SCHUMER. Thank you.

Mr. Ramos, my question here is, the vast majority of your work has been on criminal matters. So tell us a little bit about your judicial philosophy and how you might approach the many civil cases that will come before you as a judge. And do you think the fact that your experience has been on one side will jeopardize you in any way in terms of the civil side of things?

Mr. RAMOS. Thank you, Senator.

In the first instance, I would like to point out that despite the fact that the last 17 or so years of my career have been on the criminal side, I did start my career at the very prestigious law firm Simpson, Thatcher and Bartlett and during those 4.5 years, approximately, I worked exclusively on civil matters.

These tended to be large money, bet-the-company type matters that were very important to the clients and, therefore, required a lot of work and diligence on the part of the attorneys.

During the course of those 4 years, I worked on a wide variety of substantive legal matters, including financial frauds, court contract cases, lender liability, et cetera, mass torts, and I worked on every aspect of the litigation from the filing of a complaint to a jury verdict.

In terms of my judicial philosophy, I believe that judges should have an abiding respect for the rule of law and should try all of the cases that come before them fairly and impartially.

I believe that I would be able to transition to the role of a judge with the varied experience that I have. And to the extent that there is any sort of catch-up or getting back up to speed with respect to the civil procedures, particularly e-discovery and those types of issues that have become more important since the time that I last completely practiced civil law, I would be able to do that by virtue of the various resources that are available to judges, including the Federal Judicial Center, my very hope—hope to be colleagues on the southern district, their vast experience, et cetera, and other sources that are available.

Senator SCHUMER. Thank you.

And, finally, to Judge Carter. I understand you once had to recuse yourself from a case because you were spotted by a litigant in a Mets cap and a blue and orange tie.

Now, as a Yankee fan, should I be concerned about your impartiality?

[Laughter.]

Mr. CARTER. Thank you for the question.

Senator SCHUMER. Just tell us a little bit about what that was all about.

Mr. CARTER. Thank you for the question, Senator.

I don't think that most Yankee fans have any concern for Mets fans at all.

[Laughter.]

Mr. CARTER. But that was a situation in which it was raining outside and I just grabbed a cap, because I didn't have an umbrella. I had on a Mets hat and I had a civil conference before me in which the Mets were being sued by a kosher hotdog company that was claiming—the hotdog company was claiming that the Mets were not allowing them to sell kosher hotdogs on Fridays and Saturdays, and the Mets were countering that the hotdogs are not kosher if they're sold on Fridays and Saturdays.

[Laughter.]

Mr. CARTER. But to make a long story short, we had the status conference——

Senator SCHUMER. You would find a case like this in Albany, Georgia.

[Laughter.]

Mr. CARTER. But to make a long story short, we had the conference. There was no problem. After the conference was over, one of the plaintiff's lawyers, I think, was trying to make an offhanded joke and simply stated, "I saw you wearing a Mets hat earlier. Is

there anything you need to be worried about?" And I said, "Well, no, there's nothing to be worried about."

But then upon further reelection, I thought, well, it might appear that there would be some appearance of impropriety. So I decided, in an abundance of caution, to recuse myself.

Senator SCHUMER. I just would remind you that one of the great Yankee fans in the U.S. Senate is immediately to my right.

[Laughter.]

Senator SCHUMER. Senator Kyl is a great Yankee fan, and I try to emulate him.

[Laughter.]

Senator SCHUMER. Any other questions from the rest of our panel? Senator Kyl.

Senator KYL. First, I'm a D-backs fan, understand.

Senator SCHUMER. Yes, I know.

Senator KYL. But in the American League——

Senator SCHUMER. American League, he is a Yankee.

Senator KYL. In the American League, a Yankee fan. My dream was for the Yankees and the D-backs to play in the World Series and the game to be decided in the seventh game for the D-backs to win.

Senator SCHUMER. It could happen.

Senator KYL. True. Mr. Gilstrap, just a couple of things. The comment about experience, your experience is primarily civil.

Mr. GILSTRAP. Yes.

Senator KYL. And one could ask the same thing about being able to apply your experience properly to the criminal side. And if you would like to comment on that, I do not have a huge concern about it, but to the extent anybody would, I would invite you to comment.

But I would also like to invite you to comment further on what Senator Schumer was asking about. The eastern district of Texas does not have a good reputation with regard to these patent lawsuits.

To some extent, you would be required to follow the precedents of your court if there are no other precedents, and I am a little concerned that those precedents, while they may be regularly overturned by higher courts, might still require you, in your view, to adhere to some views that are not widely held throughout the rest of the country.

It is a difficult thing because you are not supposed to bend over backward, you are not supposed to ignore the precedents of the court, but you also have to apply the law as you think it should be. And I share the sentiments that Senator Schumer has expressed here.

How would you approach those kind of cases were they to come to you?

Mr. GILSTRAP. Thank you, Senator, for the question.

With regard to your first question, all of us come to the confirmation process from whatever backgrounds we have, and mine is predominantly civil. I can assure you and the Committee that if I am fortunate enough to be confirmed, that I will look forward to and anxiously sharpen my skills in the criminal area, and that I will, as I said earlier, strive to be the best prepared person in the courtroom, whether it be a civil trial or a criminal trial.

With regard to your comments about the patent docket in the eastern district of Texas, I can tell you this. My commitment to this Committee and to all that know me is that I will faithfully apply the law and I believe there are very few cases that there is not Federal circuit precedent on and the only available precedent is from the district court level.

However, I don't necessarily subscribe to the view that you approach this from what you think the law ought to be. I think the judge's view, especially at the trial level, is to find, through a fair and careful trial, what the facts are and then apply the existing law to those facts.

And if the existing law is from the U.S. Supreme Court, then it controls. If there is none and in the patent area, it's from the Federal circuit, then it controls. If there is none from the Federal circuit and the only available authority is from your district, then I think you apply that law and leave it to the appellate courts to take whatever corrective action may be warranted.

I do not view the trial court as a policymaking body in any shape, form or fashion, and am committed to faithfully applying the law, whether I like it or whether I don't like it.

Senator KYL. Well, that is the A-plus answer on the law school exam and I appreciate it. It is up to us, also, to change it and that is why Senator Leahy and Senator Schumer and I and others have legislation pending that has already passed the House of Representatives and we hope will pass the Senate soon to fix some of the problems that have existed. And I commend you for answering the question in a way that I think is correct.

We could harass—let us see. Judge Zipps, you have not been harassed yet. But I do not—we do not need to do that.

I just want to thank all of you for appearing here today and elucidating your views, introducing your families. I congratulate you all on your nomination by the President, and I hope that we can consider all of your nominations as soon as the Congress returns after the August recess, assuming there is one, if we can get this deficit deal resolved, there will be, but that we can return as quickly as possible after Labor Day and, in our Committee, pass you on to the full Senate so you can be considered by our colleagues, as well.

Thank you, Mr. Chairman.

Senator SCHUMER. Thank you, Senator Kyl.

And the last round of questioning will go to Senator Franken.

Senator FRANKEN. Well, I actually just stuck around because Judge Zipps has not been asked a question and since you have come all the way here I suppose, you would like to be asked a question.

So my question, Judge Zipps, is what do you think of Mr. Furman's article?

[Laughter.]

Senator FRANKEN. No, that is not it. No. My question is you have served as a Federal magistrate judge for 6 years now. So you are no stranger to the Federal bench. But if you are confirmed as a district court judge, I anticipate you will preside over more cases in which you will have to draw your own interpretations of Federal law.

So my question is if you are confirmed, how will you ensure that you will interpret our laws in line with Congressional intent in passing them. How will you go about determining Congressional intent?

Ms. ZIPPS. Senator Franken, in applying the law, I would look first to the statute itself and the plain words of that statute.

I would look to any binding precedent that had interpreted that statute and faithfully apply that precedent. If there were no binding precedent, I would look to consideration of what Congress' intent was, whether or not that was stated somewhere in the law itself or whether or not it could be fairly divined from the legislative history or what was available. And I would also look to persuasive authority for determination of the same issue to make sure that the law that I am applying is that that was intended by Congress when it enacted the law.

Senator FRANKEN. Thank you. And thank you all and congratulations to you all for your nominations.

Thank you, Mr. Chairman.

Senator SCHUMER. (Off microphone) not only in the future bench, but in our country to produce people like yourselves.

The record will remain open for a week so that questions may be submitted in writing to all of you by those of us here and my colleagues on the Judiciary Committee who could not be here today.

With that, thank you all for being here. Congratulations to your friends and family.

The hearing is adjourned.

[Whereupon, at 3:43 p.m. the hearing was adjourned.]

[Questions and answers and submissions for the record follow.]

QUESTIONS AND ANSWERS

Responses of Andrew L. Carter, Jr.
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: The most important attribute of a judge is the willingness to apply the law to all parties impartially. I possess this attribute.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: A judge should be patient, attentive, and humble. I believe that I meet that standard for judicial temperament.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: I would delve into the opinions of the Supreme Court or the Second Circuit Court of Appeals in analogous situations. If that proved unproductive, I would look at opinions of other federal circuit courts in analogous situations. I would also consider any constitutional or statutory provisions that might address the issue.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I would apply the decisions of the Supreme Court and the Court of Appeals for the Second Circuit. If confirmed, my personal views would be inapposite.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

   Response: When considering a constitutional challenge to a Congressional statute, a judge must decide whether Congress exceeded its constitutional authority in enacting the

statute or whether the statute itself violated the Constitution. I would adhere to the opinions of the Supreme Court and the Second Circuit Court of Appeals in cautiously rendering any decision that might declare a statute unconstitutional.

7. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: As a Magistrate Judge, I have faced the pressures of managing a heavy caseload. When cases languish, attorneys' fees accumulate and make settlement more difficult. If confirmed, I would, in concert with the magistrate judges in the Southern District of New York, continue to encourage early settlement of cases by streamlining the discovery process when possible. In addition, I would continue to rule on matters carefully and with a sense of urgency to ensure that cases are moved through the system expeditiously.

8. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: Yes. The judge has a duty to manage every litigant's case impartially and efficiently. A judge must strive to decide the matters before him or her carefully, practically, and as narrowly as possible. Moreover, the judge must rule on these matters with a sense of urgency.

   Regarding conduct, judges must lead by example. Judges must exude patience, attentiveness, and humility. Judges must ensure that the parties comport themselves in a professional and dignified manner.

9. **Please describe with particularity the process by which these questions were answered.**

   Response: Having carefully considered each question, I drafted my responses. My responses were reviewed by representatives from the Department of Justice. The final responses were forwarded to the Department of Justice for submission to the Senate Judiciary Committee.

10. **Do these answers reflect your true and personal views?**

    Response: Yes.

Responses of Andrew L. Carter, Jr.
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Amy Klobuchar

1. **If you had to describe it, how would you characterize your judicial philosophy – and how do you see the role of the judge in our constitutional system?**

   Response: My judicial philosophy is to decide all cases before me as narrowly and practically as possible. I see the role of a District Judge as applying the law to the facts before him or her with patience, attentiveness, and humility.

2. **As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

   Response: All parties deserve equal treatment regardless of economic status or the caption under their names. Judges must be impartial. As a Magistrate Judge, I have approached every matter with an open mind, and I have treated all parties fairly and impartially. If confirmed, I would continue my commitment to giving all parties equal respect and consideration.

3. **In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? Does the commitment to stare decisis vary depending on the court?**

   Response: District Judges, and all other judges, should firmly adhere to the principle of *stare decisis*.

Responses of Jesse M. Furman
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Chuck Grassley

1. **At your hearing, Senator Kyl asked you about your article on President George H.W. Bush. You explained to Senator Kyl, "[T]he word sophomoric comes to mind and not merely because I was a sophomore. That article was intended to be tongue-in-cheek. It was an attempt at political humor. . . . I can assure you that, sitting here before you today, it does not characterize who I am. . . . I think you would find that I am known for treating people with respect that I did not show President Bush in that article and I apologize for that." While I appreciate the fact that you wrote the article when you were young and that you now apologize for it, I was somewhat surprised that you described the article as "an attempt at political humor." I recognize that sometimes the intent of the author is not evident by the text of an article. But as I read it, the article appeared to be entirely serious. Do you stand by your characterization that this article was "intended to be tongue-in-cheek" and "an attempt at political humor"?**

   Response: As I stated at the hearing, the article was intended to be tongue-in-cheek and an attempt at political humor, but I acknowledge it may have been a failed and inadvisable attempt. Moreover, in saying that it was intended to be tongue-in-cheek, I did not, and do not, mean to excuse or minimize the disrespect I showed President Bush, for whom I have the utmost respect. As I told Senator Kyl at the hearing, the article was sophomoric and disrespectful. I can assure the Committee that I would never write such an article today.

2. **You served as Treasurer of The Furman Foundation, a family foundation. This Foundation has donated money to a number of liberal organizations and causes, such as the Alliance for Justice, Media Matters, and People for the American Way. While there is nothing wrong with that, it may concern future litigants, should you be confirmed.**

   a. **Did you have any decision-making authority regarding where or to whom the Foundation donated money?**

      Response: As Treasurer of the Furman Foundation from 2000 to 2008, I did not have any decision-making authority regarding where or to whom the Foundation donated money. The Foundation was established and funded entirely by my mother, and she exercised exclusive authority over decisions about where and to whom the Foundation donated money.

   b. **What assurances can you provide both future litigants and the Committee that your decisions as a federal district court judge will be rooted in the law and not in a personal bias for one group over another?**

Response: Throughout my legal career – as a government lawyer in both Democratic and Republican Administrations; as a lawyer in private practice; and as a law clerk to two judges appointed by Republican Presidents and one judge appointed by a Democratic President – I have endeavored to interpret and apply the law faithfully and to treat all parties fairly, without regard for their political beliefs, economic condition, or social status. I believe that record makes clear that, if confirmed as a district judge, my decisions would be rooted exclusively in the law and that I would treat all parties before the Court fairly.

3. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe that the most important attribute of a judge is the ability to fairly and impartially find facts and then faithfully apply the law to those facts, with respect for the rule of law and without fear or favor for a particular party or outcome. I believe that I possess that attribute.

4. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe that the appropriate temperament of a judge includes the following important elements: integrity, fairness, modesty, even-handedness, open-mindedness, patience, adherence to the rule of law, and respect for all parties appearing before the Court. I believe that I meet that standard.

5. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

6. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If confirmed as a district judge and presented with an issue of first impression, I would begin with the text of the relevant statute or other legal provision. I would also look to decisions of the Supreme Court and the Second Circuit in closely related or analogous areas of law or, if appropriate, to persuasive authorities from other Courts of Appeals or District Courts.

7. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: If confirmed as a district judge, I would faithfully apply any relevant Supreme Court or Second Circuit precedent, without regard for my own judgment or views of the precedent.

8. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

   Response: In my view, it is appropriate for a federal court to declare a statute enacted by Congress unconstitutional if Congress has exceeded its constitutional authority or has enacted a statute in contravention of a constitutional provision. If confirmed as a district judge, I would faithfully apply any applicable precedents of the Supreme Court and the Second Circuit in evaluating whether Congress had done so.

9. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: If confirmed as a district judge, I would establish and publicize rules for litigants modeled on the most effective rules used by other judges in the Southern District of New York in an effort to provide clear guidance about my expectations for managing cases. Among other things, I would set clear deadlines, including trial dates, as early as possible and I would make clear to litigants that I expect them to meet those deadlines absent good cause. In addition, I would monitor my docket closely; encourage mediation or settlement when possible; make productive use of magistrate judges when appropriate; and strive to decide all matters promptly, consistent with fair and reasoned analysis.

10. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

    Response: Yes, I believe that litigants – and the public at large – are entitled to the fair and efficient resolution of cases and disputes and that judges play a crucial role in accomplishing that goal by controlling the pace and conduct of litigation. If confirmed as a district judge, I would take the steps described in my response to Question 9 to control my docket.

11. **Please describe with particularity the process by which these questions were answered.**

    Response: I received these questions on August 3, 2011. Over the course of the next day, I drafted responses to the questions. I then discussed my responses with an official at the Department of Justice, after which I finalized my responses. I then authorized the Department of Justice to transmit my final responses to the Committee.

12. **Do these answers reflect your true and personal views?**

    Response: Yes.

Responses of Jesse M. Furman
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Amy Klobuchar

1. **If you had to describe it, how would you characterize your judicial philosophy – and how do you see the role of the judge in our constitutional system?**

   Response: In my view, judges play a narrow, but important role in our constitutional system, adjudicating disputes between parties based on a faithful application of the law to the facts. Consistent with that, I would characterize my judicial philosophy as adherence to the rule of law – specifically, the proposition that a judge must faithfully apply the law, whether found in the Constitution, statutes, or binding precedent, to the facts; and the notion that a judge should decide only the case and controversy before the Court.

2. **As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

   Response: All parties are entitled to equal justice under law, without regard for their political beliefs, economic condition, or social status. I believe that my career in the law – especially my career as a federal prosecutor – demonstrates clearly my commitment to that principle. Throughout my career, I have endeavored to treat everyone – including judges, colleagues, opposing counsel, witnesses, victims, and defendants – with equal dignity and respect and, if confirmed as a district judge, I would continue to do so.

3. **In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? Does the commitment to stare decisis vary depending on the court?**

   Response: In my opinion, judges should be strongly bound by the doctrine of stare decisis, as it is a foundation of the rule of law. I believe that stare decisis is an important principle for all judges, but it is especially important for district judges, who are bound by the decisions of the Supreme Court and their relevant Court of Appeals.

Responses of J. Rodney Gilstrap
Nominee to be United States District Judge for the Eastern District of Texas
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe the most important attribute of a judge is to be faithful to the law and consistently adhere to applicable precedent. I believe I possess this attribute.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe that a judge must be fair, impartial, patient and diligent. A judge should be courteous and respectful toward everyone who comes into court. I believe I possess this temperament.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If the matter involved a statute, then the plain meaning of the text should be applied. If the matter did not involve a statute or the text was unclear, I would look to analogous Supreme Court authority and then analogous authority from the 5th Circuit or the Federal Circuit, as the case may be. I would seek to be guided by the doctrine of stare decisis at all times.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I would apply the existing authority from the Supreme Court or the 5th Circuit Court of Appeals, regardless of my own views.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: I believe the federal courts should declare a statute enacted by Congress to be unconstitutional only when the statute clearly violates or is in direct conflict with an express provision of the Constitution.

7. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I plan to use pre-trial scheduling orders and regular status conferences to monitor and manage the docket with the aim of fairly and efficiently addressing the mounting caseload. I would also routinely use mediation and settlement conferences to move cases toward final resolution. Additionally, I would actively employ available case management systems used with success by other courts as a means of controlling the caseload.

8. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Within the parameters of providing a fair and impartial trial, I believe a judge does play a role in controlling the pace and conduct of litigation. As to the pace of litigation, I would use pre-trial scheduling orders and regular status conferences to monitor and manage the docket. I would also routinely use mediation and settlement conferences to move cases toward final resolution. Additionally, I would actively employ available case management systems used with success by other courts as a means of controlling the pace of the caseload. As to the conduct of the litigation, I would strive to be fair, courteous, prompt and impartial in all matters and as to all persons who come before the court.

9. **Please describe with particularity the process by which these questions were answered.**

Response: I read the questions and then drafted answers. I reviewed my answers for accuracy. I discussed them with an official in the Department of Justice and then authorized the Department of Justice to transmit my responses to the Judiciary Committee.

10. **Do these answers reflect your true and personal views?**

Response: Yes.

Responses of J. Rodney Gilstrap
Nominee to be United States District Judge for the Eastern District of Texas
to the Written Questions of Senator Amy Klobuchar

1. **If you had to describe it, how would you characterize your judicial philosophy - and how do you see the role of the judge in our constitutional system?**

   Response: My judicial philosophy is centered on fairness, impartiality and faithfulness to the rule of law. I believe a district judge in our constitutional system should strive to see that a full and fair presentation of the relevant evidence is presented through the trial process, whether before the bench or a jury. Thereafter the judge should insure that the applicable law is applied under the doctrine of stare decisis resulting in a judgment which focuses narrowly on the issues fairly raised at trial.

2. **As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

   Response: Fair treatment applied to everyone is essential to the effective operation of our judicial system. Partial fairness is much akin to partial honesty. Neither rises to the standard required by our constitutional system. Fair treatment, coupled with common courtesy, should be accorded not only to litigants, but also to witnesses, jurors, lawyers, and all persons in the courtroom. If confirmed, I will consistently strive to meet this high standard in discharging my duties. I will also insist that my law clerks, court staff and members of the bar do the same. In my view, there is no place within our justice system for consideration by judges of the political beliefs or monetary strengths or weaknesses of the parties or whether a litigant is a plaintiff or defendant.

3. **In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? Does the commitment to stare decisis vary depending on the court?**

   Response: Trial judges must be committed to faithfully applying applicable precedent to those facts as are fully and fairly established through the trial process. This approach should not vary among the trial courts. En banc review by the applicable Circuit Court of Appeals and review by the Supreme Court may result in overturning prior precedent, but such is not appropriate at the trial court level.

Responses of Edgardo Ramos
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: The most important attribute of a judge is a determination to decide all cases fairly, impartially, narrowly and promptly. I believe I possess this attribute.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: I believe a judge must at all times demonstrate an abiding respect for the rule of law. A critical element of this aspect of judicial temperament is an understanding of the limited role of judges within our constitutional system and the acknowledgement of the need to apply precedent where it exists. Judges must also treat all parties that come before the court with respect. A judge exhibits respect for the parties by treating them courteously, by giving them a fair opportunity to be heard, and by promptly deciding the matters that come before the court. I believe I meet this standard.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: If the matter involved the interpretation of a statute, I would first look to the plain language of the statute. If I find the language to be ambiguous, I would then look to its legislative history for guidance. If the matter did not involve statutory interpretation, I would first look to analogous authority of the Supreme Court and the Second Circuit Court of Appeals. If necessary, I would also look to analogous authority of other federal courts of appeal.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or**

would you use your own judgment of the merits, or your best judgment of the merits?

Response: I believe district court judges are duty bound to apply precedential authority issued by the Supreme Court and the court of appeals of the circuit in which they sit. If confirmed, I would be fully prepared to apply precedent.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: District court judges may appropriately declare a federal statute unconstitutional where it is contrary to a constitutional provision or where Congress has exceeded its authority. In making this determination, I would be guided by the Supreme Court's interpretation of the applicable constitutional provision and all applicable precedent of the Supreme Court and the Second Circuit Court of Appeals.

7. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

Response: If confirmed, I would seek to manage my caseload by setting and enforcing firm deadlines for pretrial discovery and motions. I would work closely with the Magistrate Judges assigned to the matters to insure that the cases were proceeding in accordance with the schedule and to intervene promptly where they were not. I would endeavor to decide all motions expeditiously and would not hesitate to facilitate settlement discussions or encourage mediation. In addition, I would seek the counsel of my fellow district court judges concerning best practices for case management.

8. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

Response: Judges play a most important role in controlling the pace and conduct of litigation. If confirmed, in addition to the specific steps outlined in response to Question 7, I would also encourage litigants to treat each other with professionalism and to seek the help of the court where such professionalism was lacking.

9. **Please describe with particularity the process by which these questions were answered.**

Response: I received the questions on Wednesday, August 3, 2011. I prepared my responses over the following several days and then reviewed my responses with representatives of the Department of Justice. I then finalized my responses and authorized their transmittal to the Committee.

10. **Do these answers reflect your true and personal views?**

Response: Yes.

Responses of Edgardo Ramos
Nominee to be United States District Judge for the Southern District of New York
to the Written Questions of Senator Amy Klobuchar

1. **If you had to describe it, how would you characterize your judicial philosophy – and how do you see the role of the judge in our constitutional system?**

   Response: I believe a judge must at all times demonstrate an abiding respect for the rule of law and an understanding of the limited role of judges within our constitutional system. The limited role of judges means that they should exercise restraint in all matters by deciding only the issues in controversy and by applying applicable precedent. A judge must also promote respect for the rule of law by deciding matters fairly, impartially and promptly, and by treating all parties that come before the court with respect.

2. **As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

   Response: As stated above, I believe federal judges have a responsibility to promote respect for the rule of law by treating all parties with respect and courtesy. If confirmed, I will endeavor to assure all litigants that they will be given a fair opportunity to be heard on all issues reasonably touching upon the matters in controversy, and that I will remain open minded throughout the litigation. Over the course of my professional career I have had the honor of representing litigants in civil and criminal matters both as counsel for plaintiff, federal prosecutor, and defense attorney. I have represented the United States government and federal criminal defendants, as well as multinational corporations and indigent individuals. I believe in each case I have represented my client zealously, honorably and competently. I believe this experience establishes my ability – and my commitment – to treat all litigants fairly.

3. **In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? Does the commitment to stare decisis vary depending on the court?**

   Response: In my opinion, district court judges are duty bound to apply precedential authority issued by the Supreme Court and the court of appeals of the circuit in which they sit. If confirmed, I would be fully prepared to apply such precedent. The obligation to follow precedent applies to all courts. I do not believe it varies depending on the court.

Responses of Jennifer Guerin Zipps
Nominee to be United States District Judge for the District of Arizona
to the Written Questions of Senator Chuck Grassley

1. **What is the most important attribute of a judge, and do you possess it?**

   Response: I believe that the most important attribute of a judge is integrity. A judge with integrity is one who is consistently faithful to the law, truthful, trustworthy, fair, principled and honest. I believe I possess this attribute.

2. **Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?**

   Response: The most important elements of an appropriate judicial temperament include respectfulness, patience, and humility. A judge's temperament sets the tone of court proceedings and may influence the public's confidence in our judicial system. I believe I have this temperament and hence meet this standard.

3. **In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular circuit. Are you committed to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

   Response: Yes.

4. **At times, judges are faced with cases of first impression. If there were no controlling precedent that dispositively concluded an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

   Response: I would look for guidance from rulings of the Supreme Court and other federal appellate courts in an analogous case. I would also consider any rule, regulation, statute or constitutional provision that might have a bearing on the issue to be resolved. Finally, I would look to decisions of the district court and state courts in any analogous cases to determine if they provided persuasive authority. In resolving the case and undertaking these tasks, I will be guided by the principles of adherence to the rule of law, the need to exercise judicial restraint, and the need to foster confidence in the judiciary.

5. **What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your own judgment of the merits, or your best judgment of the merits?**

   Response: I would follow the precedent of the Supreme Court and Ninth Circuit Court of Appeals regardless of my personal beliefs.

6. **Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

   Response: A federal court should only declare a statute enacted by Congress unconstitutional when Congress has exceeded its authority set forth in the Constitution or enacted legislation in contravention of the Constitution. In considering a challenge to a statute, a federal court should look to binding precedent interpreting the constitutional provision at issue.

7. **As you know, the federal courts are facing enormous pressures as their caseload mounts. If confirmed, how do you intend to manage your caseload?**

   Response: As a Magistrate Judge in the United States District Court for the District of Arizona, I am familiar with the large volume of cases and the tools available for management of the mounting caseload. To ensure the just, speedy, and inexpensive determination of each civil action, I would set meaningful deadlines for conducting discovery and filing motions, promptly set motions hearings and trials, and make myself available for resolution of discovery disputes. In criminal cases, I would set motions hearings, deadlines, status conferences and trials in a manner that would ensure compliance with the Speedy Trial Act. I would continue to use the District's e-management tools for monitoring the progress of cases, and I would continue my practice of issuing orders and opinions promptly once a matter is taken under advisement. I would also continue the District's current practice of fully utilizing magistrate judges in civil and criminal cases to ensure the District's many cases are timely heard and resolved.

8. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket?**

   Response: I believe that judges have an important role in controlling the pace and conduct of litigation. A judge must ensure that litigation is promptly resolved without undue expense. If confirmed, I would employ the case management techniques discussed in my answer to Question 7.

9. **Please describe with particularity the process by which these questions were answered.**

   Response: I personally reviewed the questions and, after some careful reflection, prepared my responses. I then forwarded my responses to the Department of Justice for submission to the Senate Judiciary Committee.

10. **Do these answers reflect your true and personal views?**

    Response: Yes.

Responses of Jennifer Guerin Zipps
Nominee to be United States District Judge for the District of Arizona
to the Written Questions of Senator Amy Klobuchar

1. **If you had to describe it, how would you characterize your judicial philosophy – and how do you see the role of the judge in our constitutional system?**

   Response: A judge should seek to adhere to the rule of law and strive to create a fair and impartial forum for the resolution of disputes. A judge should ensure that each party is provided an opportunity to be heard and is treated respectfully in the presentation of his or her position. In terms of our constitutional system, a judge must always be mindful that his or her role is not to legislate, but to apply the law that has been enacted, and to ensure that legislation and its execution is consistent with law and with constitutional principles.

2. **As the one undemocratic branch, the courts have a special responsibility to make sure they are available to those Americans most in need of the courts to protect their rights. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

   Response: As a magistrate judge for six years, I believe I have demonstrated my commitment to treat each person who appears before me fairly and with respect, regardless of political beliefs, nationality, socioeconomic status, or status as a plaintiff or defendant. Equal justice under the law is fundamental to the credibility of our legal system. Should I be confirmed, I pledge that each person who appears before me will receive equal access and just treatment.

3. **In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? Does the commitment to stare decisis vary depending on the court?**

   Response: Judges must respect precedential opinions in order to instill confidence that the result in a given case is not merely a function of who happens to be deciding it. If a specific issue has been previously decided by a controlling Circuit Court of Appeals or the Supreme Court, a judge must follow the precedent. A commitment to the doctrine of stare decisis should not vary depending on the court. Proper respect for precedent must be the rule at all levels of our judicial system.

SUBMISSIONS FOR THE RECORD

CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

FIRST CIRCUIT
Lisa G. Arrowood
28 State Street
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
60 East 42nd Street
New York, NY 10165-0023

THIRD CIRCUIT
Robert C. Heim
Cira Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephan Landsman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Edith R. Matthai
Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramon A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Fitanza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
426 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION
Standing Committee on
the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 20, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Andrew L. Carter, Jr. to the United States District Court for the Southern District of New York

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Andrew L. Carter, Jr. who has been nominated for a position on the United States District Court for the Southern District of New York. As a result of our investigation, the Committee is of the unanimous opinion that Magistrate Judge Carter is "Qualified" for the position. There was one recusal.

A copy of this letter has been provided to Andrew L. Carter, Jr.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Andrew L. Carter, Jr.
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 20, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
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Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

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Benjamin H. Hill, III
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101 East Kennedy Boulevard
Tampa, FL 33602-5156

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2929 Arch Street
Philadelphia, PA 19104-2808

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Suite 2300
301 South College Street
Charlotte, NC 28202-6021

FIFTH CIRCUIT
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Suite 400
One Jackson Place
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SIXTH CIRCUIT
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Suite 4000
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SEVENTH CIRCUIT
Stephen Landman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
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500 South Grand Avenue
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Suite 700
810 Richards Street
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Paul T. Moxley
15th Floor
111 East Broadway
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Suite 1268
9155 South Dadeland Boulevard
Miami, FL 33156-2739

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Carolyn H. Williams
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Joseph M. Priemza
Suite 1200
1100 17th Street, N.W.
Washington, DC 20005-4096

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

June 8, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Jesse Furman
To the United States District Court
for the Southern District of New York

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Jesse Furman who has been nominated for a position on the United States District Court for the Southern District of New York. As a result of our investigation, a majority of the Committee is of the opinion that Mr. Furman is "Qualified". A minority of the Committee is of the opinion that Mr. Furman is "Well Qualified" for the position. There was one recusal.

A copy of this letter has been provided to Jesse Furman.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Jesse Furman
The Honorable Robert F. Bauer
Michael Zubrensky, Esq.(via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on June 8, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
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Hon. Richard Blumenthal

Minority:

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Hon. Tom Coburn

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Suite 3700
101 East Kennedy Boulevard
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Lisa G. Arrowood
28 State Street
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60 East 42nd Street
New York, NY 10165-0023

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Cira Center
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E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6031

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Suite 400
One Jackson Place
188 East Capitol Street
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Suite 4000
500 Woodward Avenue
Detroit, MI 48226

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25 East Jackson Boulevard
Chicago, IL 60604

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David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Erlich R. Matthai
Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4228

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
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Washington, DC 20005-5901

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Joseph M. Potenza
Suite 1200
1150 17th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 20, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of James Rodney Gilstrap
To the United States District Court
for the Eastern District of Texas

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of James Rodney Gilstrap who has been nominated for a position on the United States District Court for the Eastern District of Texas. As a result of our investigation, the Committee is of the unanimous opinion that Mr. Gilstrap is "Qualified" for the position.

A copy of this letter has been provided to James Rodney Gilstrap.

Sincerely,

Benjamin H. Hill, III
Chair

cc: James Rodney Gilstrap
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 20, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

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CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

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Suite 2300
301 South College Street
Charlotte, NC 28202-6021

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Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

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Suite 4000
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Lazebnik
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

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Edith R. Matthai
Suite 1500
500 South Grand Avenue
Los Angeles, CA 90071

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Moxley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 17th Street, N.W.
Washington, DC 20036-4656

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
428 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

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Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

May 6, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Edgardo Ramos
To the United States District Court
for the Southern District of New York

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Edgardo Ramos who has been nominated for a position on the United States District Court for the Southern District of New York. As a result of our investigation, the Committee is of the unanimous opinion that Mr. Ramos is "Well Qualified" for the position. There was one recusal.

A copy of this letter has been provided to Edgardo Ramos.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Edgardo Ramos
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on May 6, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
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Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
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CHAIR
Benjamin H. Hill, III
Suite 3700
101 East Kennedy Boulevard
Tampa, FL 33602-5156

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60 East 42nd Street
New York, NY 10165-0023

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Cira Center
2929 Arch Street
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E. Fitzgerald Parnell, III
Suite 2300
301 South College Street
Charlotte, NC 28202-6021

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David W. Clark
Suite 400
One Jackson Place
188 East Capitol Street
Jackson, MS 39201

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W. Anthony Jenkins
Suite 4000
590 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Landerman
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
8th Floor
Fleming Building
218 Sixth Avenue
Des Moines, IA 50309-4013

NINTH CIRCUIT
Jeanne M. Carney
17th Floor
4 Embarcadero Center
San Francisco, CA 94111-4158

Alan Van Etten
Suite 700
810 Richards Street
Honolulu, HI 96813-4728

TENTH CIRCUIT
Paul T. Morley
11th Floor
111 East Broadway
Salt Lake City, UT 84111-5225

ELEVENTH CIRCUIT
Ramón A. Abadin
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2739

D.C. CIRCUIT
Carolyn H. Williams
725 12th Street, N.W.
Washington, DC 20005-5901

FEDERAL CIRCUIT
Joseph M. Potenza
Suite 1200
1100 13th Street, N.W.
Washington, DC 20005-4056

BOARD OF GOVERNORS
LIAISON
C. Timothy Hopkins
420 Park Avenue
Idaho Falls, ID 83402

STAFF COUNSEL
Denise A. Cardman
202-662-1762
cardmanda@staff.abanet.org

Please respond to:
Benjamin H. Hill, III, Esq.
Hill Ward Henderson
101 E. Kennedy Blvd., Suite 3700
Tampa, Florida 33602
Tel: (813) 227-8420
Fax: (813) 221-2900
Email: bhill@hwhlaw.com

AMERICAN BAR ASSOCIATION

Standing Committee on the Federal Judiciary
740 Fifteenth Street, NW
Washington, DC 20005-1022
Facsimile: (202) 662-1762

VIA EMAIL AND FIRST CLASS MAIL

June 24, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Jennifer Guerin Zipps
To the United States District Court
for the District of Arizona

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Jennifer Guerin Zipps who has been nominated for a position on the United States District Court for the District of Arizona. As a result of our investigation, the Committee is of the unanimous opinion that Magistrate Judge Zipps is "Well Qualified" for the position.

A copy of this letter has been provided to Jennifer Guerin Zipps.

Sincerely,

Benjamin H. Hill, III
Chair

cc: Jennifer Guerin Zipps
The Honorable Robert F. Bauer
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

June 24, 2011
Page 2

This letter was sent to the following members of the Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, D.C. 20510-6275 on June 24, 2011.

Majority:

Hon. Patrick J. Leahy, Chairman
Hon Herbert Kohl
Hon. Dianne Feinstein
Hon. Charles E. Schumer
Hon. Richard J. Durbin
Hon. Sheldon Whitehouse
Hon. Amy Klobuchar
Hon. Al Franken
Hon. Christopher Coons
Hon. Richard Blumenthal

Minority:

Hon., Charles E. Grassley, Ranking Member
Hon. Orrin G. Hatch
Hon. Jeff Sessions
Hon. Jon Kyl
Hon. Lindsey O. Graham
Hon. John Cornyn
Hon. Mike Lee
Hon. Tom Coburn

Sen. Cornyn's Statement on Nomination of Rodney Gilstrap

- Mr. Chairman, I am pleased to take this opportunity to speak in support of the nomination of Rodney Gilstrap to serve as United States District Judge for the Eastern District of Texas in Marshall. Senator Hutchison and I were both honored to recommend Mr. Gilstrap to President Obama after he was screened by our bipartisan Federal Judicial Evaluation Committee and interviewed by us.

- Based on his broad experience and commitment to public service, Mr. Gilstrap has earned widespread support from both Republicans and Democrats in Texas.

- I am confident that Mr. Gilstrap will make an outstanding addition to the federal bench.

- Born in Pensacola, Florida, Mr. Gilstrap got to Texas as fast as he could. He graduated *magna cum laude* and *Phi Beta Kappa* from Baylor University. He received his law degree also from Baylor University, serving as an Associate Editor for the Baylor Law Review.

- After law school, Mr. Gilstrap went on to work as an associate with Abney, Baldwin & Searcy in Marshall, Texas, from 1981 to 1984 and as a partner with Smith & Gilstrap, also in Marshall, from 1984 until today.

- His practice is a general civil practice, focusing on state and federal civil and commercial litigation. He has experience with many areas, including oil and gas, real estate, and probate law.

- He has represented, among others, Qwest Communications, CapitolOne Bank, and LG Display as local counsel in intellectual property litigation.

- In 1989, he began his 13-year tenure serving County Judge for Harrison County. He developed a reputation and record for achievement in that capacity, as he directed several important projects for the county.

- Mr. Gilstrap's commitment to public service extends far beyond his tenure as County Judge. He has served as President of the Harrison County Bar Association, Chairman of the Supreme Court of Texas' Unauthorized Practice of Law Committee, and Chairman of the Chief Elected Officials Board of Directors for the East Texas Council of Governments.

- He is a model citizen of East Texas in other capacities. He has served as President of the Marshall Rotary Club, as President of the Harrison County Historical Society, as Chairman of the Historic Harrison County Courthouse Restoration/Preservation Council, and as the Harrison County Representative to the Northeast Texas Regional Mobility Authority.

- Mr. Gilstrap's daughter, Dr. Lauren Gilstrap, is a recent graduate of Harvard Medical School and is now in a residency at Massachusetts General. She was a Truman Scholar at UT Austin. His son, Stephen, graduated from Yale Law School in May and is preparing to take the Texas Bar exam this week.

- Don Scoggins, the retired President of Eastman Chemical Company's Texas Division and an East Texas community leader, had this to say about Rodney Gilstrap:

    - "Rodney always impressed me as a person who was in public office for the right reason—public service. Harrison County was fortunate to have had a person of his integrity as County Judge."

- In short, this nominee meets the highest standards for education, ethics, competence, and public service—and will be an outstanding addition to the federal bench in East Texas.

- I urge you to join Senator Hutchison and me in supporting Mr. Gilstrap's nomination to be a U.S. District Judge for the Eastern District of Texas.

-30-

July 1, 2011

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

We write in support of the nomination of Jesse M. Furman to the United States District Court for the Southern District of New York.

Each of us served as a law clerk to a justice of the Supreme Court of the United States during the 2002-03 Term, when Mr. Furman served as a law clerk to Associate Justice David Souter. Our careers have gone in diverse directions since then, and we hold a wide range of political and jurisprudential views. But all of us firmly believe Mr. Furman has the intellect, experience, and temperament to be an outstanding federal district court judge.

Throughout our clerkship year, Mr. Furman approached the Court's demanding workload in a fair-minded, intellectually rigorous fashion. He approached each case on its merits, took the ideas and viewpoints of others seriously, and was willing to reexamine his own thinking when presented with compelling new arguments.

We also all enjoyed having Mr. Furman as a colleague. No matter how difficult or controversial the case, his interactions with us were always friendly, courteous, calm, and constructive.

Mr. Furman has had a stellar career since completing his clerkship. In addition to many years of distinguished service in the U.S. Attorney's Office for the Southern District of New York (culminating in his current position as Deputy Chief of Appeals), where he has been exposed to the wide variety of cases and issues that would be on his docket as a district court judge, he also worked for over a year as counselor to then-Attorney General Michael Mukasey. Through his service in these positions, Mr. Furman has demonstrated his deep respect for and commitment to the rule of law, over and above politics or ideology. To each of these positions, Mr. Furman has brought tremendous intellectual rigor, an open

mind, and good common sense. He displayed all of those qualities in abundance the year we worked with him.

In sum, we are all confident that Mr. Furman has the necessary qualifications, abilities, and characteristics to be a truly outstanding federal district judge. We support his nomination without hesitation and without reservation.

Respectfully submitted,

Priya Aiyar
Law Clerk to Justice Breyer, 2002-03

Leah Brannon
Law Clerk to Chief Justice Rehnquist, 2002-03

Andrew R. DeVooght
Law Clerk to Chief Justice Rehnquist, 2002-03

Victoria Dorfman
Law Clerk to Justice Thomas, 2002-03

Mark C. Fleming
Law Clerk to Justice Souter, 2002-03

John M. Golden
Law Clerk to Justice Breyer, 2002-03

Emily Johnson Henn
Law Clerk to Justice O'Connor, 2002-03

Toby J. Heytens
Law Clerk to Justice Ginsburg, 2002-03

Allyson N. Ho
Law Clerk to Justice O'Connor, 2002-03

Derek T. Ho
Law Clerk to Justice Souter, 2002-03

Robert K. Hur
Law Clerk to Chief Justice Rehnquist, 2002-03

Sarah L. Levine
Law Clerk to Justice Souter, 2002-03

Brian R. Matsui
Law Clerk to Justice Kennedy, 2002-03

Troy A. McKenzie
Law Clerk to Justice Stevens, 2002-03

Trevor W. Morrison
Law Clerk to Justice Ginsburg, 2002-03

Brian J. Murray
Law Clerk to Justice Scalia, 2002-03

Justin A. Nelson
Law Clerk to Justice O'Connor, 2002-03

Maritza U.B. Okata
Law Clerk to Justice Breyer, 2002-03

Eric R. Olson
Law Clerk to Justice Stevens, 2002-03

John C. O'Quinn
Law Clerk to Justice Scalia, 2002-03

Elizabeth G. Porter
Law Clerk to Justice Ginsburg, 2002-03

Cristina M. Rodriguez
Law Clerk to Justice O'Connor, 2002-03

Gil Seinfeld
Law Clerk to Justice Scalia, 2002-03

Anne K. Small
Law Clerk to Justice Breyer, 2002-03

Karl R. Thompson
Law Clerk to Justice Ginsburg, 2002-03

Igor V. Timofeyev
Law Clerk to Justice Kennedy, 2002-03

Emin Toro
Law Clerk to Justice Thomas, 2002-03

Kathryn A. Watts
Law Clerk to Justice Stevens, 2002-03

Amy J. Wildermuth
Law Clerk to Justice Stevens, 2002-03

Michael F. Williams
Law Clerk to Justice Kennedy, 2002-03

July 6, 2011

The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Charles Grassley, Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Members of the Judiciary Committee:

We write in our personal capacities in support of the nomination of our law school classmate, Jesse M. Furman, to the United States District Court for the Southern District of New York.

We were Jesse's classmates at Yale Law School, and in that time, we observed him both in and outside of the classroom. Regardless of the setting, we were struck not merely by Jesse's outstanding mind but by the strength of his character, work ethic, and personality. In a community of many highly intelligent and able individuals, Jesse stood out. He not only had a keen grasp of the law, but he was able to apply a common sense understanding to its implications. Equally importantly, Jesse was (and remains) a pleasure to discuss any issue with, both due to his intellect and his open-mindedness. In any academic institution, one learns not merely from the teachers but also from classmates, and we all learned from Jesse.

None of us has been surprised by the professional successes Jesse has achieved since graduating from law school. He has consistently served in positions where he has worked to further the public interest, including as a law clerk—on the United States Supreme Court, the United States Court of Appeals for the Second Circuit, and the Court to which he has been nominated—and as a public servant in the Department of Justice, both as an Assistant United States Attorney and as Counselor to Attorney General Mukasey. The career path that Jesse has taken and the positions he has held underscore that his loyalty is not to any party but to the public at large.

Regardless of our political affiliations or legal philosophies, we recognize the outstanding abilities and attributes that Jesse would bring to the bench and have no doubt that Jesse would make an outstanding jurist. His temperament and intellect would ensure a fidelity to the law that is essential in any judge. We respectfully urge his confirmation.

Michael B. Abramowicz
Professor of Law
George Washington University Law School

April Adams-Johnson
North Haven, Connecticut

Laura I. Appleman
Associate Professor of Law
Willamette University

John G. Balestriere
Balestriere Fariello

Elena Baylis
Washington, DC

Jeanette Melendez Bead
Levine Sullivan Koch & Schulz LLP

R. Bhaskar
Independent Scholar,
Cambridge, Massachusetts.

Alix Biel
New York, New York

Rob Bonta
Vice Mayor, City of Alameda, California

Greg Bowman
Washington, DC

Jonathan Boyarin
University of North Carolina at Chapel Hill

Clifton L. Brinson
Partner, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP

Julius Buchanan
Hong Kong, China

William A. Burck
Partner, Weil, Gotshal & Manges LLP

Christina Duffy Burnett
Columbia Law School

Steve Charnovitz
Associate Professor of Law
George Washington University Law School

Partha P. Chattoraj
Greenwich, Connecticut

Jennifer M. Chacon
Professor of Law
U.C. Irvine School of Law

Gregory S. Chernack
Partner, Hollingsworth LLP

Iris Chiu
New York, New York

Polly Clark

Sandra Cohen
Partner, Osler, Hoskin & Harcourt LLP

John Collins
White Plains, New York

J. Aaron Cook
Kansas City, Missouri

James R. Copland
Director, Center for Legal Policy
Manhattan Institute for Policy Research

Florence A. Crisp
Partner, Edwards Angell Palmer & Dodge LLP

Ben Davis
Partner, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP

Melvin Davis
Raleigh, North Carolina

Marie T. DeFalco
Lowenstein Sandler PC

Derek R. Douglas
Washington, DC

Ariela Dubler
Professor of Law
Columbia Law School

Rebeccah Keating Edelstein
Davis Wright Tremaine LLP

Kianga Ellis
Avail Art, L.L.C.

Matthew J. Fader
Baltimore, Maryland

Steven Farr
Washington, DC

Christina G. Forbush
Baltimore, MD

Brett Gerry
Seattle, Washington

Mark Gerson
Gerson Lehrman Group

Elizabeth Goitein
Washington, DC

Robin S. Golden
Yale Law School

Robert Gordon
Washington, DC

Risa L. Goluboff
Caddell & Chapman Professor of Law
Professor of History
University of Virginia School

Kara Hailey
Cleary Gottlieb Steen & Hamilton LLP

Rachel J. Harris
Los Angeles, California

Kendra K. Hartman

Damon J. Hemmerdinger
Senior Vice President, ATCO

Steve J. Hess
Munster, Indiana

Stephen Hsu
Global Fund Derivatives
Deutsche Bank AG London

Bacardi L. Jackson
Counsel, Tucker Law Group LLC

Stephen M. Juris
Partner, Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer

Ben Kerschberg
Fairfax, Virginia

Tahia Z. Khan
Vinson & Elkins

Matthew Klein
Executive Director, Blue Ridge Foundation New York
New York City, New York

Jay L. Koh

Jonathan M. Landy
Bethesda, Maryland

Cynji Lee
Assistant County Attorney for Miami-Dade County
Miami, Florida

Eva Lehman
Assistant General Counsel, Litigation and Compliance
Western Digital Corporation
Irvine, California

Amy L. Levine
Washington, DC

Goodwin Liu
Professor of Law
University of California Berkeley School of Law

Jessie K. Liu

Andrea Luby
Kansas City, Missouri

Joseph W. Luby
Kansas City, MO

Juli Ann Lund
Washington, DC

Gerard N. Magliocca
Samuel R. Rosen Professor of Law
Indiana University — Indianapolis

Paul Mandell
Bethesda, Maryland

Michael L. McCabe
Buffalo, New York

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Washington DC

Dmitri Mehlhorn
Chief Operating Officer
StudentsFirst

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Washington, DC

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Chairman & President
Voxiva, Inc.

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University of Minnesota Law School

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New York New York

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The University of Michigan

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Charles Evans Gerber Professor of Law
Columbia Law School

Camille Gear Rich
Pasadena, California

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University of Georgia School of Law

Andrea Roth
Assistant Professor, UC Berkeley School of Law

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Washington, DC

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Harvard Law School

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Nashville, Tennessee

Michael Saul
National Wildlife Federation
Boulder, Colorado

Greg Schwartz, MD JD
Brigham and Women's Hospital
Harvard Medical School

Thomas E. Shakow
Washington, DC

Christian Shea
CEO, Equitas Capital

Alison Siegler
University of Chicago Law School

Jason Small
Director, Financial Stability
United Way of the National Capital Area

Joshua Steinglass
New York, New York

Gloria Tan
Deputy Director, Criminal Justice Institute
Harvard Law School

Mark R. Trachtenberg
Houston, Texas

Rebecca Tushnet
Professor of Law, Georgetown

Shelley White
Dallas, Texas

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Partner, DLA Piper LLP (US)

Petra Renée Wicklund
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Washington, DC

John Fabian Witt
Allen H. Duffy Class of 1960 Professor of Law
Yale Law School

Craig A. Wolfe
Partner, Kelley Drye & Warren LLP

Andrea R. Wood
Chicago, Illinois

Stephen G. Yoder
Washington, DC

Monica Youn
New York, New York

Jonathan Zhu
Partner, Wilson Sonsini Goodrich & Rosati P.C.

Institutional affiliations are listed for identification purposes only; individuals are signing solely in their personal capacities.

Statement of Senator Chuck Grassley

Before the Committee on the Judiciary

On the Nominations of:

Edgardo Ramos, to be United States District Judge for the Southern District of New York

Andrew L. Carter, Jr., to be United States District Judge for the Southern District of New York

Jesse M. Furman, to be United States District Judge for the Southern District of New York

James Rodney Gilstrap, to be United States District Judge for the Eastern District of Texas

Jennifer Guerin Zipps, to be United States District Judge for the District of Arizona

July 27, 2011

Mr. Chairman:

I welcome the nominees appearing before us today as well as their families and friends. Nomination hearings are an important event for the nominees, their families, as well as for this institution and for the public.

The Committee has taken this responsibility seriously. Today's hearing is the eleventh judicial nominations hearing held during this Congress. After today, we will have reviewed the qualifications of 50 judicial nominees. We have confirmed 31 Article III and Article IV judicial nominees during this Congress. In total, this year we have taken positive action on 67 of 87 nominees. That is 77 percent of the judicial nominations submitted during this Congress. Despite this level of activity and progress, we continue to hear unfounded criticism of delays and obstruction. Those complaints are clearly without merit.

Mr. Chairman, again, I welcome each of the nominees appearing before the Committee today, and look forward to their testimony.

Andrew L. Carter, Jr. is nominated to be United States District Judge for the Southern District of New York. He is a graduate of the University of Texas and Harvard Law School. Judge Carter's legal career began in 1996 as a Staff Attorney

for the Criminal Defense Division with the Legal Aid Society in New York, NY. Until 2000, Judge Carter practiced in state court, handling criminal cases such as misdemeanors, low level drug cases and a few violent felonies. In 2000, he joined the Federal Defenders Division as a Staff Attorney. From then on, he practiced in federal court. He became affiliated with the Federal Defenders of New York in 2005, first as a Staff Attorney and one year later as a Supervising Attorney. In 2009, Judge Carter was appointed to the position of United States Magistrate Judge for the Eastern District of New York and currently serves in that position. The ABA Standing Committee on the Federal Judiciary has unanimously rated Judge Carter as "Qualified."

Jesse M. Furman is nominated to be United States District Judge for the Southern District of New York. Mr. Furman graduated with a B.A. from Harvard in 1994 and with a J.D. from Yale Law School in 1998. After graduation from law school, he clerked for Judge Michael Mukasey on the Southern District of New York and then Jose Cabranes on the

U.S. Court of Appeals for the Second Circuit. Following his clerkships, Mr. Furman worked as a litigation associate at Wiggin & Dana LLP in New Haven, CT. In 2002, Mr. Furman left the firm to work as a law clerk for Justice David Souter on the Supreme Court of the United States. After completing his clerkship, he returned to Wiggin & Dana. From 2004 to 2007, Mr. Furman was a federal prosecutor in the U.S. Attorney's Office for the Southern District of New York. From 2007 to 2009, Mr. Furman took a detail from the U.S. Attorney's Office to be Counselor to Attorney General Michael B. Mukasey in the Department of Justice. In 2009, Mr. Furman returned to the U.S. Attorney's Office for the Southern District of New York, serving as Deputy Chief Appellate Attorney. The ABA Standing Committee on the Federal Judiciary has given Mr. Furman a majority "Qualified" / minority "Well Qualified" rating.

James Rodney Gilstrap is nominated to be United States District Judge for the Eastern District of Texas. Following graduation from Baylor University and Baylor School of Law,

Mr. Gilstrap served as an Associate Attorney for Abney, Baldwin and Searcy from 1981 to 1984. In 1984 he left to begin his own legal practice, Smith and Gilstrap, where he currently practices. In addition to his legal practice, since 2002, he has served as a mediator in disputes on a broad range of issues including, wrongful death actions, disputes over real property, and personal injury issues. He currently serves on the Texas Unauthorized Practice of Law Committee. From 1989 to 2002, Mr. Gilstrap served as a County Judge in Harrison County, Texas. He was initially appointed in 1989 to fill the unexpired term of his predecessor. He was reelected in 1990, 1994, and 1998. As a County Judge he had both administrative and judicial responsibilities. The County Court's jurisdiction was on of limited jurisdiction, in which he heard small dollar civil claims, misdemeanor and juvenile criminal matters, involuntary commitment matters, and had original jurisdiction over probate matters. The ABA Standing Committee on the Federal Judiciary has unanimously rated Mr. Gilstrap as "Qualified."

Edgardo Ramos is nominated to be United States District Judge for the Southern District of New York. Mr. Ramos earned his B.A. from Yale College in 1982 and his J.D. from Harvard Law School in 1987. Upon graduation from law school, Mr. Ramos worked as an associate at the law firm Simpson Thatcher & Bartlett in New York City. In 1992, Mr. Ramos joined the Office of the United States Attorney for the Eastern District of New York where he prosecuted a variety of federal crimes including white collar crime, defense contractor fraud, money laundering, narcotics trafficking, labor racketeering and violations of the Arms Export Control Act. In June 2000, he was promoted to be Deputy Chief of the Narcotics Section. In 2002, Mr. Ramos joined the law firm Day, Berry & Howard LLP, predecessor to the firm Day Pitney LLP, as a partner in the Government Investigations Practice Group. Currently, he represents corporations and individuals in connection with criminal and regulatory investigations conducted by federal and state agencies involving antitrust, bank fraud, public corruption, securities

fraud and government program fraud. The ABA Standing Committee on the Federal Judiciary has unanimously rated Mr. Ramos as "Well Qualified."

Jennifer Guerin Zipps is nominated to be United States District Judge for the District of Arizona. Judge Zipps earned her B.A. from the University of Arizona in 1986, and her J.D. from Georgetown Law in 1990. She began her legal career by clerking for Judge William C. Canby of the Ninth Circuit Court of Appeals. From 1991 to 1995, she served as an Associate with Molloy, Jones & Donahue. From 1995 to 2005, Judge Zipps served as an Assistant United States Attorney. From 1995 to 2001, she worked in the Civil Division, representing the United States, its agencies and employees in tort, employment discrimination, bankruptcy and other litigation matter brought against or by the government. In 2002, she became Chief of the Civil Division. In 2002, she was promoted to be Chief Assistant. As Chief Assistant, she managed the Criminal, Civil and Appeal Divisions and the operations and policies of the United

States Attorney's office in Tucson. In 2005 she was appointed to be a United States Magistrate Judge for the District of Arizona. The ABA Standing Committee on the Federal Judiciary has unanimously rated Judge Zipps as "Well Qualified."

For the Record: Memberships and Activities of Jennifer Guerin Zipps

Memberships:

- Federal Bar Association, 2003 – Present
- Pima County Bar Association, various leadership roles, 1993 – Present
- District of Arizona, Local Rules Committee, 2008 – Present
- Magistrate Reappointment Review Committee, 2003
- Ninth Circuit Lawyer Representative, 2003 – 2005
- Ninth Circuit Public Information & Community Outreach Committee, 2009 – Present
- Pima County Superior Judicial Performance Conference Team
- Tucson Defense Bar, 1996 – 2005
    - *President*, 2004 – 2005

Other Activities:

- Courts-R-Us, *Mentor*, 1997 – Present
- Guardian Ad Litem program, *Volunteer*, 1997 – 2000
- Lawyers for Literacy, *Chairperson*, 1995 – 1999
- Pima County Attorney's Office, *Victim Witness Volunteer*, 1984 – 1987

Awards and Honors:

- United States Attorney's Office
    - Time Off Award (leadership), 2004
    - Special Act Award (performance as Civil Chief), 2002
    - Time Off Award (employment discrimination case), 2002
    - Special Act Award (bankruptcy case), 2000
    - Employee Volunteer Service Award, 1999
- Lifetime Achievement Award, University of Arizona James E. Rogers College of Law, 2002
- Outstanding Service Recognition for Literacy, 1999

919 Third Avenue
New York, NY 10022
Tel 212 909 6000
Fax 212 909 6836

July 27, 2011

The Hon. Chuck Grassley
Ranking Member of the U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
United States Senate
Washington, D.C. 20510

Jesse Furman

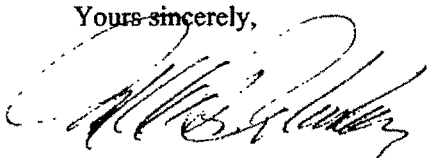
Dear Senator Grassley:

Jesse Furman, who served as my law clerk from 1998 to 1999, when I was a district judge in the Southern District of New York, and then as counselor in my office from 2007 to 2009, when I served as Attorney General, has been nominated for a seat on the Southern District bench. Having served on that Court for almost 19 years, and having had the benefit and privilege of Jesse's help both when I was a district judge and when I was Attorney General, I can think of no one better qualified than he is for that position.

His record includes clerkships in the chambers of Judge Jose Cabranes on the United States Court of Appeals for the Second Circuit, and Justice David Souter on the Supreme Court, and shows him to be a superb lawyer. But that is only the beginning of the story. His qualities of insight and even temperament make him stand out even among the outstanding. My view of him is perhaps best reflected in the fact that he is the first person I sought to hire after I was confirmed as Attorney General. I knew from experience when he served as my law clerk that I could rely on him for sound insight and advice on the most sensitive issues, and for clear and insightful thinking and writing. He did not disappoint. Jesse's portfolio as my counselor included the most sensitive national security and immigration issues, among others. His advice was unerringly sound and his help indispensable.

I am sure you have received letters from others who have had the benefit of Jesse's help, and that those letters too brim with superlatives. All I can hope to add is my own belief that he is a person to whom one can entrust decisions that are consequential to the lives of people and to the general welfare of the populace, with confidence that they will be made wisely and fairly. Again, I know of no one better qualified to serve on the bench to which he has been nominated, and I urge that he be confirmed.

Yours sincerely,



Michael B. Mukasey

NEW YORK
CITY BAR

COMMITTEE ON THE JUDICIARY

ELIZABETH DONOGHUE
CHAIR
15 MAIDEN LANE, 17TH FLOOR
NEW YORK, NY 10038
Phone: (212) 349-3000
Fax: (212) 587-0744
edonoghue@hmgdjlaw.com

PETER M. KOUGASIAN
VICE CHAIR
80 CENTRE STREET, ROOM 624
NEW YORK, NY 10013
Phone: (212) 815-0495
Fax: (212) 815-0498
pkougasian@specnarc.org

STEPHEN S. MADSEN
VICE CHAIR
825 EIGHTH AVENUE, 41ST FLOOR
NEW YORK, NY 10019
Phone: (212) 474-1886
Fax: (212) 474-3700
smadsen@cravath.com

MIRIAM M. BREIER
SECRETARY
156 FIFTH AVENUE, SUITE 600
NEW YORK, NEW YORK 10010
Phone: (212) 791-3900
Fax: (646) 649-9650
mmb@bdulaw.com

STEPHANIE G. WHEELER
SECRETARY
125 BROAD STREET
NEW YORK, NY 10004
Phone: (212) 558-7384
Fax: (212) 291-9166
wheelers@sullcrom.com

ELIZABETH DORFMAN
ADMINISTRATIVE ASSISTANT
42 W. 44TH STREET
NEW YORK, NY 10036
PHONE: (212) 382-6772
Fax: (212) 869-2145
edorfman@nycbar.org

July 13, 2011

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

We are pleased to inform you that the Committee on the Judiciary of the New York City Bar has found the Honorable Andrew Carter APPROVED for appointment to the United States District Court for the Southern District of New York.

Very truly yours,

Elizabeth Donoghue
Chair

COMMITTEE ON THE JUDICIARY

ELIZABETH DONOGHUE
CHAIR
15 MAIDEN LANE, 17TH FLOOR
NEW YORK, NY 10038
Phone: (212) 349-3000
Fax: (212) 587-0744
edonoghue@hmgdjlaw.com

PETER M. KOUGASIAN
VICE CHAIR
80 CENTRE STREET, ROOM 624
NEW YORK, NY 10013
Phone: (212) 815-0495
Fax: (212) 815-0498
pkougasian@specnarc.org

STEPHEN S. MADSEN
VICE CHAIR
825 EIGHTH AVENUE, 41ST FLOOR
NEW YORK, NY 10019
Phone: (212) 474-1886
Fax: (212) 474-3700
smadsen@cravath.com

MIRIAM M. BREIER
SECRETARY
156 FIFTH AVENUE, SUITE 600
NEW YORK, NEW YORK 10010
Phone: (212) 791-3900
Fax: (646) 649-9650
mmb@bdulaw.com

STEPHANIE G. WHEELER
SECRETARY
125 BROAD STREET
NEW YORK, NY 10004
Phone: (212) 558-7384
Fax: (212) 291-9166
wheelers@sullcrom.com

ELIZABETH DORFMAN
ADMINISTRATIVE ASSISTANT
42 W. 44TH STREET
NEW YORK, NY 10036
PHONE: (212) 382-6772
Fax: (212) 869-2145
edorfman@nycbar.org

July 13, 2011

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

We are pleased to inform you that the Committee on the Judiciary of the New York City Bar has found Jesse Furman, Esq., APPROVED for appointment to the United States District Court for the Southern District of New York.

Very truly yours,

Elizabeth Donoghue
Chair

COMMITTEE ON THE JUDICIARY

ELIZABETH DONOGHUE
CHAIR
15 MAIDEN LANE, 17TH FLOOR
NEW YORK, NY 10038
Phone: (212) 349-3000
Fax: (212) 587-0744
edonoghue@hmgdjlaw.com

PETER M. KOUGASIAN
VICE CHAIR
80 CENTRE STREET, ROOM 624
NEW YORK, NY 10013
Phone: (212) 815-0495
Fax: (212) 815-0498
pkougasian@specnarc.org

STEPHEN S. MADSEN
VICE CHAIR
825 EIGHTH AVENUE, 41ST FLOOR
NEW YORK, NY 10019
Phone: (212) 474-1886
Fax: (212) 474-3700
smadsen@cravath.com

MIRIAM M. BREIER
SECRETARY
156 FIFTH AVENUE, SUITE 600
NEW YORK, NEW YORK 10010
Phone: (212) 791-3900
Fax: (646) 649-9650
mmb@bdulaw.com

STEPHANIE G. WHEELER
SECRETARY
125 BROAD STREET
NEW YORK, NY 10004
Phone: (212) 558-7384
Fax: (212) 291-9166
wheelers@sullcrom.com

ELIZABETH DORFMAN
ADMINISTRATIVE ASSISTANT
42 W. 44TH STREET
NEW YORK, NY 10036
PHONE: (212) 382-6772
Fax: (212) 869-2145
edorfman@nycbar.org

June 14, 2011

The Honorable Patrick J. Leahy
Chairman, Senate Judiciary Committee
433 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Senator Leahy:

We are pleased to inform you that the Committee on the Judiciary of the New York City Bar has found Edgardo Ramos, Esq., APPROVED for appointment to the United States District Court for the Southern District of New York.

Very truly yours,

Elizabeth Donoghue
Chair

Committee on the Judiciary
United States Senate
"Nominations"
July 27, 2011

Senator Chuck Schumer

Today we have three nominees for the bench in the Southern District of New York – I recommended these fine candidates to the President, and I am pleased and proud to introduce them here today.

Because there are three nominees from New York, I will make my introductions brief and submit the rest of my encomia for all three superb candidates into the record.

Judge Andrew Carter
Finally, I am happy to introduce Judge Andrew Carter. Mr. Carter is from Albany – unfortunately, that's Albany, Georgia, not the great capital city of New York State. But we'll forgive him for that. He graduated from the University of Texas at Austin, and received his JD from Harvard Law School. After law school, he worked for two years at the Ford Foundation, and then became a public defender in New York courts, both state and federal. He spent nine years at the New York office of the Legal Aid Society, and then four years at the Federal Defenders of New York. Since 2009, he has served as a United States Magistrate Judge in the Eastern District of New York, a position for which he was selected by a vote of the sitting district judges. Mr. Carter exemplifies the three qualities I search for when evaluating potential judges – excellence, moderation, and diversity – and I am confident he will be a terrific addition to the Southern District bench.

Jesse Furman
First we have Jesse Furman. Mr. Furman was born and raised in New York City, graduated *summa cum laude* from Harvard and received his law degree from Yale. He served as a law clerk to then-Judge Michael Mukasey in the Southern District of New York, to Judge Jose Cabranes on the Second Circuit, and finally to Justice David Souter on the US Supreme Court. He spent several years as an associate at the law firm Wiggin & Dana, and took some significant time off to care for his first two children when they were infants. Since 2004 he has served as a federal prosecutor in the Southern District, including a stint as Counselor to Attorney General Mukasey. For the last two years, he has been Deputy Chief Appellate Attorney.

Mr. Furman's stellar record of academic and professional excellence, as well as his experience in both the public and private sectors and both civil and criminal law, make him an extremely impressive nominee. I was proud to recommend him, and look forward to his continued service to our country from the federal bench.

Edgardo Ramos
I am also pleased to introduce to the committee Edgardo Ramos, another nominee for the bench in the Southern District of New York. Mr. Ramos is a quintessential example of the American dream – he was born in Puerto Rico and was one of seven children raised by a single mother in

Newark, New Jersey. He excelled in school, earning his bachelor's degree from Yale and his law degree from Harvard. After graduating, he was an associate at the prestigious New York firm Simpson Thatcher & Bartlett, and then served for ten years as an Assistant United States Attorney in the Eastern District of New York, including as Deputy Chief of the Narcotics Section. Since 2002, he has been a partner in the New York offices of the law firm Day Pitney. Mr. Ramos has earned an outstanding reputation among his fellow lawyers, prosecutors, judges and in the Hispanic community, and will make an excellent judge.

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