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NOMINATIONS OF MICHAEL K. O'KEEFE AND ROBERT D. OKUN

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

NOMINATIONS OF MICHAEL K. O'KEEFE TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA AND ROBERT D. OKUN TO BE ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

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NOMINATIONS OF MICHAEL K. O'KEEFE AND ROBERT D. OKUN

WEDNESDAY, MAY 15, 2013

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

The Committee met, pursuant to notice, at 2:30 p.m., in room SD–342, Dirksen Senate Office Building, Hon. Mark Begich, presiding.

Present: Senators Carper, Begich, and Paul.

OPENING STATEMENT OF SENATOR BEGICH

Senator BEGICH. This hearing will come to order.

Thank you all very much for being here. Good afternoon. Today this Homeland Security and Government Affairs Committee meeting is to consider the nominations of Robert D. Okun and Michael K. O'Keefe to be Associate Judges of the District of Columbia Superior Court. Again, welcome to both of you and your families.

I am pleased that Congresswoman Norton is able to join us today to introduce these nominees. Thank you, also, for being here, Congresswoman. I would also like to extend a warm welcome, as I said earlier, to the families and friends of the nominees in attendance. I am glad you could join them to give them the support they need. I told them it would not be that painful, but who knows. We will see how they answer questions.

This Committee consistently receives excellent candidates nominated by the President, recommended by the nonpartisan District of Columbia Judicial Nomination Commission. This process is critical to ensuring we have candidates who are experienced and have the appropriate temperament to be in these positions.

It is no secret that judges have critically important duties in our society. Judges must uphold and interpret the law, resolve disputes equitably, and protect the rights and liberties of our citizens. If confirmed, I trust each of you will fulfill these responsibilities with respect, character, and deference befitting this court.

As many of you already know, Mr. Okun currently serves as the Head of Special Proceedings in the United States Attorney's Office for the District of Columbia. The Special Proceedings Division handles all post-conviction litigation in both U.S. District Court and Superior Court. Since 1987, Mr. Okun has worked for the Department of Justice (DOJ), both in the Civil Division and the U.S. Attorney's Office for the District.

Mr. O'Keefe is currently a solo practitioner with a practice that focuses mostly on criminal defense and family law. He has been a member of the District of Columbia Bar since 1994, handled more than 2,000 cases in the Supreme Court, and litigated over 200 trials. He serves on the panel of Criminal Justice Act Law, lawyers who are appointed by the court to represent indigent parties in criminal proceedings.

Mr. Okun and Mr. O'Keefe, I have reviewed your biographical questionnaires and believe you are both well-qualified to serve as Associate Judges for the Superior Court of the District of Columbia. While you have pursued different career paths within the legal field that led you to this point, I know you both will bring extensive legal experiences to the bench.

I look forward to your testimony and hearing about your education, experience, and other questions we will have for you. Again, thank you both for being here and allowing us some time today and for your willingness to serve.

Congresswoman Norton, again, thank you for joining us and let me proceed with your remarks.

TESTIMONY OF HON. ELEANOR HOLMES NORTON, A REPRESENTATIVE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Ms. NORTON. Thank you very much, Mr. Chairman. May I say it has been a pleasure working with you in your new role, although this may be the first time you have sat to hear from Article I judges, because the District of Columbia's judges are Article I judges, which means that though they are chosen in the District of Columbia, they must come before you and must be approved by the Senate. I will not belabor the outstanding qualifications of these two candidates which you have just described.

Mr. O'Keefe, it is enough to say that he has spent his entire career practicing in areas of primary importance to the Superior Court in criminal law and family law. He is a graduate of Notre Dame and of the American University's Washington College of Law where he was an associate editor of the Law Review.

Mr. Okun, similarly, has deep experience in the Superior Court of the District of Columbia and in the U.S. Court. He has served in virtually every top position in the U.S. Attorney's Office, has practiced in the District Court as well as the Superior Court. He has very extensive experience of the kind that would be particularly useful on our Superior Court.

He was a trial attorney at the Justice Department in addition to being an Assistant U.S. Attorney, and again, with outstanding educational background with his bachelor's from the University of Pennsylvania, Magna Cum Laude, and his law degree Cum Laude from Harvard Law School. He even clerked on the court where he hopes to sit.

I think this will not be a difficult task for you, Mr. Chairman.

Senator BEGICH. Thank you very much. I was about to say, what have they not both done? Our Committee rules require that the witnesses at a nomination hearing give their testimony under oath, so therefore, I ask you both to please stand and raise your right hand.

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

Mr. O'KEEFE. I do.

Mr. OKUN. I do.

Senator BEGICH. Thank you very much. Let it be noted for the record that both witnesses answered in the affirmative. And again, thank you all for being here.

Mr. O'Keefe, again, thank you for being here. Let me proceed with your opening statement.

TESTIMONY OF MICHAEL K. O'KEEFE,[1] NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. O'KEEFE. Thank you, Chairman Begich. Thank you for chairing today's hearing. I would also like to convey my appreciation to Senator Carper and Senator Coburn and the Committee staff for scheduling this hearing and treating me with such courtesy.

It is an honor to be a nominee for the Associate Judge of the Superior Court of the District of Columbia. I would like to thank Judge Emmet Sullivan and the Judicial Nominations Commission for referring me to the White House and to President Barack Obama for nominating me to this position.

Thank you, Congresswoman Eleanor Holmes Norton for your kind words in introducing me this afternoon. I would like to also acknowledge the members of the Superior Court community, the judges, lawyers, U.S. marshals, and support staff whose passion for justice and dedication to the people of the District of Columbia is an inspiration.

I would like to thank my wife, Susan, who has encouraged me to pursue a life of public service. Unfortunately, she is not here today. She is in Ireland on a business trip, but I trust she is watching this hearing on her laptop. My oldest son, Dylan, is here. He is taking a break from studying for high school finals. And my two other children, Quinn and Maeve, are in elementary school today. I would also like to thank Scott and Courtney Pastrick, my brother-in-law and sister-in-law, who are also present, and their son, Clark, who center our family here in Washington, DC. I am sorry to say that my parents, the late Francis and Mary O'Keefe, did not live to see this moment.

My father, who was a first generation American, served in World War II and obtained his law degree at night with the help of the G.I. Bill. He would have been especially proud. My mother was also a first generation American, who raised nine children with a smile on her face, would have loved to have been here. Finally, I would like to thank my brother, Dr. Robert O'Keefe, without whose support I would never have been able to attend law school. I am lucky to have been raised in a number of interesting locations around the world, but Washington, DC, is my home. I first came to Washington, DC, 26 years ago as a recent college graduate with a desire to pursue a career in public service.

[1] The prepared statement of Mr. O'Keefe appears in the Appendix on page 20.

While working in the U.S. Senate, I attended law school in the evening at American University where I learned to love the law. Although I was always interested in the litigation, it was not until I served as a juror on a homicide trial in D.C. Superior Court in 1994 that I was drawn to trial advocacy. I began accepting appointments in D.C. Superior Court representing low-income defendants and families while working for the law firm of O'Connor & Hannan. The work was so satisfying that by 1998, I left the firm to start my solo practice and I have never looked back. For the past 19 years, I have represented clients in nearly every division of D.C. Superior Court with the majority of my cases in the criminal and family divisions. Having handled so many matters in Superior Court, I have a strong appreciation for the essential qualities that make a great judge. I would be honored to put my experience to work ensuring that the people of this city receive an impartial and thoughtful consideration of their cases, and that justice is done with fairness and respect for all. Thank you, Mr. Chairman. I would be happy to answer any questions.

Senator BEGICH. Thank you very much. Let me go to Mr. Okun. You can go to your testimony, please.

TESTIMONY OF ROBERT D. OKUN,[1] NOMINATED TO BE AN ASSOCIATE JUDGE, SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. OKUN. Thank you, Mr. Chairman.

Mr. Chairman, thank you for giving me the opportunity to appear before you as you consider my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I would like to thank the Judicial Nomination Commission and its chair, Judge Emmet Sullivan, for recommending me to the White House, and I would like to thank President Obama for nominating me. I also would like to thank Congresswoman Norton for taking the time out of her busy schedule to introduce me at the hearing today. In addition, I would like to express my appreciation to the Committee Members and to the Committee staff for their hard work and for considering my nomination so expeditiously.

I would also like to introduce the members of my family who are here today. Unfortunately, my son, Eli, could not be here today because he is in the middle of finals at college. However, I am happy to say that my daughter, Julia, is here today, after having finished the AP exam this morning, and——

Senator BEGICH. It must be a relief for her.

Mr. OKUN. And I am also happy to introduce my wife, Sue, who has been my biggest support and guidance during the entire judicial nomination process. I am grateful that my wife, Sue, and my daughter, Julia, could be here today to be with me on this occasion, but I would also like to recognize two people who are not here today and that is my late parents, Bill and Judy Okun, who would be very happy to see me sitting here today, and without whom I would not be sitting here today.

Finally, I would like to acknowledge my many friends and colleagues, some of whom are here today, and to thank them for all

[1] The prepared statement of Mr. Okun appears in the Appendix on page 21.

their support and kindness over the years. My entire career has been dedicated to public service, and the majority of my career has been specifically dedicated to serving the people of the District of Columbia.

In fact, as was mentioned, I started my legal career as a judicial law clerk in the Superior Court, and I served as a law clerk for the Hon. Frank E. Schwelb, who I am happy to say is here today. I also spent a significant portion of my career as a consumer protection attorney, first at the Federal Trade Commission (FTC), and then at the U.S. Department of Justice.

And last but not least, I have served as a prosecutor for more than 19 years in the U.S. Attorney's Office here in the District of Columbia. And I have litigated a wide variety of cases both in Superior Court and the U.S. District Court. It would be a privilege and an honor for me to continue my public service and my commitment to the citizens of the District of Columbia as an associate judge of the Superior Court.

Thank you again for considering my nomination and I look forward to answering any questions you may have.

Senator BEGICH. Thank you again for both your statements. I will have some required questions in a second, but I do want to just note Mr. Paul Strauss, D.C. Shadow Senator here, also joined us. Thank you very much for being here this afternoon. I am still on Alaska time, so I have to apologize for that.

I will have to begin with some standard questions this Committee asks of all nominees, and I would like both of you to answer these questions as I read them. The first question is, is there anything that you are aware of or in your background that might present a conflict of interest with the duties of the office to which you have been nominated for?

Mr. O'KEEFE. No, Mr. Chairman.

Mr. OKUN. No, Mr. Chairman.

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

Mr. O'KEEFE. No, Mr. Chairman.

Mr. OKUN. No, Mr. Chairman.

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

Mr. O'KEEFE. No, Mr. Chairman.

Mr. OKUN. No, Mr. Chairman.

Senator BEGICH. Thank you very much for answering those more formal questions for the record. This one, I am going to ask this kind of in a formal way, but I would have a little different way of asking it in a private setting. Why do you want to be an associate judge to the D.C. Court? Let me start with Mr. Okun.

Mr. OKUN. Thank you, Mr. Chairman. Well, there are many reasons that I would like to be an associate judge of the Superior Court, but I think the most important reason is that it would give me a broader opportunity to make a difference in people's lives.

I think there are many careers that give you that type of opportunity, including my current career as a prosecutor, but I think

that the opportunities I would have as a judge are so much broader and so much more extensive, because as a judge in the Superior Court, you are making decisions that directly affect people's lives each and every day, and not just in the criminal context, but in civil cases and in probate and tax cases and in the family court where you are often called upon to decide what is in the best interest of a child.

So I think even though there are many reasons I would like to become an associate judge of the Superior Court, the main one is that it would give me a broader range of opportunities to make a difference in people's lives. And that is an opportunity I really am looking forward to.

Senator BEGICH. Very good. Mr. O'Keefe. And I want to comment, for a mother raising nine kids, I am from a large family of six, four boys, which was, I think, a challenge for any mother, but nine? I do not know what to say. I will just leave it at that.

Mr. O'KEEFE. Thank you, Mr. Chairman. I consider being a judge the highest calling of the legal profession. Judges are called upon to protect the fundamental rights of the people that come before them and to expeditiously resolve conflict in a peaceful way. And after spending 19 years of my life in the courtrooms of D.C. Superior Court, I have an appreciation for the qualities that make a good judge and that foster the trust in the justice system in the District of Columbia.

I appreciate the qualities that judges have to—that give confidence to the people of the District of Columbia that they are getting a fair shake. And I would just like to use my experience in the courtroom for the opportunity of being a judge of the Superior Court and serving a life of public service.

Senator BEGICH. Very good. If I can followup and go from there, and then I will again go to Mr. Okun next, and that is, you both had different paths. You got here in different ways, but you are now in front of us for an associate judge position. What do you think, in your career, your experience to date, legal or otherwise, do you think prepared you for this and for the work that you are going to be handling?

As you know, the Court is very diverse and what you will be handling depends on rotations. So give me what you think prepared you to be at this point and to be able to handle a wide range of issues that will be in front of the Court.

Mr. O'KEEFE. Thank you, Mr. Chairman. I think for me being at the courthouse every day and dealing with—I mean, over the years, we are talking about thousands of people of every walk of life, I feel like I have had to interact with and assist people from—I have represented a Congressman in D.C. Superior Court and I have represented a homeless child in D.C. Superior Court.

So I have a good sense of the various issues that are out there in the District of Columbia that are affecting the people. And I have a greater sense of what it takes for a judge to treat people with respect. I understand the issues and ultimately, to provide an unbiased and a fair resolution of people's cases.

Senator BEGICH. Very good. Mr. Okun.

Mr. OKUN. Thank you, Mr. Chairman. I think there are probably two experiences that would have contributed most greatly to me be-

coming a successful Superior Court judge. First is my experience at the U.S. Attorney's Office. I have spent almost 20 years at the U.S. Attorney's Office. I have been in Superior Court on a regular basis, either trying cases or litigating motions, and I am very familiar with the procedures in Superior Court.

I am very familiar with the judges, with the court personnel, with the attorneys who appear in Superior Court, so I think my experience as an Assistant United States Attorney (AUSA) practicing in Superior Court would certainly serve me well as a Superior Court judge.

But I also think that my experience on a Hearing Committee for the Board on Professional Responsibility would serve me well if I were a Superior Court judge. When I served on a Hearing Committee for the Board on Professional Responsibility, I presided over hearings involving alleged attorney misconduct, and I did things that judges typically do. I ruled on motions, I ruled on objections, and ultimately, I wrote findings of fact and conclusions of law.

I think that experience would certainly be relevant and would help prepare me well to be a Superior Court judge.

Senator BEGICH. Let me ask you, again, some additional questions here. What do you think are the biggest challenges in the Court, and are there things that you would look at to try to change. If so, where would you get that advice? I will start with Mr. Okun.

Mr. OKUN. I think one of the biggest challenges——

Senator BEGICH. I recognize you are looking from the outside in, so you may see something different once you are in there that you might see from a different perspective. But from where you sit today, what are those things that you would say, Look, I wish we could change this, and how would you go about it and where would you seek advice?

Mr. OKUN. Well, first of all, I think that Superior Court is a very well run Court and I think that Chief Judge Satterfield has done a great job in leading the Court. I think they have done a lot of things to improve the operations of the Court over the years. I think there is still a challenge in terms of delay, in terms of getting cases decided quickly.

I have seen that in my position as Chief of the Special Proceedings Division where I have seen post-conviction motions sometimes languish for years before being decided. I think that one of the things that can be done to try to address that problem is the increased use of performance standards and time guidelines in ruling on cases or in deciding cases.

And I do want to say that the Superior Court has started implementing those performance standards, so I think they are moving in the right direction, but I think there still is some work to be done.

Senator BEGICH. Let us say the Court as a body cannot get it all together to do that. Would you do it as an individual judge, just say, here is my standard, here is what I want to do, here is how I am going to get these out, and make sure people who come to your court are aware of that?

Mr. OKUN. Absolutely, because I think regardless of what other judges are doing, you as a judge, have your own responsibility over your own calendar and your own cases, and I think a judge does

have a responsibility to decide cases both correctly, but also quickly.

Senator BEGICH. Mr. O'Keefe.

Mr. O'KEEFE. I think one of the things that could use some improvement, although I agree with Mr. Okun that Superior Court is incredibly well run, one of the things is to cut back on waiting time of litigants and lawyers, people who come to D.C. looking for an expeditious resolution of their cases, and sometimes many cases are all scheduled at the same time, requiring that some people wait longer than others, just depending on when their case gets called.

So that is one thing I think the customers of the Court would certainly appreciate if they could have maybe a more finite amount of time that they knew their case would be heard.

Another thing, which involves the criminal arena, is if a witness is seeking to be a cooperating witness in a case, which certainly the U.S. Attorney's Office wants and it is helpful to the witness to resolve their case favorably for them, but it is a dangerous thing. And in order for a witness to speak with the U.S. Attorney, they have to go to the U.S. Attorney's Office. I am talking about incarcerated witnesses now.

And when they leave the D.C. jail and go to the U.S. Attorney's Office, everyone knows. And so, they are putting themselves in personal danger by trying to assist. What we need is confidential meeting rooms in the basement of the courthouse so that when prisoners are coming over, it appears that they are just going to court for a regular court hearing, and in fact, they can then go and do their confidential debriefings.

I think that would help the U.S. Attorney's Office close cases and it would protect folks that are interested in cooperating. Those are two areas that I, over the years, I have felt needed to be addressed.

Senator BEGICH. Very good. I will ask one more question. I have a couple more, but I will turn to Senator Paul if he has some questions after this one. First, I will give you my experience. I am no attorney. No disrespect to attorneys. I want to start with that disclaimer.

But I have been in the apartment business for many years, and so I do my own forcible entry and detainers (FEDs). I represent myself, so I go do my forceful entry and detainers myself, which is its own experience, and I have taught myself how to deal with the situation with the judge. But I have also seen others who go represent themselves or attempt to or they are in trouble themselves, but have no attorney..

And you have a judge then sitting there who is trying to balance the work they have, which is to make judgment, but at the same time recognizing they may not be fully informed as an individual who is now in front of the court. Honestly, in my Alaska courts, I have seen this. And, of course, if they are doing landlord business, I am very quick to say, Hey, time out. I am not a lawyer, but here are some things you better have before you go in front of that judge.

How will you handle that, as now you are going to be not an attorney in the stands there wanting to say, that homeless person that is there maybe representing themselves, you want to make

sure they have good representation, or at least know the law of what they are trying.

And also with Mr. O'Keefe. How will you manage to ensure that they are not losing some rights they may just not be aware of. Does that make sense?

Mr. O'KEEFE. Yes, absolutely. Thank you. And I think one of the things is for a judge is to explain things to the people that come before them. The last thing you want is for people to leave the courtroom scratching their heads and not understanding what just happened. It does not foster a sense of respect for the justice system.

So having had the types of clients I have had for the past 19 years, I am constantly explaining things to folks of all different levels so that they understand it.

Senator BEGICH. So the process, procedure?

Mr. O'KEEFE. Exactly. Or just letting them know what the law is. With regard to folks that come in, for the most part, I would say people really do need a lawyer even though——

Senator BEGICH. Sometimes people like me get a little crazy.

Mr. O'KEEFE. And there are plenty of places in D.C. where you can get pro bono help, pro bono assistance.

Senator BEGICH. Right.

Mr. O'Keefe. So what I would——

Senator BEGICH. As a judge, how do you——

Mr. O'KEEFE. I think I would have a list and say, you know what? You might want to go to this particular, even neighborhood legal services or the D.C. Bar or folks that work in law firms that do pro bono work. But give them an opportunity to go and consult with an attorney.

Senator BEGICH. Very good. Mr. Okun?

Mr. OKUN. Thank you.

Senator BEGICH. And you get the question I am asking?

Mr. OKUN. Yes. I think it is a big challenge because there are many pro se litigants in Superior Court, and I think the challenge of dealing with pro se litigants is one of the biggest challenges that the Court faces. Fortunately, I do have a good amount of experience dealing with pro se litigants because the majority of the motions that we receive in my division are filed by pro se litigants.

But I realize that it is different dealing——

Senator BEGICH. So you see lots of me.

Mr. OKUN. Well, maybe not exactly, but I have seen many pro se litigants, and I can say, though, I realize that the challenge of dealing with pro se litigants as an attorney is different from the challenge of dealing with pro se litigants as a judge. And I think the challenge is balancing competing interests.

On the one hand, you want to make sure that a pro se litigant is not unfairly taken advantage of by someone else who has a lawyer, but on the other hand, you do not want to bend over backward so much that you are giving an unfair advantage to the pro se litigant.

Senator BEGICH. Understood.

Mr. OKUN. And I think the way that a judge should balance those competing interests is, first—and this is as Mr. O'Keefe said—by explaining thoroughly and patiently the rules and proce-

dures that a pro se litigant has to follow, before any proceeding, by talking in language that the pro se litigant can understand, and ultimately, by trying to rule in as fair and an impartial manner as you can.

Now, I know that is easier said than done, but I do think that my experience in dealing with pro se litigants would help me in that respect. And I also do want to point out that the Court has instituted a number of self-help or resource centers for pro se litigants, and I would certainly encourage pro se litigants to utilize those resources.

Senator BEGICH. Very good. I appreciate that. It is always touchy how you create the balance, and I will say in my own experience in Alaska I have seen judges that explain procedures and processes to the person or people before the actual case starts.

I have seen some incredibly positive results where someone might actually say right then that they may want to delay based on more knowledge that they just received on what this process means and what the risk is of not having good representation. I have seen others who just say, Let us just go, I know what I want to do.

But thank you for both those answers. I have a couple more, but let me turn to Senator Paul, who is the Ranking Member of the Subcommittee here. Senator Paul.

OPENING STATEMENT OF SENATOR PAUL

Senator PAUL. Thank you and thank you for coming today. This question, I guess, is for both of you, how do you view the relationship between the Heller decision and the current D.C. gun laws?

Senator BEGICH. Who wants to answer first? Mr. O'Keefe will start.

Mr. O'KEEFE. Well, the current D.C. laws are trying to come into compliance with the Heller decision. I believe that there are still some issues in the Heller decision that are being litigated in the courts. They are still ironing out some of the problems with it.

But with regard to what would come before a judge in the D.C. Superior Court, we would just apply the law that is in effect at the time, and really any conflict between the law and the Heller decision, I mean, that has to be worked out by the Supreme Court and the District of Columbia. But the law that is on the books is the law that we are going to follow.

Senator BEGICH. Mr. Okun.

Mr. OKUN. Thank you, Senator Paul. The Supreme Court's decision in Heller, of course, is the binding precedent concerning the 2nd Amendment. But the Heller decision did not address every issue about the scope of the 2nd Amendment, and the D.C. Court of Appeals subsequent to Heller has been addressing the scope of the 2nd Amendment in light of the Heller decision, and some subsequent Supreme Court decisions.

But ultimately, and this is as Mr. O'Keefe would say, as a Superior Court judge, I would be following both the Supreme Court's decision in Heller, and also any D.C. Court of Appeals' opinions that interpret the scope of Heller.

Senator BEGICH. Very good.

Senator PAUL. And just as a followup, I would like to hear your opinions on sort of the relationship between the 14th Amendment and the 2nd Amendment. Heller acknowledges the incorporation of the 2nd Amendment, but also uses it as a backdrop for saying that there are certain privileges and immunities. I would just like to hear your understanding of the relationship between the 14th and the 2nd Amendments.

Senator BEGICH. Mr. Okun.

Mr. OKUN. Thank you, Senator Paul. D.C. is a little different in terms of—some of the rights that apply to D.C. have been applied through the 5th Amendment due process clause and not through the 14th Amendment, but in any event, to the extent that courts were applying rights contained in other constitutional provisions, such as the 2nd Amendment to D.C. through the 5th Amendment or otherwise, I as a Superior Court judge would follow whatever precedent applied in that context.

Senator BEGICH. Mr. O'Keefe.

Mr. O'KEEFE. Essentially the answer is the same. I mean, for D.C. law is going to be the main law that we follow, of course, as modified by the Supreme Court of the United States. That is the law of the land. That is the supreme law and anything that is handed down by the Supreme Court is going to be what we follow in Superior Court.

Senator PAUL. Well, essentially, the next questions that will come up probably will be what is excessive regulation. They have ruled out a ban on guns, but then the question is, can you have a $5,000 fee for getting a gun? It is still quite difficult to have a gun for self-defense in D.C. There still are problems from the point of view of gun owners.

We had a gentleman who was calling for help, asking for help because he was having bad dreams. He was a veteran. They came in, found that two guns were not registered properly. He was arrested. He spent 17 days lost in the D.C. prison system, which I would encourage that we try to find a solution to, during the snowstorm a few years ago. And he was incarcerated for 17 days without contacting an attorney or his family where he was. They lost him in the D.C. prison system.

So whatever control you might have over that, I would suggest that we try to do a better job. But we also have to realize, and I think have a different attitude toward people who have gun ownership. During the gun ban, there was no evidence really that it had a significant impact for bettering D.C. And there are a lot of people who live in DC, myself, who would like to be able to have some self-defense within the city.

And so, just be aware, and I think you are, that it is a big issue and that it is an important right. The Supreme Court has said that it is a right that D.C. citizens do have as well as the States, and the 2nd Amendment is binding, not only on D.C., but on the States. Thank you.

Senator BEGICH. Thank you very much, Senator Rand Paul. Thank you for the additional comments. I just have two quick questions and then I will end there, if that is OK, unless you have some additional questions, Senator Paul.

This is more of maybe a fun question. I do not know, but as the Court has multiple areas it will cover. Is there any one of those that you are kind of looking forward to and then ones that you think—I do not want to use this phrase but I will because you both brought students back to school.

But you know one are maybe will help. You have the civil division, family court, probate, tax division. I mean, it is a collection. It is an amazing jurisdiction when you think about it. Are there any of those that you are looking forward to, and then ones that you might say, I know if assigned to that area I am going to have to get some additional education, or at least knowledge, in that area? Mr. O'Keefe.

Mr. O'KEEFE. Thank you, Mr. Chairman. I think for me, I am looking forward to getting into the civil division, just because I have done a little bit of civil litigation, but not very much. And it is new, so I think I would enjoy getting into a new area of law and just getting up to speed on that, something that I did not really have the opportunity to spend a lot of time with.

I cannot think of an area that I am not looking forward to just because it is all going to be new in terms of a new job and I enjoy the process of learning new areas of law. I would say that the least interesting at this point, but I am not sure, the least amount of time I spent was in the probate division. But I am sure once I get into that, I would find it fascinating as well.

Senator BEGICH. Very good. Mr. Okun.

Mr. OKUN. Thank you, Mr. Chairman. I think I certainly would like to work on civil cases again. I do have civil experience, but it has been a number of years since I really primarily practiced in the civil area. So I would like to work on civil cases, but I also would tremendously like the opportunity to work in the family court.

I think the family court work is incredibly important. I think it is incredibly diverse and varied and I think you are really making an impact on people's lives. So I know that I would like to have, at some point in my career if I do become a Superior Court judge, a chance to work in the family court.

In terms of what I know the least, it has to be tax.

Senator BEGICH. I think Senator Paul and I could tell you a lot about tax today. Another issue, another day.

Mr. OKUN. But I will say, even though honestly I do have the least experience in tax, I think that I would be able to learn it, just like I have learned new areas of law in the past, and that is by working hard, by reading cases on a regular basis, by trying to take advantage of as many training opportunities as I can, and then ultimately by talking to people who have more experience than me, in this case, by talking to the judges who are in the tax division of the Superior Court. And I think if I undertook those steps, I could learn even maybe an area like tax.

Senator BEGICH. Very good. This is one where it is kind of the conflict issue potential. In all your years you have worked with a lot of different attorneys, some that are friends, some that are associates. Now you are going to be a judge. And you may have these individuals obviously coming in front of you that you have, maybe very close friends, maybe just associates, maybe cases you have worked on together.

How will you handle that or recuse yourself depending on the situation? What will be your process to do that? Mr. O'Keefe.

Mr. O'KEEFE. Thank you, Mr. Chairman. I do not think I have—since I am a solo practitioner, I will not have any partners that I would have to recuse myself from. But over the years, over the 19 years that I have been in Superior Court, I have been co-counsel with many lawyers and I have opposed many, many lawyers. Like in the family cases, there may be sometimes five, six attorneys on a particular case and sometimes you are opposing them; sometimes you are on the same side with them.

We are all professionals down there and it is the kind of atmosphere where even if you are in a heated battle with a prosecutor in a criminal case, you can walk out in the hallway and you are still friends. So it is just the professionalism that goes on down there.

I do not think I would still be able to be completely neutral in handling any case that came before me even if I knew the parties on both sides just because we are there to evaluate the facts of the case and apply the law to the facts as they are.

Senator PAUL. Mr. Chairman, that is sometimes true in the Senate, too, right?

Senator BEGICH. Yes, it is. That is a good point. Mr. Okun.

Mr. OKUN. Mr. Chairman, well I certainly would recuse myself from any case that I worked on while I was at the U.S. Attorney's Office. I also would recuse myself from any case where a good friend or certainly a family member was a party or a witness in a case. But other than that, I have been practicing in Superior Court for many years and I know lots of the lawyers who practice there. And the fact that someone was appearing before me as a lawyer would not cause me to recuse myself.

Senator BEGICH. Very good. I have no additional questions. I do want to associate my comments, also, with Senator Paul in regards to the Heller case and some of the implementation of that. We both come from very strong States on gun rights and like him, it is difficult to own a gun in this community. I have attempted; it does not work out so well.

But I really appreciate, first, your comments on that, but also you appearing today. Like I said, I was not sure if it was going to be painful, but it was good, a lot of good answers. I really do appreciate that and I thank you for taking the time to be here, and your families and friends for attending. I have no further questions. We will be patient because Senator Carper is on his way. Now I cannot determine your outcome. I only wish you the best.

We will wait just a moment. There he is. Look at that. I will tell this to Senator Carper because I want him to know it as a new Chair of this Subcommittee, how efficient we are. He came in time because we were just about to adjourn. He is the Chair of the overall Committee. We are just honored to have him here and it has been an honor to be able to chair this subcommittee.

So let me turn to Senator Carper. We just finished the questions, but we are open for your statement and questions.

Chairman CARPER. Thanks. How is it going so far?

Senator BEGICH. I was ready to adjourn. These guys are good.

OPENING STATEMENT OF CHAIRMAN CARPER

Chairman CARPER. Well, welcome. Early in my life, early in our Chairman's life, he was the Mayor of Anchorage and I was the Governor of the State of Delaware, and one of the things that we never talked about in 1992 when I ran for Governor I had, I think, 37 debates or joint appearances with my Republican opponent. And of all the issues that came up, no one ever asked what kind of qualities we would look for in terms of the folks we nominate to serve on the bench.

As it turns out, Delaware has—for us, our courts are very important, Court of Chancery and our Supreme Court as well, and others, too, but it turned out I just spent a whole lot of time thinking about the kind of qualities that we should look for in the candidates for different judgeships on different courts.

So I value the work that they do and value the work of those who preceded you here in the District of Columbia. I have just maybe one, maybe one or two questions if I could, but thank you for your interest in serving.

As you know better than me, the caseloads at the D.C. Superior Court can be daunting. It is probably an understatement. But if confirmed, how do you go about ensuring that your courtroom will operate efficiently while giving each case, as best you can, the appropriate attention that it deserves? Mr. O'Keefe.

Mr. O'KEEFE. Thank you, Senator Carper. That is—that is the great balancing act that is required, to be able to move the cases along, but also spend the amount of time on each that it deserves. For me, I think having been down there every day, I would have a system of having the cases that are going to be—that are going to take less time, call them first and get folks out as quickly as possible.

The cases that are going to take longer, if we know about it, let the lawyers know to come back in an hour, hour and a half so that people are not sitting around waiting. And that way, you can get rid of the quick matters and spend the time on the longer matters and, ultimately, resolve all the cases in a day.

Chairman CARPER. Mr. Okun.

Mr. OKUN. Thank you, Mr. Chairman. I think that is one of the great challenges that a Superior Court judge faces, trying to decide cases both quickly and correctly, particularly in a courthouse like Superior Court which has such a high volume of cases.

I mean, ultimately, a judge's job is to get it right no matter how long it takes. But at the same time, I think there are things that a judge can do to try to decide cases both correctly and efficiently. And I think one of the primary things that a judge can do in order to do that is to prepare. And when I say prepare, I mean I prepare not only in court, but before you go to court so that the parties and the witnesses are not waiting for you to get up to speed on the relevant issues.

So I think even though it is a challenge to decide cases both quickly and correctly, I think to the extent that a judge prepares before he goes to the courtroom, I think that would help enable a judge to decide cases quickly, efficiently, and correctly.

Chairman CARPER. Give us some idea of what the caseload is like for folks that are now serving in these positions. Either one.

Mr. O'KEEFE. It depends on the calendar, but in some misdemeanor courtrooms, for example, there may be—must be 25, 30 cases scheduled for a day and maybe six or seven or eight of those are scheduled for trial. And then there will be eight or nine or 10 courtrooms exactly like that, all handling misdemeanor cases.

Then there are Felony II courtrooms that have maybe a dozen or 15 cases and then there will be other felony courtrooms that might have five or six, more serious crimes. Then the civil dockets are, just depending on which calendar it is, they can be rather large. Family cases are usually scheduled on a half-hour basis. So those are more organized and set for specific time periods.

But it is the criminal cases, especially in the misdemeanor section, are—there is just a glut of cases. So that is what it looks like down at Superior Court.

Chairman CARPER. And what kind of assistance do you have in terms of law clerk or clerks, in terms of other staff that can help you with your caseload?

Mr. OKUN. Oh, Mr. Chairman, you have—typically a Superior Court judge will have an administrative assistant and will also have one law clerk. I believe the chief judge does have two, but the regular associate judges of the Superior Court have one law clerk and one administrative assistant.

Chairman CARPER. That is a lot. I can see a grace-over for a very small team. If you were in our shoes and we were in yours at a hearing like this, what kind of qualities would you be looking for in the judges or candidates for the judiciary that came before you?

Mr. OKUN. Mr. Chairman, I would be looking for a person with a good judicial temperament, and by temperament, I mean someone who is fair, who is even-handed, who listens to both sides, and who treats people well. And I think judicial temperament is probably the most important quality that a good judge has.

Chairman CARPER. Mr. O'Keefe.

Mr. O'KEEFE. Yes, I agree. Temperament is key. A judge needs to have the intellect to be able to handle the issues before him. The judge needs to be expeditious and efficient to deal with the caseload, but ultimately, in order to give the sense of fairness to the people that are coming before them, a judge has to have a good temperament to be able to know how to deal with people, treat them with respect, explain his rulings so that people walk out of there feeling like they had their day in court.

Another quality which I think is important is courage. Sometimes decisions have to be made that are not very popular and the judge needs to follow the law even if it means making an unpopular decision.

Chairman CARPER. OK. We never have to worry about that in our jobs. Well, actually, as he was answering his question, I was thinking of the two kids, family members, I want to see how they respond of what a judge should be. I think for my 10½ year old and what I go through, I am not sure he would say I have the temperament at times, depending on what rules I lay down for the day.

Maybe if I could, just one more question about transition. I had to transition from being Governor to serving here, and I still describe myself as a recovering Governor, and I am sure Mark sometimes considers himself a recovering Mayor of a big city. But Mr.

O'Keefe, as I understand, you spent a fair amount of your career as a defense attorney. I would ask, what kind of challenges you might foresee in transitioning from what you have done for years to this particular position, if confirmed?

Mr. O'KEEFE. For me, I think the challenge is not going to be going from defense attorney to a judge. For me, the challenge is going to be going from a solo practitioner to somebody who has a clerk and a secretary and a courtroom clerk and support staff and a wonderful community down at the Superior Court to assist, with fellow judges to ask for advice.

I do not believe my role as a defense attorney is going to present a problem. I understand. A defense attorney is an advocate, but in order to be an effective advocate, you have to look at both sides of every problem. And as a judge, you take out the advocate part. You are just there to listen to both sides, apply the law impartially and fairly, and make decisions.

So I guess for me, just changing from a solo practitioner to somebody in a community is going to be more of a transition.

Chairman CARPER. Mr. Okun, you have been a prosecutor for some time?

Mr. OKUN. For almost 20 years, Mr. Chairman.

Chairman CARPER. How are you about this transition?

Mr. OKUN. Well, I think it would be a challenge, but I think there are two things. Both my temperament and my experience, I think, would help me meet that challenge, at least to some degree. In terms of temperament, I have always been someone who could see both sides of an issue.

And in my current position as Chief of the Special Proceedings Division, I have often agreed that defendants are entitled to relief when the facts and the law were on their side.

In terms of experience, I have served on a Hearing Committee for the Board on Professional Responsibility where I presided over hearings involving attorney misconduct. So to that extent, I did things that judges in the Superior Court do. I ruled on motions, I ruled on objections, and ultimately I wrote findings of fact and conclusions of law. So I think that that experience would, at least in part, help me make the transition from an advocate to an impartial decisionmaker.

Chairman CARPER. OK. Could I ask one last question, if I could?

Senator BEGICH. Yep.

Chairman CARPER. My last question is, why do you want to do this? And this may have already been asked.

Senator BEGICH. That was my first question.

Senator CARPER. Now we can see if you are consistent in your answer. It is actually a test. We did not want to tell you that.

Mr. O'KEEFE. Well, Senator Carper, I came down to Washington, DC, to commit my life to public service, and I worked in the Senate originally.

Chairman CARPER. What did you do?

Mr. O'KEEFE. I worked for Senator Dodd.

Chairman CARPER. Oh, yes.

Mr. O'KEEFE. And from there, I went to law school. It was after I got out of law school and I started doing this kind of work, I loved it and I just wanted to continue doing it. And being down at Supe-

rior Court every day, it is a thrill and it is still a thrill. I just feel like I have the qualities that would make a good judge. I like helping the folks, the people that come in Superior Court. I like being a problem solver. And ultimately, I think I have the right temperament for it because I am patient and I am a good listener.

Chairman CARPER. Mr. Okun.

Mr. OKUN. Senator Carper, I mean, there are many reasons why I would like to become a Superior Court judge, but the main one is because it would give me this chance to make a difference in people's lives. And I already mentioned this. I think there are a number of careers that give you that opportunity, including my current one, but I think the opportunities you would have as a judge are just broader and more extensive because you are making decisions each and every day that affect people's lives.

And one of the things that I like about the opportunity, it would be not just in the criminal law context, but in civil cases and in the family court. So that I think that really, for me, it is the broad range of opportunities to make a difference in people's lives that really makes me want to become a Superior Court judge.

Chairman CARPER. OK. Who are all these people behind you? Who are these people?

Mr. OKUN. I do not know.

Chairman CARPER. People who care about government.

Mr. OKUN. I will say, if I could just for a second, my wife, Sue, and my daughter, Julia, are sitting right behind me.

Chairman CARPER. Which is which?

Mr. OKUN. Oh, you are good.

My wife, Sue, and my daughter, Julia.

Senator BEGICH. He is in politics.

Chairman CARPER. Anybody else either of you want to acknowledge in the audience, please feel free.

Mr. O'KEEFE. Sure. My brother, Sean, came down from Connecticut.

Chairman CARPER. Sean, how are you? Sean, we would like to talk with you later.

Mr. O'KEEFE. A very good friend of 30 years, more than 30 years, came down from New York City.

Chairman CARPER. Who?

Mr. O'KEEFE. Miriam Buhl. My brother-in-law, Scott Pastrick, is here——

Chairman CARPER. Hi, Scott.

Mr. O'KEEFE. And his wife, Courtney Pastrick. My son, Dylan, is here.

Chairman CARPER. Where is Dylan? How is he doing?

Mr. O'KEEFE. He is 16. He is taking a break from studying for finals at Gonzaga right up the street.

Chairman CARPER. OK.

Mr. O'KEEFE. And my nephew, Clark. That is Scott's son. And my niece, Kate Brody, is graduating from Georgetown on Saturday.

Chairman CARPER. Kate, raise your hand. The person with the biggest smile.

Mr. O'KEEFE. And also, Judge Emmet Sullivan is here. I did not see him before.

Chairman CARPER. How are you? Welcome.

Mr. OKUN. And if I may, I would just want to acknowledge a couple other folks.

Chairman CARPER. Sure.

Mr. OKUN. There are a number of people from the U.S. Attorney's Office who are here to show support. I also want to introduce the judge that I clerked for in Superior Court more than 25 years ago, Frank Schwelb, and also Judge Henry Greene, and also as I just noticed as well, Judge Emmet Sullivan, the Chair of the Judicial Nomination Commission.

Chairman CARPER. That is great. You all are great to come out. Thank you for being here and thank you for introducing them. Thanks, Mr. Chairman, for allowing me to ask some questions.

Senator BEGICH. Absolutely. To the Chairman of the full Committee, you bet. Again, Senator Carper, thank you very much, great questions, and again, thank you both for your willingness to do public service. It is a stress at times to the family, not only to yourself, so to you and your families, thank you for your willingness to participate and thank you for being here today.

The hearing record will remain open until close of business tomorrow, May 16, 6 p.m., for the submission of statements and questions for the record. This hearing is adjourned.

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

APPENDIX

Opening Statement of Senator Mark Begich
Nominations of D.C. Superior Court Judges
May 15, 2013

This hearing will come to order. Good afternoon.

Today the Homeland Security and Government Affairs Committee meets to consider the nominations of Robert D. Okun and Michael K. O'Keefe to be Associate Judges on the District of Columbia Superior Court. Welcome to both of you.

I'm also pleased that Congresswoman Norton is able to join us today to introduce these nominees. Thank you for being here, Congresswoman.

I would also like to extend a warm welcome to the families and friends of our nominees in attendance. Glad you could be here.

This committee consistently receives excellent candidates, nominated by the President, and recommended by the non-partisan District of Columbia Judicial Nomination Commission. This process is critical to ensuring we have candidates who are experienced, and have the appropriate temperament for this position.

It is no secret judges have critically important duties in our society. Judges must uphold and interpret the law, resolve disputes equitably, and protect the rights and liberties of our citizens. If confirmed, I trust each of you will fulfill these responsibilities with respect, character, and deference befitting this court.

As many of you already know, Mr. Okun currently serves as the Head of Special Proceedings in the United States Attorney's Office for the District of Columbia. The Special Proceedings Division handles all post-conviction litigation in both U.S. District Court and Superior Court. Since 1987, Mr. Okun has worked for the Department of Justice both in the Civil Division and the U.S. Attorney's Office for the District.

Mr. O'Keefe is currently a solo practitioner with a practice that focuses mostly on criminal defense and family law. He has been a member of the District of Columbia Bar since 1994, handled more than 2,000 cases in Superior Court, and litigated over 200 trials. He serves on the panel of Criminal Justice Act lawyers who are appointed by the Court to represent indigent parties in criminal proceedings.

Mr. Okun, Mr. O'Keefe, I have reviewed your biographical questionnaires and believe you are both well qualified to serve as Associate Judges for the Superior Court of the District of Columbia.

While you pursued different career paths within the legal field that led you to this point, I know you both will bring extensive legal experience to the bench.

I look forward to your testimony and hearing more about your education, experience, and why you sought these positions.

Again, I want to thank both of you for your time today and your willingness to serve.

Opening Statement of Michael O'Keefe
Nominee to be an Associate Judge of the Superior Court of the District of Columbia
May 15, 2013

Thank you, Chairman Begich for chairing today's hearing. I also would like to convey my appreciation to Senator Carper and Senator Coburn and the committee staff for scheduling this hearing and affording me such courtesy. It is an honor to be a nominee for Associate Judge of the Superior Court of the District of Columba. I would like to thank Judge Emmet Sullivan and the D.C. Judicial Nomination Commission for referring me to the White House and President Barack Obama for nominating me for this position. Thank you Congresswoman Eleanor Holmes Norton for your kind words in introducing me this afternoon. I would like to acknowledge the members of the Superior Court community, the judges, lawyers, U.S. Marshals, and support staff, whose passion for justice and dedication to the people of the District of Columbia is an inspiration.

I would like to thank my wife Susan, who has encouraged me to pursue a life of public service. Unfortunately, she is in Ireland today on a business trip, but I trust she is watching this hearing on her laptop. My oldest son Dylan, who is taking a break from studying for high school final exams, is here, however. My two other children, Quinn and Maeve, are in elementary school today. I would like to thank Scott and Courtney Pastrick, my brother-in-law and sister-in-law, who are present and who center our family here in Washington. I am sorry to say that my parents, the late Francis and Mary O'Keefe, did not live to see this moment. My father, who was a first-generation American, served in World War II, and obtained his law degree at night with the help of the GI bill, would have been especially proud. My mother, also a first generation American, who raised nine children with a smile on her face, would have loved to be here. Finally, I would like to thank my brother, Dr. Robert O'Keefe, without whose support I would never have been able to attend law school.

I am lucky to have been raised in a number of interesting locations around the world, but Washington, D.C. is my home. I first came to Washington 26 years ago as a recent college graduate with a desire to pursue a career in public service. While working in the U.S. Senate, I attended law school in the evening at American University, where I learned to love the law. Although I always had an interest in litigation, it was not until I served as a juror on a homicide case in D.C. Superior Court in 1994, that I was drawn to trial advocacy. I began accepting appointments in D.C. Superior Court representing low-income defendants and families while working for the law firm of O'Connor & Hannan. The work was so satisfying that by 1998, I left the firm to start my solo practice and have never looked back. For the past 19 years, I have represented clients in nearly every division of D.C. Superior Court, with the majority of my cases in the criminal and family divisions. Having handled so many matters in Superior Court, I have a strong appreciation of the essential qualities that make a great judge. I would be honored to put my experience to work ensuring that the people of this city receive an impartial and thoughtful consideration of their cases, and that justice is done, with fairness and respect for all.

Thank you, Mr. Chairman, I would be happy to answer any questions.

Opening Statement of Robert D. Okun
Nominee to be an Associate Judge of the District of Columbia Superior Court
May 15, 2013

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to appear before you as you consider my nomination to be an Associate Judge of the Superior Court of the District of Columbia. I would like to thank the Judicial Nomination Commission and its chair, Judge Emmett Sullivan, for recommending me to the White House, and I would like to thank President Obama for nominating me. I also would like to thank Congresswoman Norton for taking the time out of her busy schedule to introduce me at this hearing today. In addition, I would like to express my appreciation to the Committee members and the Committee staff for their hard work and for considering my nomination so expeditiously.

I've already introduced the members of my family who are here today, and I am grateful that they could be here with me on this occasion. But I also would like to recognize two people who are not here today – my late parents, Bill and Judy Okun, who would be very pleased to see me sitting here today, and without whom I would not be sitting here. Finally, I would like to acknowledge Chief Judge Lee Satterfield of the Superior Court, Chief Judge Royce Lamberth of the U.S. District Court, and my many friends and colleagues, some of whom are here today, and to thank them for all their support and kindness over the years.

My entire career has been devoted to public service and the majority of my career has been specifically dedicated to serving the people of the District of Columbia. In fact, I started my legal career as a judicial law clerk in the District of Columbia Superior Court, serving as a law clerk for the Honorable Frank E. Schwelb, who, I am happy to say, is in attendance at today's hearing. I also spent a significant portion of my career as a consumer protection attorney, first at the Federal Trade Commission and then at the U.S. Department of Justice. Last, but not least, I have served as a prosecutor for more than 19 years in the U.S. Attorney's Office for the District of Columbia, litigating a wide variety of cases in both Superior Court and the U.S. District Court for the District of Columbia. It would be a privilege and an honor for me to continue my public service, and my commitment to the citizens of the District of Columbia, as an Associate Judge of the Superior Court.

Thank you again for considering my nomination and I look forward to answering any questions you might have.

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

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Michael Kenny O'Keefe

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

   I am a citizen of the United States of America by birth.

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

   6145 31st Place, NW
   Washington, D.C. 20015
   (202) 363-9092

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

   December 2, 1963; Glen Cove, New York

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

   I am married to Susan Marie O'Keefe (nee Pastrick). She is an Associate Editor at the National Geographic Traveler Magazine, 1145 17th Street, NW, Washington, D.C. 20036.

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

   REDACTED

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

   American University Washington College of Law (Washington, D.C.); Attended 1989 – 1992; Received Juris Doctor, 1992.

University of Notre Dame (Notre Dame, Indiana); Attended 1982 – 1986; Received Bachelor of Arts, 1986.

American School of Paris (St. Cloud, France); Attended 1981 – 1982; Received High School Diploma, 1982.

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

1990 – 1992
O'Connor & Hannan LLP (now Nossaman LLP)
1919 Pennsylvania Avenue, NW, Suite 800
Washington, D.C. 20005
Law Clerk

1987 – 1989
United States Senate
Office of Senator Christopher J. Dodd
Washington, D.C. 20510
Legislative Correspondent

Fall 1986
Silvermine Golf Club
95 North Seir Hill Road
Norwalk, Connecticut 06850
Greenskeeper

Summer 1986
Victory Café
1604 3rd Avenue
New York, New York 10128
Bartender

Summer 1986
Coogan's Restaurant
4015 Broadway
New York, New York 10032
Waiter

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

None.

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

2011 – present
Washington Latin Public Charter School
Washington, D.C.
General Counsel

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

Connecticut Bar (1993 – present)
New York Bar (1993 – present)
District of Columbia Bar (1994 – present)
D.C. Superior Court Trial Lawyers Association (1995 – present)
D.C. Superior Court Family Court Trial Lawyers Association (2000 – present)
President (2004 – 2007)

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

None.

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

District of Columbia, 1994
United States District Court for the District of Columbia, 2000
There have been no lapses in membership.

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

Guardianship, in PRACTICE MANUAL FOR CHILD ABUSE AND NEGLECT CASES IN THE DISTRICT OF COLUMBIA (Council for Court Excellence, 2008).

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

None.

16. Legal career.

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

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

I have never served as a law clerk to a judge.

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

I have practiced alone since 1998. My office is located at 6145 31st Place, NW, Washington, D.C. 20015.

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

Fall 2010
University of Baltimore Law School
1415 Maryland Avenue
Baltimore, Maryland 21201
Adjunct Professor

1993 – 1998
O'Connor & Hannan LLP
1919 Pennsylvania Avenue, NW, Suite 800
Washington, DC 2005
Attorney

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

From 1993 to 1998, I worked as an attorney at O'Connor & Hannan LLP, a lobbying firm that represented a wide variety of clients with their policy interests and international trade concerns. Beginning in 1994, I started taking Criminal Justice Act (CJA) and Counsel for Child Abuse and Neglect (CCAN) appointments, representing adults and juveniles in misdemeanor and felony cases, and parents or children in abuse and neglect cases.

In 1998, I left O'Connor & Hannan and began practicing alone. Initially, my caseload was equally divided between criminal and family law cases. In 2001, I began to focus more on criminal cases, although my family law cases continued to account for approximately 15 to 20 percent of my practice. Since 2006, my practice has been heavily weighted with serious felony cases. Over my career, I have represented clients in D.C. Superior Court in over 2,000 matters and have tried more than 200 cases.

In 2010, I also served as an adjunct professor of law at the University of Baltimore School of Law and, for the last two years, I have served as the General Counsel of a local public charter school.

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

The overwhelming majority of my clients are derived from court-appointed cases. I have specialized in the areas of criminal defense and family law.

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

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

Over the past 15 years, I have been in court nearly every day.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

Nearly 100% of my appearances have been in D.C. courts. I have never appeared in federal court or a state court of record outside the District of Columbia. On very few occasions, I have appeared before administrative bodies.

(3) What percentage of your litigation has been:

(a) civil;
(b) criminal.

I estimate that approximately 35% of my litigation has been civil and 65% has been criminal.

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

Although I do not have an exact count, I estimate that I have tried over 200 cases since 1994. Since 2007, the most recent year for which I have the information requested above, I have tried 94 cases; of these, 34 were before a jury and 60 were bench trials. In all of these matters, I served as sole or lead counsel.

(5) What percentage of these trials was to

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

Approximately 35% of my trials were to a jury and 65% were to the court.

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

1. United States v. Hargraves, 2006-CF1-4544 (D.C. Super. Ct.) (Judge Satterfield & Judge Gardner)

In this case, three co-defendants were charged with murder and related offenses for allegedly killing one person and shooting two others, and then fleeing from the police for 45 minutes across jurisdictions in a chase that was filmed by a police helicopter. After his

arrest, my client waived his right to counsel and spoke with the police, denying any part in the crime but admitting to being present and providing a motive for the shooting.

Initially, the court severed my client from the co-defendants and he was tried separately before Judge Satterfield in 2007. After two weeks of evidence, the jury hung and the court declared a mistrial. The court then rejoined the defendant, and the three co-defendants were tried together in a six-week trial before Judge Gardner, also in 2007, after which the two co-defendants were convicted of second-degree murder and related offenses. My client was acquitted of all counts except fleeing law enforcement.

Opposing Counsel:
Thomas Gillice
Eric Gallun
United States Attorney's Office for the District of Columbia
555 4th Street, NW
Washington, D.C. 20530
(202) 252-1900

2. In re Petition of A.O.T., 10 A.3d 160 (D.C. 2010) (Magistrate Judge Fentress)

In this case, the D.C. Child and Family Services Agency took custody of three young girls after their father, my client, was incarcerated for a nonviolent offense. The governing law requires courts to spend 15 months attempting to reunify the children with their lawful parents. In this case, although the children were very attached to their father, the court began to pursue adoption by a foster parent much earlier than the 15-month deadline, over the father's objection, because the court mistakenly believed that he would be incarcerated for longer than 15 months. The father was ultimately released from jail before the deadline, but no services were put in place to attempt reunification with his children. He opposed the adoption and requested a trial by an Associate Judge, pursuant to then-existing Superior Court Rules. The Magistrate Judge hearing the case refused to transfer the matter and granted the adoption after a contentious trial. My client appealed, arguing that the Magistrate Judge did not have authority to hear the adoption case over his objection. The D.C. Court of Appeals agreed with my client, vacated the adoption, and remanded for a new trial before an Associate Judge. Rather than put the children through another trial, the parties went to mediation and settled the case satisfactorily for all parties.

Opposing counsel:
Clinton Beastrom
Assistant Attorney General for the District of Columbia
400 6th Street, SW
Washington, D.C. 20024
(202) 409-2826

Deborah Cason Daniel (counsel for adoption petitioner)
503 D Street, NW, #200
Washington, D.C. 20001
(202) 737-4466

Carla Watson (guardian ad litem)
Children's Law Center
616 H Street, NW, Suite 300
Washington, D.C. 20005
(202) 467-4900

Thomas O'Toole (counsel for mother)
P.O. Box 42054
Washington, D.C. 20015
(202) 244-0273

3. United States v. Brooks, 2004-FEL-1109 (D.C. Super. Ct.) (Judge Beck)

The defendant in this case, who at the time was represented by someone other than me, was convicted in 2006 of first-degree murder and sentenced to 53 years in prison. In 2012, the D.C. Court of Appeals overturned his conviction and remanded the case for a new trial. At that time, I was appointed to represent the defendant at the retrial. I reinvestigated the case and found witnesses who provided convincing evidence of another person's guilt. Investigation into the background of the prosecution's sole eyewitness at the first trial resulted in her being thoroughly discredited on cross-examination. In February 2013, a jury acquitted Mr. Brooks of all charges after deliberating for just over an hour.

Opposing Counsel:
Gary Wheeler
United States Attorney's Office for the District of Columbia
555 4th Street, NW
Washington, D.C. 20530
(202) 252-1900

4. United States v. Carr, 758 A.2d 944 (D.C. 2000) (Judge Duncan-Peters)

In this case, the defendant was standing near a group of people in a car who were smoking marijuana. Based on his proximity to the car, the defendant was stopped by police officers, who searched him and found cocaine in his pocket. The Court denied a pretrial motion to suppress that I filed on behalf of the defendant and upheld the legality of the stop and search. A jury subsequently convicted the defendant of possession with intent to distribute cocaine and he was sentenced to a period of incarceration. I appealed the case and the D.C. Court of Appeals overturned his conviction on same grounds argued at the motions hearing – that the police officers did not have grounds to stop and search my client based merely on

his proximity to others who were suspected of smoking marijuana – and his sentence was vacated.

Opposing counsel:
Whitney Ellerman
United States Attorney's Office for the District of Columbia
555 4th Street, NW
Washington, D.C. 20530
(202) 252-1900

5. United States v. Best, 2010-CF1-7370 (D.C. Super. Ct.) (Judge Beck)

My client in this case was charged with being a principal and co-conspirator in the South Capitol Street massacre. Five people were killed and nine injured in a series of violent offenses occurring in March 2010, culminating in a drive-by-shooting of a crowd of mourners gathered after a funeral of the first victim. After a three-month trial, all five defendants were convicted and sentenced to life in prison. Although my client was convicted, this case nonetheless stands out as one of the most professionally satisfying cases I have tried. The United States Attorney's Office meticulously prepared the case, presenting over 100 witnesses during the trial. Although the substance of the trial was highly emotional and well-publicized, opposing counsel were cordial and professional throughout and the presiding judge conducted a fair and efficient trial, ruling on motions and objections with thoughtfulness and impartiality.

Opposing counsel:
Michael Brittin
Bruce Hegyi
Adam Schwartz
United States Attorney's Office for the District of Columbia
555 4th Street, NW
Washington, D.C. 20530
(202) 252-1900

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

There are two things that I have done in my legal career that are significant to me and do not include litigation. The first is my position as the general counsel for a local public charter school. In this position I provide advice on an interesting array of legal issues that arise at the school. This position takes me out of my usual practice areas and gives me the opportunity to research other areas of law such as contracts, employment law, and

trademark registration. I enjoy the diversity of issues and the challenge of learning new areas of law that I don't typically see in my litigation practice.

The other activity I enjoy is the work I have done as a guardian *ad litem* for abused and neglected children in the D.C. Superior Court. Unlike representing a party, where you merely advocate a client's position, as a guardian *ad litem*, I am called upon to use my judgment to represent the best interests of a child before the court. This activity requires me to advise the court about major decisions such as whether to terminate parental rights or whether to return a child to a parent with past substance abuse or mental health issues.

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

I have never held judicial office.

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

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

I have never been a candidate for elective, judicial, or other public office.

21. Political activities and affiliations.

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

  None.

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

  None.

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

  None.

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

No.

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

No.

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

No.

II. POTENTIAL CONFLICTS OF INTEREST

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

   Yes.

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

   None.

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

   None.

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

   None.

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

   None.

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

   No. I have no current plans, but I would like to teach again in the future if a position opens up at a local law school in the evening session.

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

   Almost all of my clients have either been indigent criminal defendants or parties in family court cases. If a former client were to appear before me as a judge, I would promptly recuse myself.

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

   Yes.

III. FINANCIAL DATA - REDACTED

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

IV. DISTRICT OF COLUMBIA REQUIREMENTS

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

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

   Yes.

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

   Yes.

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

   Yes. I was admitted to the bar of the District of Columbia on October 14, 1994.

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

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

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

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

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

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

   Yes.

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

   Yes. Since May 1998, I have resided at REDACTED , Washington, D.C. 20015

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

No.

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

No.

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

Four copies are attached.

AFFIDAVIT

Michael O'Keefe being duly sworn, hereby states that he has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

SUBSCRIBED and SWORN TO before me this 22 day of March 2013.

Michelle Young
Notary Public

MICHELLE YOUNG
NOTARY PUBLIC
MY COMMISSION EXPIRES 11/14/2014
DISTRICT OF COLUMBIA

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

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

   Robert Daniel Okun

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

   I am a citizen of the United States.

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

   United States Attorney's Office for the District of Columbia
   555 Fourth Street, NW
   Room 10-435
   Washington, D.C. 20530
   202-252-6603

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

   January 6, 1960; Great Neck, New York.

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

   I am married to Susan Joy Okun (née Korostoff). She is an Assistant Professor at the George Washington University, 2100 West Pennsylvania Avenue, NW, Washington, D.C. 20037.

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

   REDACTED

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

   Harvard Law School (Cambridge, Massachusetts); Attended 1981 – 1984; Received Juris Doctor, *cum laude*, 1984.

University of Pennsylvania (Philadelphia, Pennsylvania); Attended 1979 – 1981; Received Bachelor of Arts, *magna cum laude*, 1981.

State University of New York at Binghamton (Binghamton, New York); Attended 1977 – 1979; No degree received.

John F. Kennedy High School (Plainview, New York); Attended 1974 – 1977; Received High School Diploma, 1977.

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

1992 – 1993
Freelance Scriptwriter

Summer 1983
Crowell & Moring LLP
1001 Pennsylvania Avenue, NW
Washington, D.C. 20004
Summer Associate

Summer 1982
New York Civil Liberties Union
125 Broad Street
New York, New York 10004
Law Clerk

Summer 1981
International Policy Institute (now defunct)
Persimmon Tree Road
Potomac, Maryland 20854
Assistant Director

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

In 2008, I received the United States Department of Justice John Marshall Award, the department's highest award offered to attorneys, for my work in developing written guidance and sample pleadings concerning the retroactive application of the amended crack cocaine sentencing guidelines.

I also received numerous other awards for my service at the United States Attorney's Office and the Department of Justice, including Special Achievement Awards in 2010, 2009, 2008, 2007, 1995, and 1990.

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

None.

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

Council for Court Excellence (2005 – present)
- Prisoner Re-Entry Initiative (2007 – present)
- Expungement Subcommittee (2005 – 2006)

District of Columbia Bar (1998 – present)
- Member, Board of Governors (2010 – 2012)
- Board on Professional Responsibility Hearing Committee (2004 – 2010)
  - Chair, Committee Number Five (2006 – 2010)
- Judicial Evaluation Committee (2004 – 2010)
  - Chair (2008 – 2010)
- Criminal Law and Individual Rights Section
  - Chair, Criminal Rules and Legislation Committee (1999 – 2002)
- Rules of Professional Conduct Review Committee (2008 – present)

District of Columbia Sentencing and Criminal Code Revision Commission (2008 – 2009)

District of Columbia Superior Court
- Ad Hoc Committee to Consider Formation of a Criminal Justice Reform Commission (2011 – present)
- Criminal Rules Advisory Committee (2009 – present)
- Criminal Rules Advisory Committee, Subcommittee on Proposed Rules Governing Section 23-110 Proceedings (1998 – 1999)
- Pre-Trial Mental Examination Committee (1998 – present)

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

I have been an instructor in Project LEAD since 1999, where I have co-taught a course on civic responsibility for fifth-grade students at Amidon Elementary School and Walker-Jones Elementary School, both located in Washington, D.C. I also have been a member of the Children's Hemiplegia and Stroke Association since 2001, an organization

devoted to providing support to children who have suffered strokes and to increasing public awareness of pediatric stroke. In 1992, I was a member of the Montgomery County Playhouse, where I acted in a production of "Look Homeward Angel," and I currently am a member of the Runnymede Singers, a volunteer singing group that performs in nursing homes and churches. To the best of my knowledge, none of these organizations currently discriminates or formerly discriminated on the basis of race, sex, or religion.

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

State of New York, 1985
District of Columbia, 1998
United States District Court for the District of Columbia, 1991
United States Court of Appeals for the District of Columbia Circuit, 1997

In 2001, I resigned from the bar for the State of New York. Otherwise, there have been no lapses in membership.

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

Character and Credibility: A Proposal to Realign Federal Rules of Evidence 608 and 609, 37 Vill. L. Rev. 553 (1992).

Co-author, *Post-Conviction Proceedings*, Criminal Practice Institute, Trial Manual (1991).

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

None.

16. Legal career.

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

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

I served as a law clerk to the Honorable Frank E. Schwelb, then an Associate Judge of the Superior Court of the District of Columbia, from September 1984 to September 1985.

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

I have never practiced alone.

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

1985 – 1987
Federal Trade Commission
Bureau of Consumer Protection, Office of Policy and Evaluation
600 Pennsylvania Avenue, NW
Washington, D.C. 20580
Attorney

1986 – 1987
American University, School of Justice
4801 Massachusetts Avenue, NW
Washington, D.C. 20016
Professorial Lecturer

1987 – 1989
United States Department of Justice
Civil Division, Commercial Litigation Branch, Fraud Section
550 11th Street, NW
Washington, D.C. 20044
Trial Attorney

1989 – 1992
United States Attorney's Office for the District of Columbia
555 Fourth Street, NW
Washington, D.C. 20530
Assistant United States Attorney

1993 – 1997
United States Department of Justice
Civil Division, Office of Consumer Litigation
1331 Pennsylvania Avenue, NW
Washington, D.C. 20004
Trial Attorney

1997 – present
United States Attorney's Office for the District of Columbia
555 Fourth Street, NW
Washington, D.C. 20530
Assistant United States Attorney

Spring 1997 & Spring 1998
American University Washington College of Law
4801 Massachusetts Avenue, NW
Washington, D.C. 20016
Professorial Lecturer

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

For one year, from September 1984 to September 1985, I served as a judicial law clerk for the Honorable Frank E. Schwelb of the D.C. Superior Court. As a law clerk, I assisted Judge Schwelb primarily with criminal and domestic relations cases.

From 1985 to 1987, I was an attorney with the Federal Trade Commission, where I evaluated consumer protection investigations and litigation by staff attorneys in the Bureau of Consumer Protection.

While serving as a trial attorney in the Fraud Section of the Civil Division in the United States Department of Justice from 1987 to 1989, I prosecuted fraud against the federal government, primarily under the civil False Claims Act.

From 1989 to 1992, I served as an Assistant United States Attorney in the United States Attorney's Office for the District of Columbia, where I investigated and prosecuted a wide range of criminal offenses in both the Superior Court of the District of Columbia and the United States District Court for the District of Columbia.

In 1993, I joined the Office of Consumer Litigation in the Civil Division of the United States Department of Justice, where, for four years, I prosecuted both civil and criminal violations of a variety of consumer protection statutes, including the Food, Drug and Cosmetic Act, Federal Trade Commission Act, and Consumer Product Safety Act, as well as related criminal violations under Title 18 of the United States Code.

In 1997, I rejoined the United States Attorney's Office for the District of Columbia as an Assistant United States Attorney. I initially served in the Appellate Division and Sex Offense Section. Since August 1997, I have been the Chief of the Special Proceedings Division, where I oversee the division that responds to all post-conviction motions filed in D.C. Superior Court and the United States District Court in the District of Columbia. From 2008 to 2009, I served on a detail as Special Counsel to the United States Attorney for Professional Development and Legal Policy, where I oversaw the office's rotational moves, consulted with Assistant United States Attorneys on issues of professional development, and worked on a variety of legislative and policy matters, including drafting proposed legislation, testifying before the Council of the District of Columbia, and serving

on the District of Columbia Sentencing and Criminal Code Revision Commission. Additionally, I served on another detail from 2010 to 2011 as Executive Assistant United States Attorney for Operations, where I oversaw the office's litigating divisions and victim-witness unit, acted as a liaison to the United States Department of Justice and area law enforcement agencies, and acted as one of the principal advisors to the United States Attorney.

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

Because I have been an attorney for the federal government throughout my legal career, the United States has always been my client. In addition, I have represented numerous federal agencies during my years of practice. Specifically, I represented the Food and Drug Administration during my tenure at the Office of Consumer Litigation and, while working in the Special Proceeding Division of the United States Attorney's Office, have represented the United States Parole Commission, the Bureau of Prisons, and the Court Services and Offender Supervision Agency.

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

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

From 1985 to 1987, while working at the Federal Trade Commission, I did not appear in court at all. While working as an attorney at the Fraud Section of the Civil Division of the United States Department of Justice, from 1987 to 1989, I appeared in court approximately once or twice a year. I appeared in court most frequently during my tenure as an Assistant United States Attorney from 1989 to 1992. During most of that time period, I appeared in court on almost a daily basis. As an attorney at the Office of Consumer Litigation from 1993 to 1997, I appeared in court three or four times a year. Since returning to the United States Attorney's Office in 1997, I have appeared in court approximately three to four times a year, handling both evidentiary hearings and oral arguments.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);
(b) State courts of record (excluding D.C. courts);
(c) D.C. courts (Superior Court and D.C. Court of Appeals only);
(d) other courts and administrative bodies.

I estimate that approximately 40% of my court appearances have been in federal court and 60% have been in D.C. courts. I have never appeared in a

state court of record outside the District of Columbia, nor have I appeared before any other court or administrative body.

(3) What percentage of your litigation has been:

(a) civil;
(b) criminal.

I estimate that approximately 25% of my litigation has been civil and 75% has been criminal.

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

I have tried 21 cases to verdict. I served as lead counsel in one trial and sole counsel in all of the remaining trials.

(5) What percentage of these trials was to

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

Approximately 75% of my trials were to a jury and 25% were to the court.

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

1. United States v. Pollard, No. 86-207 (D.D.C). The defendant in this case was convicted of conspiring to deliver national defense information to a foreign government, in violation of 18 U.S.C. § 794. After he was sentenced, he filed a motion claiming he was entitled to a new sentence based on ineffective assistance of counsel at his sentencing hearing. He further claimed that his motion was timely, even though it was filed more than thirteen years after his conviction became final, because the statute of limitations did not accrue until he learned the legal significance of his attorney's actions. I represented the United States as sole counsel in opposing this motion. Then-Chief Judge Norma Holloway

Johnson rejected the defendant's arguments. See United States v. Pollard, 161 F. Supp. 2d 1 (D.D.C. 2001). The defendant then filed a motion for reconsideration arguing that Judge Johnson had erred in dismissing his motion without an evidentiary hearing. After hearing oral argument, then-Chief Judge Hogan denied the motion for reconsideration. See United States v. Pollard, 290 F. Supp. 2d 153 (D.D.C. 2003). The D.C. Circuit upheld both decisions. See United States v. Pollard, 416 F.3d 48 (D.C. Cir. 2005), cert. denied, 547 U.S. 1021 (2006). This case was important both because the underlying prosecution was a case of national significance and because the defendant's motion raised an issue of first impression in the D.C. Circuit.

Defendant's Counsel
Jacques Semmelman
Curtis, Mallet-Prevost, Colt & Mosle LLP
101 Park Avenue
New York, New York 10178
212-696-6067

2. Noble v. U.S. Parole Commission, No. 95-188 (D.D.C.). I represented the United States as sole counsel in responding to a habeas petition filed by the petitioner that challenged the forfeiture of the time he served on parole ("street time") upon the revocation of his parole by the United States Parole Commission. The petitioner argued that the forfeiture of his street time violated his rights under the equal protection component of the Fifth Amendment's Due Process Clause, because he was being treated differently than parolees under the supervision of the District of Columbia Board of Parole. Judge Stanley Sporkin denied petitioner's habeas petition, see Noble v. U.S. Parole Commission, 32 F. Supp. 2d 11 (D.D.C. 1998), and his decision was upheld by the D.C. Circuit. See Noble v. U.S. Parole Commission, 194 F.3d 152 (D.C. Cir. 1999). This litigation was significant because it resolved a dispute between the U.S. Parole Commission and the D.C. Board of Parole about the proper interpretation of the parole laws of the District of Columbia and ultimately led to the uniform treatment of all District of Columbia parolees by the two parole agencies.

Defendant's Counsel
Beverly Dyer
Federal Public Defender's Office
625 Indiana Avenue, NW
Washington, D.C. 20004
202-208-7500

Amicus Counsel for the D.C. Public Defender Service
David Reiser (formerly of the D.C. Public Defender Service)
Zuckerman, Spaeder LLP
1800 M Street, NW, Suite 1000
Washington, D.C. 20036
202-778-1854

Amicus Counsel for the U.S. Parole Commission
Mary Wilson
Office of the Attorney General for the District of Columbia, Appellate Division
441 Fourth Street, NW, 6th Floor South
Washington, D.C. 20001
202-724-5693

3. United States v. Mathis, No. 97-334 (D.D.C). I represented the United States as principal counsel in responding to the defendants' motions to vacate their sentences, pursuant to 28 U.S.C. Section 2255. The defendants argued that their sentences should be vacated based on the Supreme Court's decision in Blakeley v. Washington, 542 U.S. 296 (2004), which held that a court could not impose a sentence above the otherwise applicable statutory maximum sentence based on facts found by the judge. Importantly, the defendants' convictions became final before the Supreme Court decided Blakeley. Judge Kollar-Kotelly denied the defendants' motions and held that Blakeley did not apply retroactively. Her rulings were upheld by the D.C. Circuit. See United States v. Mathis, 503 F.3d 150 (D.C. Cir. 2007); 2006 WL 158266 (D.C. Cir. 2006). This case was significant because it involved an issue of first impression in the district and because it had the potential to open the doors to hundreds, if not thousands, of similar collateral attacks if Blakeley had been held to apply retroactively.

Counsel for Defendant Walter Mathis
Edward C. Sussman, Esq.
601 Pennsylvania Avenue, NW, Suite 900-South Building
Washington, D.C. 20004
202-737-7110

Counsel for Defendant Eddie Mathis
Jenifer Wicks, Esq.
400 Seventh Street, NW, Suite 202
Washington, D.C. 20004
202-393-3004

4. United States v. Holland, Nos. 96-3045, 96-3065 (D.C. Cir.). I represented the United States as sole counsel in the above-captioned case, which involved the defendants' appeals from the denial of their motions to withdraw their guilty pleas on the grounds that their pleas were not voluntarily made and were the result of ineffective assistance of counsel. The D.C. Circuit affirmed Judge Lamberth's denial of the defendants' motions to withdraw their guilty pleas, holding that a defendant must establish a "fair and just reason" to withdraw a plea after the judge has accepted his plea, but before the judge has accepted the underlying plea agreement and sentenced the defendant. See United States v. Holland, 117 F.3d 589 (D.C. Cir. 1997). This case was significant because it involved an issue of first impression in the D.C. Circuit.

Defendant's Counsel
Professor Adam Kurland
Howard University Law School
2900 Van Ness Street, NW
Washington, D.C. 20008
202-806-8063.

5. United States v. Turner, No. 97-CO-276 (D.C. Court of Appeals). I represented the United States as sole counsel in the above-captioned case, which involved a government appeal of the trial court's granting of a motion to suppress evidence on the grounds that the police did not have sufficient particularized suspicion to stop and detain the defendant. The D.C. Court of Appeals reversed the trial court's ruling and rejected the defendant's argument that the police lacked particularized suspicion to stop the defendant simply because the police had stopped another person who also matched the description. Rather, the Court of Appeals held that the police did have particularized suspicion justifying a stop of the defendant based on the close spatial and temporal proximity between the police broadcast and the stop of the defendant, together with the similarities between the defendant's appearance and the description of the defendant contained in the broadcast. See United States v. Turner, 699 A.2d 1125 (D.C. 1997). This case was significant because the Court of Appeals clarified that the police may stop and detain a person based on a police broadcast describing the person, even if they stop another person who also matched the description provided in the broadcast.

Defendant's Counsel
Henry Escoto, Esq.
806 Seventh Street, NW, Suite 301
Washington, D.C. 20001
202-898-4700

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

Investigation of Detective Johnny St. Valentine Brown
I helped coordinate and supervise the government's response to allegations that one of its most frequently used narcotics experts, Detective Johnny St. Valentine Brown, had lied about his credentials in hundreds of cases during the 1980s and 1990s. Further investigation revealed that Detective Brown testified falsely in many cases that he had received college degrees from Howard University and/or that he was a registered pharmacist. Upon learning of Brown's false testimony, I undertook extensive efforts to identify the cases in which Brown testified, notified defense counsel in those cases of the allegations that the office had received, and also notified the D.C. Public Defender Service, the Federal Public Defender for the District of Columbia, and the director of the Criminal Justice Act office. I also published a notice in the Daily Washington Law Reporter in an effort to provide notice to all those who may have been affected by Detective Brown's

testimony. I then supervised the office's response to approximately fifty motions seeking new trials filed by defendants against whom Detective Brown had testified. The United States conceded or settled six cases in which Brown had testified falsely and his testimony appeared to be an important part of the government's case. The office litigated the remaining cases, obtaining favorable results in all but one of these cases. The D.C. Court of Appeals and the D.C. Circuit have upheld the denial of these new trial motions in four reported cases. See Benton v. United States, 815 A.2d 371 (D.C. 2003); United States v. Gale, 314 F.3d 1 (D.C. Cir. 2003); Whitley v. United States, 783 A.2d 629 (D.C. 2002); United States v. Williams, 233 F.3d 592 (D.C. Cir. 2000).

Retroactive application of the revised crack cocaine guidelines

I helped coordinate and supervise the government's response to the retroactive application of the revised crack cocaine sentencing guidelines. More specifically, in December 2007, the United States Sentencing Commission voted to apply Amendment 706 of the United States Sentencing Guidelines, which lowered the offense levels for many crack cocaine convictions, retroactively to defendants who were convicted prior to the effective date of the amendment. The Sentencing Commission estimated that retroactive application of this amendment would affect approximately 300 defendants convicted of crack cocaine offenses in the U.S. District Court for the District of Columbia. In June 2011, the Sentencing Commission gave retroactive effect to another sentencing guideline amendment that lowered the offense levels for many crack cocaine convictions. The Commission estimated that retroactive application of this amendment would affect approximately 140 defendants convicted of crack cocaine offenses in the U.S. District Court for the District of Columbia. I worked closely with the Federal Public Defender's Office, the United States Probation Office, and the judges of the U.S. District Court for the District of Columbia to establish a process to identify those defendants who might be eligible for immediate release under the revised guidelines, promptly reviewed requests from the Federal Public Defender's Office for reductions in sentences based on the revised guidelines, worked with the United States Probation Office to ensure that services were in place for those defendants who were eligible for immediate release, and provided training to both Criminal Justice Act attorneys and the District Court judges on this issue. I also participated in a working group that developed written guidance and sample pleadings to be used by United States Attorney's Offices across the country when responding to motions for reduction of sentence based on the revised crack cocaine sentencing guidelines. I received the Attorney General's John Marshall Award for Providing Legal Advice based on my participation in the working group's efforts.

Drafting and Implementing the Criminal Record Sealing Act of 2006

I was a member of a Council for Court Excellence committee that submitted both a report and proposed legislation to the Council of the District of Columbia seeking to establish the District's first comprehensive expungement statute. The final product was a result of much discussion among the various stakeholders on the Committee, including representatives from the D.C. Superior Court, the defense bar, and the prosecution. The final product included a detailed report describing the need for an expungement statute and the parameters of such a statute, and also included draft legislation. The draft legislation was subsequently enacted, with minor changes, by the Council of the District of Columbia.

Both before and after the statute was enacted, I helped conduct training sessions concerning the Act for the judges of the Superior Court, and subsequently worked with members of the Court, the defense bar, and several other criminal justice agencies to develop written procedures implementing the Act in cases where a motion for relief is granted.

Drafting the Equitable Street Time Credit Amendment Act of 2008
I worked with representatives from the Council of the District of Columbia, prisoners' rights advocates, the Public Defender Service, and numerous criminal justice agencies to revise the parole laws of the District of Columbia so that District of Columbia parolees would be treated in the same manner as federal parolees. More specifically, I helped draft the Equitable Street Time Credit Amendment Act of 2008, which modified the parole laws governing the forfeiture of street time and the termination of parole. After this legislation was drafted, I also drafted a concurrence letter for the Attorney General of the United States, indicating that he concurred in the legislation, a prerequisite to any change in the parole laws of the District of Columbia. See D.C. Code § 24-131(c).

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

I have never held judicial office.

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

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

I submitted three previous applications to become a D.C. Superior Court judge, in October 2009, September 2010, and March 2011. I have not otherwise been a candidate for elective, judicial, or other public office.

21. Political activities and affiliations.

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

  None.

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

  None.

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

  In 2011, I contributed $250.00 to Peter Shapiro's unsuccessful campaign to become a member of the D.C. City Council.

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

    No.

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

    I have been named as a respondent in a handful of petitions for writs of habeas corpus during the time I have been Chief of the Special Proceedings Division. To the best of my knowledge, these cases have all been dismissed. I also was a plaintiff in a class action brought by certain current and former Department of Justice attorneys in which the plaintiffs sought compensation for overtime hours worked pursuant to the Federal Employees Pay Act. The suit eventually was dismissed for lack of jurisdiction. See Doe v. United States, 463 F.3d 1314 (Fed. Cir. 2006).

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

    I have never been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, bar association, disciplinary committee, or other professional group. In 2010, I became one of the subjects of an investigation being conducted by the Office of Professional Responsibility (OPR) concerning the United States Attorney's Office decision not to disclose certain irregularities in laboratory reports prepared by an FBI examiner in the case of United States v. Gates, Crim. No. 1981 FEL 6602. On March 9, 2011, I received a letter from OPR indicating that they had completed their investigation and "concluded that no finding of professional misconduct or poor judgment by you is warranted in this matter."

II. POTENTIAL CONFLICTS OF INTEREST

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

   Yes.

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

   None.

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

   None.

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

   None.

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

   None.

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

   No.

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

   If any conflict of interest arises, I will resolve it pursuant to the District of Columbia Code of Judicial Conduct.

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

   Yes.

III. FINANCIAL DATA - REDACTED

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

IV. DISTRICT OF COLUMBIA REQUIREMENTS

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

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

   Yes.

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

   Yes.

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

   Yes. I was admitted to the bar of the District of Columbia on January 5, 1998.

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

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

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

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

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

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

   Yes.

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

   Yes. Since December 2008, I have resided at REDACTED Washington, D.C. 20015. From July 1996 to December 2008, I resided at REDACTED Potomac, MD 20854.

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**
No.

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

No.

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

Four copies are attached.

AFFIDAVIT

Robert Daniel Okun, being duly sworn, hereby states that he has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

SUBSCRIBED and SWORN TO before me this 19 day of Sept 2012.

Marc Thompson
Notary Public
Marc Thompson
District of Columbia
My comm exp. 5/31/13

MARC THOMPSON NOTARY PUBLIC DISTRICT OF COLUMBIA

501 Third Street, NW
Washington, DC 20530
March 20, 2013

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security & Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire that I previously filed in connection with my nomination on September 20, 2012 to be an Associate Judge for the Superior Court of the District of Columbia. Incorporating the additional information below, and my separately filed supplement concerning my financial data, I certify that the information contained in my questionnaire is, to the best of my knowledge, true and accurate.

Supplement to Q. 3, Biographical and Professional Information:

My office address has changed, and is now 501 3rd Street, NW, Room 5208, Washington, DC 20530.

Supplement to Q. 6, Biographical and Professional Information:

My son, Eli Madison Okun, is now 19 years old.

REDACTED

Supplement to Q. 11, Biographical and Professional Information:

I am no longer a member of the Rules of Professional Conduct Review Committee. My term ended in November 2012.

I thank the Committee for its consideration of my nomination.

Sincerely,

Robert D. Okun

cc:

The Honorable Tom A. Coburn, M.D.
Ranking Member
Committee on Homeland Security & Governmental Affairs
United States Senate
Washington, DC 20510

PREPARED STATMENT OF

THE HONORABLE PAUL STRAUSS
U.S. SHADOW SENATOR
DISTRICT OF COLUMBIA

On the Nomination of

Mr. Michael O'Keefe and Mr. Robert D. Okun

To be Associate Judges on the
District of Columbia Superior Court

Before the

United States Senate
Committee on Homeland Security and Governmental Affairs

Dirksen Senate Office Building - Room SD-342

May 15, 2013 – 2:30 p.m.

Senator Begich and distinguished Members of the Senate Committee on Homeland Security and Governmental Affairs, I am Paul Strauss, the elected United States Senator for the District of Columbia, and I am also a practicing attorney in the District. In each of these capacities, I appreciate the opportunity to provide this statement on behalf of my constituents in the District of Columbia.

I wish to express my enthusiastic and strong support of President Obama's nominations to be Associate Judges of the Superior Court of the District of Columbia of Michael K. O'Keefe and Mr. Robert D. Okun, respectively. I have had the privilege of knowing Mr. O'Keefe personally and professionally for almost a quarter of a century, and I have taken time recently to familiarize myself with Mr. Okun. As a result of these efforts, I am confident that both nominees are exceptionally well-qualified candidates and will undoubtedly make superb additions to the District courts.

I will begin with Mr. Michael O'Keefe, an accomplished attorney who has served the people of the District of Columbia for many years. Having known Mr. O'Keefe for 24 years I can personally attest for his suitability for the position of Associate Judge of our Superior Court. Mr. O'Keefe and I each began our careers together at American University's Washington College of Law. Since that time, I have had the pleasure of watching him develop into one of the most respected members of the District of Columbia Bar. In addition to being an outstanding attorney, he is regarded as a person of outstanding integrity.

His 20 years career in private practice gives him a unique perspective that will make him an excellent addition to the DC Superior Court bench. Mr. O'Keefe has handled over 2000 cases in different divisions of the court and was lead counsel in over 200 trials in the D.C., Superior Court. Litigating in Criminal, Family and Civil Court, he has argued many times before he D.C. Court of

Appeals and at D.C. Administrative Hearings as a result he has appeared before nearly every Judge on the Superior Court bench. Mr. O'Keefe served as General Counsel of Washington Latin Public Charter School, President of Family Court Trial Lawyers Association and served on Family Court Adoption Rules Committee. He has lectured in many topics such as: Child Neglect and Abuse, Legal Guardianship and Juvenile Delinquency to name a few. Having been on both the same side, and on a few occasions, opposite him at the Counsel table as a lawyer, I can testify first hand that he is a strong litigator, and a formidable legal opponent.

In addition to being a respected practitioner, Michael O'Keefe is one of the few nominees to our Superior Court in recent years to have come from the private sector, as opposed to working as a government lawyer. While we have had many wonderful nominees from the public sector, including many former prosecutors and employees of our Public Defender Services, I believe strongly that there is something valuable to be gained by the experience of working with clients who actually care about the bill. The hard costs of legal services paid by litigants in the court system directly impact the ability of parties to access our system of justice. The real life experience of having to balance his business' books and depend on clients to pay their legal bills means gives him an all too rare perspective and ability to understand the costs of litigation to real people in real cases.

Although I am personally much more familiar with the career of Michael O'Keefe, I do not want to leave this committee with the impression that I am not also enthusiastic about my full support for the nomination of Mr. Robert Okun. Although our paths have not crossed as frequently professionally, Mr. Okun and I have had the privilege of sitting together at some memorable school theatrical performances as our daughters both attend the same high school here in the District of Columbia, and I can attest to his devotion as a father.

By all accounts, Mr. Okun is extremely well qualified to join the bench. He is a graduate of Harvard Law School Cum Laude, and the University of Pennsylvania, Magna Cum Laude. Mr. Okun has had a comprehensive legal career; he currently serves as the Chief of Special Proceedings Division of the U.S. Attorney's Office here in our district. His role involves overseeing all post conviction motions. Mr. Okun spent over 20 years in criminal litigation, including 14 years as a supervisor for other attorneys in criminal litigation. He worked in the Fraud Section of the Civil Division as a Trial Attorney. He has served as a Hearing Officer for the Board of Professional Responsibilities for the District of Columbia, hearing allegations put against members of the District of Columbia Bar. Mr. Okun clerked for Associate Judge Frank Schwelb in the Superior Court, as a result he knows this Court well. He has spent a large amount of his career serving the U.S. Attorney's Office. He has great insight into all the different litigating divisions of the U.S. Attorney's.

Mr. Okun has been a dedicated public servant for many years and I have no doubt that he will continue at the Bench to serve our people with the same vigor and commitment. The residents of the District of Columbia would be privileged if Mr. Okun was able to continue his public service as an Associate Judge of the Superior Court.

This is Mr. Okun's second attempt to join the Superior Court Bench. He was nominated by the President in the One Hundred and Twelfth Congress, and frankly, the failure of the United States Senate to confirm him at that time was a disturbing example of the often negligent approach that this body takes all too frequently when it comes to issues solely impacting the District of Columbia. At no point did any member of this body articulate any concern or objection to this nomination, and it is a shame that such a well qualified nominee must repeat this process again. Even more significant than the unfairness to Mr. Okun, our Court system has had to function with an needless vacancy, increasing the case loads of other Judges, and inconveniencing litigants in the process.

Frankly Senator Begich, the failure of the last Senate to act on this non-controversial and well qualified nominee last session is a perfect illustration of why the District of Columbia both deserves and needs Statehood. It is bad enough that we lack local control over the DC Court system, but it is made worse when the Senate acts as a negligent steward of my constituent's interests.

As both you and Chairman Carper are strong supporters of DC Statehood, I am pleased and grateful that DC can count on you to diligently pursue your duties as it relates to what should be a routine local District of Columbia appointment, and not a Federal matter. I could not think of any other Senators that I would trust more with this process. However worthy on an individual basis that Robert Okun and Michael O'Keefe are all the requisite pomp and prestige that accompanies a Presidential nomination with the advice and consent of this esteemed Senate, the greater honor would be to allow these lawyers, and those they seek to serve to enjoy the even superior dignity of full citizenship that comes with granting the District of Columbia Statehood.

Until that day, since neither I, nor any other District resident can cast a vote in the United States Senate, I am limited to asking you to cast your votes to confirm Mr. Okun and Mr. O'Keefe on my behalf. Thank you again, Senator Begich, for the opportunity to present this statement for the record.

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