

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Susan Kim DeClercq (birth name: Sun Jin Kim)

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

United States District Judge for the Eastern District of Michigan

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

Ford Motor Company
1 American Road
Dearborn, Michigan 48126

Residence: Northville, Michigan

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

1974; Seoul, South Korea

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

1996 – 1999, Wayne State University School of Law; J.D. (*magna cum laude*), 1999

1997, University of Nairobi – Faculty of Law; no degree (summer study only)

1991 – 1995, University of Michigan Ann Arbor; B.A., 1995

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

2022 – present

Ford Motor Company
1 American Road
Dearborn, Michigan 48126
Director and Counsel – Special Investigations

2004 – 2022

United States Attorney's Office – Eastern District of Michigan
211 West Fort Street, Suite 2001
Detroit, Michigan 48226
Civil Division Chief (2022)
Civil Rights Unit Chief (2014 – 2022)
Assistant United States Attorney – Civil Rights Unit (2010 – 2014)
Assistant United States Attorney – Defensive Litigation Unit (2004 – 2010)

2001 – 2004

Skadden, Arps, Slate, Meagher & Flom, LLP
1440 New York Avenue, Northwest
Washington, DC 20005
Associate

1999 – 2001

United States District Court for the Eastern District of Michigan
231 West Lafayette Boulevard
Detroit, Michigan 48226
Law Clerk to the Honorable Avern L. Cohn

Spring 1999

Wayne County Prosecutor's Office
1440 Saint Antoine
Detroit, Michigan 48226
Intern, Child and Family Abuse Bureau

Summer 1998

Butzel Long, PC
150 West Jefferson Avenue
Detroit, Michigan 48226
Summer Associate

Spring 1998

United States District Court for the Eastern District of Michigan
231 West Lafayette Boulevard
Detroit, Michigan 48226
Intern to the Honorable Gerald E. Rosen

1998 – 1999

Wayne State University School of Law

471 West Palmer Street
Detroit, Michigan 48202
Research Assistant to Professor Zanita Fenton

1995 – 1996
Butzel Long, PC
32400 Telegraph Road
Bingham Farms, Michigan 48205
Litigation Clerk/Paralegal

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

I did not serve in the military. I was not required to register for the selective service.

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

United States Department of Justice Civil Rights Division Commendation Award
(multiple years between 2010 – 2022)

United States Attorney's Award for work on Detroit Police Department case (2016)

Wayne State University School of Law
Magna Cum Laude (1999)
Order of the Coif (1999)

University of Michigan Ann Arbor
College of Literature, Science & Arts Honors Convocation Award (1994 – 1995)

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

American Bar Association (2001 – 2002)

Federal Bar Association, Eastern District of Michigan Chapter (2014 – present)
Executive Board Member (2014 – present)
Co-chair, Pro Bono Section (2021 – 2022)
Co-chair, Civil Rights (formerly Social Justice) Section (2014 – 2021)

Wayne State University School of Law, Women's Law Caucus (1996 – 1999)
Co-chair (1998 – 1999)

10. **Bar and Court Admission:**

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

Michigan, 1999
District of Columbia, 2001

I became an inactive member of the DC Bar in 2004 when I moved to Michigan. There have been no lapses in membership.

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

Supreme Court of the United States, 2001
United States Court of Appeals for the Sixth Circuit, 1999
United States District Court for the Eastern District of Michigan, 1999

There have been no lapses in membership.

11. **Memberships:**

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

Federal Executive Board Diversity Council (approximately 2017 – 2021)
U.S. Attorney's Office representative (approximately 2017 – 2021)

Woodside Village Homeowners Association (2004 – present)
Architectural Control Committee member (2019 – present)

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

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

12. Published Writings and Public Statements:

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

With Elizabeth Hecker, Friends of the Court: Amicus Briefs and Statements of Interest in Civil Rights Cases, DEPARTMENT OF JUSTICE JOURNAL OF FEDERAL LAW AND PRACTICE, Volume 70 (Jan. 2022). Copy supplied.

With Kimberly G. Musolf, Employment and Labor Law, Annual Survey, 47 WAYNE LAW REVIEW 529 (Summer 2001). Copy supplied.

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

None.

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

In my capacity as Civil Rights Unit Chief, I sent a Dear Colleague letter to various Michigan municipalities within the Eastern District of Michigan in August 2021, reminding them that the Americans with Disabilities Act applies to outdoor dining spaces. Copy supplied.

In 2017, along with two colleagues at the United States Attorney's Office, I authored a letter nominating Barbara McQuade for a State Bar of Michigan Frank J. Kelley Distinguished Public Service Award. I do not have a copy of the letter but portions were quoted in the press coverage of the award winners, which is supplied.

In my capacity as Civil Rights Unit Chief, I spoke at the 2015 American Civil

Liberties Union of Michigan Hearing on Practices and Policies to Improve Police/Community Relations on the topic of the United States Department of Justice's police and community relations initiatives. I have no notes, transcript, or recording.

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

I endeavored to find all speeches or talks responsive to this question, however I no longer have access to the professional calendar that I used while at the United States Attorney's Office for the Eastern District of Michigan so it is possible that there are a few I was unable to identify.

September 15, 2022: Panelist, Michigan Department of Civil Rights MI Response to Hate Conference, Lansing, MI. The presentation was on civil and criminal laws on hate crimes. I have no notes, transcript, or recording. The address for the Michigan Department of Civil Rights is 3054 West Grand Boulevard, Suite 3-600, Detroit, Michigan 48202.

January 11, 2022: Presenter, Institute of Continuing Legal Education: Health Law Institute via webcast. Presentation available at https://www.icle.org/modules/seminars/video.aspx?ID=1_g8unf90v&seqn=587.

October 21, 2021: Speaker, Michigan Department of Civil Rights MI Response to Hate Conference, via Zoom. Video available at <https://www.youtube.com/watch?v=4Pjxwoc4e1w&t=20s>.

May 23, 2019: Panelist, Civil Rights Night, Michigan Department of Civil Rights and the Jackson County Branch of the National Association for the Advancement of Colored People, Jackson, Michigan. I spoke about the civil rights enforcement work done by the United States Attorney's Office for the Eastern District of Michigan. I have no notes, transcript, or recording but press coverage is supplied. The address for the Michigan Department of Civil Rights is 3054 West Grand Boulevard, Suite 3-600, Detroit, Michigan 48202; the address for the Jackson County Branch of the National Association for the Advancement of Colored People is 801 South Mechanic Street, Jackson, Michigan 49203.

March 22, 2019: Speaker, Inaugural Fair Housing Conference, Legal Services of Eastern Michigan Fair Housing Center, Flint, Michigan. The presentation was on

the United States Department of Justice's Sexual Harassment in Housing Initiative. I have no notes, transcript, or recording. The address for the Legal Services of Eastern Michigan is 436 South Saginaw Street, Flint, Michigan 48502.

May 8, 2017: Co-Presenter, Confronting Anti-Semitism: A Local Perspective on Hate-Speech and Threats, Hope Against Hate, American Jewish Joint Distribution Committee and Jewish Federation of Metropolitan Detroit, Southfield, Michigan. The presentation addressed the characteristics and distinctions between "hate speech" and those actions that constitute "true threats" to safety and security; I spoke about civil rights protections in the context of speech. I have no notes, transcripts or recordings but press coverage is supplied. The address for the American Jewish Joint Distribution Committee is P.O. Box 4124, New York, New York 10163, and the address for the Jewish Federation of Metropolitan Detroit is 6735 Telegraph Road, Suite 30, Bloomfield Hills, Michigan 48301.

March 9, 2017: Presenter, Institute of Continuing Legal Education: Health Law Institute, Plymouth, Michigan. I spoke about civil rights in healthcare. I have no notes, transcript, or recording. The address for the Institute of Continuing Legal Education is 1020 Greene Street, Ann Arbor, Michigan 48109.

October 6, 2015: Host, town hall meeting regarding Detroit Police Department, U.S. Department of Justice Civil Rights Division and United States Attorney's Office for the Eastern District of Michigan, Detroit, Michigan. I received comments from Detroit residents about their experiences with the Detroit Police Department following the termination of the consent decrees imposed as part of the U.S. Department of Justice's civil rights lawsuit. I have no notes, transcript, or recording but press coverage is supplied. The address for the United States Attorney's Office for the Eastern District of Michigan is 211 West Fort Street, Suite 2001, Detroit, Michigan 48226.

August 1, 2014: Presenter, Protections Afforded by the Americans with Disabilities Act, DEBra Patient Care Conference, Nashville, Tennessee. The presentation was on the Americans with Disabilities Act. I have no notes, transcript, or recording. The address for DEBra is 75 Broad Street, Suite 300, New York, New York 10004.

On various dates from approximately 2015 to 2019 I was a guest lecturer in a number of law school classes at the University of Michigan, Wayne State University, and University of Detroit Mercy, speaking about civil rights law. I have no notes, transcripts, or recordings. The address for the University of Michigan Law School is 625 South State Street, Ann Arbor, Michigan 48109; the address of the University of Detroit Mercy School of Law is 651 East. Jefferson Avenue, Detroit, Michigan 48226; the address of Wayne State University School of Law is 471 West Palmer Avenue, Detroit, Michigan 48202.

From 2010 to 2022 I frequently served on the faculty for the National Advocacy Center, the Department of Justice's internal training facility in Columbia, South Carolina, instructing Assistant United States Attorneys and Department of Justice Trial Attorneys in numerous courses focusing on civil rights and trial advocacy.

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

In my role as the Unit Chief, I was interviewed about the work of the Civil Rights Unit at the United States Attorney's Office for the Eastern District of Michigan for a webcast associated with the Oakland County Bar Association. I cannot recall the date. I am unable to locate a transcript or recording.

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

I have not held judicial office.

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

- i. Of these cases, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

- ii. Of these cases, approximately what percent were:

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
 - c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys

who played a significant role in the case.

- e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

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

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

None.

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

In 1994, while in college, I briefly volunteered with the non-partisan campaign committee to elect Lore Rogers for Washtenaw Circuit Court judge. I held no official position.

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

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

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

From 1999 to 2001, I served as a law clerk to the Honorable Avern L. Cohn on the United States District Court for the Eastern District of Michigan.

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

I have never practiced law alone.

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

1999 – 2001

United States District Court for the Eastern District of Michigan
231 West Lafayette Boulevard
Detroit, Michigan 48226
Law Clerk to the Honorable Avern L. Cohn

2001 – 2004

Skadden, Arps, Slate, Meagher & Flom, LLP

1440 New York Avenue, Northwest
Washington, DC 20005
Associate – Litigation Group

2004 – 2022

United States Attorney's Office for the Eastern District of Michigan
211 West Fort Street, Suite 2001

Detroit, Michigan 48226

Civil Division Chief (2022)

Civil Rights Unit Chief (2014 – 2022)

Assistant United States Attorney, Civil Rights Unit (2010 – 2014)

Assistant United States Attorney, Defensive Litigation Unit (2004 – 2010)

2022 – present

Ford Motor Company

1 American Road

Dearborn, Michigan 48126

Director and Counsel – Special Investigations

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

I have not served as a mediator or arbitrator.

b. Describe:

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

Since November 2022, I have been an in-house attorney at the Ford Motor Company. I am responsible for internal investigations into complaints of employee misconduct and potential violations of law or the company's code of conduct, or other ethical concerns.

For the previous 18 years, from 2004 to 2022, I served as an Assistant United States Attorney in Detroit, Michigan. I became an Assistant United States Attorney in 2004 and practiced civil litigation in a variety of areas, including defensive litigation and civil rights enforcement. I handled hundreds of cases at every stage of civil litigation from inception to post-judgment. I briefed and argued dozens of civil dispositive and non-dispositive motions, including motions to dismiss, compel, and obtain summary judgment. I took dozens of depositions and engaged in extensive discovery practice. I led substantial investigations, which included extensive interviews of fact and expert witnesses, factfinding, and recommendations. At any given time, I managed a revolving civil

caseload of approximately 25 to 30 cases. I also held several management positions. From 2014 to 2021, I served as the Chief of the Civil Rights Unit, supervising the work of the other attorneys in the Unit and spearheaded community outreach, as well as handling my own cases. In 2021, I became the Chief of the Civil Division, overseeing approximately 20 attorneys and 10 support staff in the Units within the Civil Division.

I was an associate at Skadden, Arps, Slate, Meagher & Flom, LLP from 2001 to 2004, primarily practicing in white collar defense and commercial litigation. I also worked on internal investigations and assisted clients in responding to government investigations.

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

In private practice as a law firm associate, I represented large corporations and corporate executives in commercial litigation and government investigations. At the United States Attorney's Office my clients were almost always the United States, federal agencies, and federal employees. I specialized in civil defensive litigation and civil enforcement of federal civil rights laws. At my current position at Ford Motor Company, my client is always the company. I specialize in corporate compliance, specifically investigating complaints of employee misconduct.

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

My practice has been primarily litigation and has been almost exclusively in the federal courts since 2001. I appeared in court frequently as an Assistant United States Attorney from 2004 to 2010, including for approximately 50 hearings on dispositive motions and two bench trials. When I transitioned into focusing on civil rights enforcement, my court appearances declined as most of my cases settled pre-suit.

- i. Indicate the percentage of your practice in:

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

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	100%
2. criminal proceedings:	0%

- d. State the number of cases in courts of record, including cases before

administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried two cases to verdict, one as sole counsel and one as co-counsel. I also authored several written briefs and presented oral argument at the United States Court of Appeals for the Sixth Circuit.

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

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

As an associate at Skadden, I co-authored an amicus brief, 2003 WL 402128, in *Grutter v. Bollinger*, 539 U.S. 306 (2003), on behalf of Representative Richard A. Gephardt and other individual members of Congress.

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

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *United States v. City of Troy, Michigan*, 592 F. Supp. 3d 591 (E.D. Mich. 2022) (Edmunds, J.)

This was the most recent of several cases that I handled alleging that a municipality violated the Religious Land Use and Institutionalized Persons Act (RLUIPA) when it failed to approve a permit or other land use application submitted by a religious entity for religious use. From 2020 through 2022, I co-led the investigation and litigation into the City of Troy's denial of Adam Community Center's attempt to establish an Islamic place of worship in a building that had previously been used as a restaurant and banquet hall. I took several depositions during discovery and helped to write briefs on the parties' cross-

motions for summary judgment. I also participated in several settlement negotiations mediated by Magistrate Judge Majzoub. The Court ultimately granted summary judgment in favor of the United States, holding that Troy imposed a substantial burden on Adam's exercise of religion and that the city's zoning ordinance violated RLUIPA's equal terms provision by imposing more onerous restrictions on places of worship than comparable places of assembly, and requiring the city to approve the land use application and change its planning ordinance.

Co-Counsel

Shannon Ackenhausen
United States Attorney's Office
211 West Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9100

Abigail Marshak
U.S. Department of Justice
Civil Rights Division, Housing and Civil Enforcement Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
(202) 514-1968

Opposing Counsel

Allan T. Motzny
City of Troy Attorney's Office
500 West Big Beaver Road
Troy, MI 48084
(248) 524-3324

2. *United States v. University of Michigan*, Case No. 2:15-cv-12582 (E.D. Mich.)
(Friedman, J.)

Along with co-counsel from the Civil Rights Division, from 2014 to 2015, I handled all aspects of this employment discrimination case against the University of Michigan for violations of Title I of the Americans with Disabilities Act. The case arose from an individual charge of discrimination by a maintenance employee at the University of Michigan who alleged that the University violated the Americans with Disabilities Act when it refused to re-assign her to a vacant position for which she was qualified after she was no longer able to perform the essential functions of her original job. My co-counsel and I conducted additional investigation and found evidence that the University engaged in a pattern or practice of discrimination by applying a policy that denied reassignments as a reasonable accommodation. Shortly after filing suit, the University agreed to settle the case based on the evidence that my co-counsel and I had developed during our supplemental investigation. Under the consent decree, which was approved by the District Court, the University agreed to pay damages to the original complainant and other similarly situated employees, as well as to change its policies and train its staff to

avoid future violations.

Co-counsel

Rachel Smith (formerly at the U.S. Department of Justice)
I am unable to locate current contact information for Ms. Smith.

Opposing Counsel

David J. Masson
503 Thompson Street #5010
Ann Arbor, MI 48109
(734) 764-0304

3. *United States v. Pittsfield Charter Township*, Case No. 2:15-cv-13779 (E.D. Mich.)

From approximately 2012 through 2015, I was the lead investigator and litigator in this religious land use case, but I continued to participate in the matter in a supervisory capacity until its resolution in 2016. In this case, Pittsfield Township had denied an Islamic school's request to amend the zoning ordinance to allow it to construct a new school on a vacant parcel located in a residential area. The school worked cooperatively with the Township Planning Department to come to a mutually acceptable design, and expressed a willingness to address every concern raised by the Township and neighbors. Nonetheless, the Township denied the request claiming traffic concerns and noise and light issues. I initiated and conducted the investigation leading up to suit, helped write the complaint and consent decree documents, and provided strategic advice and guidance on litigation and settlement strategy. The parties settled the case on terms favorable to the Islamic school through a consent order, which was approved by Judge Matthew F. Leitman.

Co-Counsel

Luttrell Levingston
United States Attorney's Office
211 West Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9100

Abigail Nurse
U.S. Department of Justice
Civil Rights Division, Housing and Civil Enforcement Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
(202) 353-9732

Opposing Counsel

Thomas R. Meagher
Foster Swift Collins & Smith PC
313 South Washington Square

Lansing, MI 48933
(517) 371-8100

4. *United States v. Corral of Westland LLC*, Case No. 02:13-cv-10717 (E.D. Mich.)
(Murphy, J.)

I served as lead counsel on all proceedings in this civil rights case from 2011 to 2013. I represented the United States in this case against a buffet-style restaurant for violating the Americans with Disabilities Act when it denied a family service and ejected them from the restaurant based on the appearance of their children's skin caused by a genetic disorder. I conducted the investigation, wrote all court pleadings, and primarily handled the settlement negotiations in front of then-Magistrate Judge Laurie Michaelson. Defendants agreed to settle the case on terms requiring defendants to pay a substantial amount of money damages to the family, a civil monetary payment to the United States, and change their policies and conduct training for their employees to ensure future Americans with Disabilities Act compliance.

Opposing counsel

Dan Bretz
Clark Hill PLC
500 Woodward Avenue, Suite 3500
Detroit, MI 48226
(313) 365-8300

Jeffrey A. Steele
Macomb Community College
14500 East 12 Mile Road
Warren, MI 48088
(586) 498-4090

5. *Baetz v. City of Highland Park*, Case No. 2:12-cv-10617 (E.D. Mich.) (Borman, J.)

From 2011 to 2012, I handled all proceedings including pre-suit investigation in this case filed under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA) on behalf of a servicemember who was denied a promotion that he would have attained if he had not been called to active-duty military service. I represented an auxiliary firefighter who was also a member of the U.S. Army Reserve. He was called to active duty and deployed to Afghanistan for one year, and when he returned he learned that while he was gone, three auxiliary firefighters with less seniority than him had been promoted to full-time firefighters. I led extensive negotiations and the City eventually agreed to settle the case. As reflected in the consent judgment approved by the district court, the City agreed to, among other things, promote the plaintiff and retroactively adjust his promotion date to the date of his return from active-duty service, as well as pay money damages representing the amount of backpay and present value of union benefits that he would have received in the promotional position.

Opposing Counsel

Todd Perkins
The Perkins Law Group
615 Griswold Street, Suite 400
Detroit, MI 48226
(313) 964-1702

6. *United States v. Tel-Clinton Trailer Courts, Inc.*, Case No. 2:11-cv-12886 (E.D. Mich.) (Tarnow, J.)

In 2011, I investigated and litigated this Fair Housing Act case against the management of a trailer park for engaging in a pattern or practice of discrimination on the basis of familial status. Specifically, the trailer park had policies that prevented families with more than one child from residing there. Along with co-counsel from the Civil Rights Division, I conducted a supplemental investigation into the facts of the case, which had been referred to us by a local fair housing agency, drafted pleadings, coordinated with the victim's private counsel, and eventually settled the case through a consent decree approved by Judge Arthur Tarnow.

Co-Counsel

Christopher J. Fregiato (formerly at the U.S. Department of Justice)
I am unable to locate current contact information for Mr. Fregiato.

Opposing Counsel

Carmine Perrotta
The Perotta Firm, PLC
401 South Old Woodward Avenue, Suite 300
Birmingham, MI 48009
(248) 283-1003

7. *Estate of Berrien v. United States*, Case No. 2:08-cv-13359 (E.D. Mich. Jan.13, 2012) (Roberts, J.), *rev'd*, 711 F.3d 654 (6th Cir. 2013).

I served as lead counsel in all district court proceedings and trial in this tort case from approximately 2008 to 2013. The case was brought by the estate of Mr. Berrien arising from Mr. Berrien's death from a head injury that he sustained while working at Selfridge Air National Guard Base as a maintenance contractor. There were no witnesses to the injury-producing event, but the plaintiff alleged that Mr. Berrien was struck on the head by a falling rain gutter. I represented the United States. I handled all of the discovery in the case, which lasted more than a year and included depositions of a large number of both fact and expert witnesses. I also wrote the briefs involved with cross-motions for summary judgment, and ultimately, a summary trial, which is a trial determined on written evidence only, before Judge Victoria Roberts. The district court found for the plaintiff but the government appealed the case, and ultimately prevailed at the Sixth Circuit. Although the Civil Appellate Section of the Department of Justice handled the appeal, I participated in the briefing and my work laid the foundation for the ultimate

decision in the United States' favor.

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8. *Hoffman v. United States*, Case No. 2:08-cv-12093 (E.D. Mich) (Steeh, J.)

In 2008, I was brought on to co-counsel the trial in this tort case arising out of an automobile accident. The plaintiff claimed injuries as a result of a vehicle driven by a government employee hitting the plaintiff's car on the freeway. Along with co-counsel, I participated in a settlement conference where the parties stipulated to the extent of the plaintiff's damages. In a bench trial before Judge George Caram Steeh, my co-counsel and I litigated the issue of liability for the collision. I gave the opening statement and examined the government driver. The verdict assigned 20 percent contributory negligence to the plaintiff.

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9. *Phelps v. United States*, Case No. 2:08-10957 (E.D. Mich.) (Gadola, J.)

From approximately 2007 to 2009, I primarily handled the litigation of this tort case, which involved claims of injury arising from a car accident with a United States Fish and Wildlife Service employee. Several issues were litigated, including the threshold issue of whether the employee was acting within the scope of his employment at the time of the collision. I conducted extensive discovery in the case, including document review, multiple depositions of fact and expert witnesses, and filed several motions and briefs. My colleague took over the case in 2009 when I went on maternity leave, and he eventually settled the case.

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10. *Huling v. United States*, Case No. 2:06-cv-14924 (E.D. Mich.) (Zatkoff, J.)

From 2006 to 2008, I handled all aspects of this automobile negligence case, brought against the United States under the Federal Tort Claims Act, arising out of a collision caused by a United States Postal employee. Although liability for the accident was not in dispute, the government contested the nature and extent of the injuries claimed by the plaintiff, Ms. Huling. I solely handled the extensive discovery in the case, which entailed exchanging a voluminous amount of documents and taking dozens of fact and expert witness depositions, including EMTs, medical doctors, and nursing professionals. Through the course of the case, the plaintiff claimed that prior to the car accident she had been in good health and worked part-time. However, based on records that I uncovered from the Social Security Administration and the Internal Revenue Service, I determined that the plaintiff had been using a different social security number to collect social security disability benefits for the past 10 years, while claiming injuries and symptoms identical to those being claimed in this lawsuit. I presented the evidence of the plaintiff's fraud to her attorney, who promptly withdrew as counsel. The case was eventually dismissed for failure to prosecute the case once plaintiff had her lies exposed. In addition, I notified the Social Security Administration so that they could start revocation proceedings and referred the matter to the criminal division of the United States Attorney's Office for a fraud prosecution.

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

As an Assistant United States Attorney and law firm associate, I also led the United States Attorney's Office's community outreach on civil rights matters, to educate community members on their civil rights and support community organization advocating for civil rights. I also took an active role in the hiring and development of new lawyers, participating in hiring, recruitment, and internship programs at both the United States Attorney's Office and my prior law firm.

Although almost all of my legal practice, until my current position, has been related to litigation, some of the most significant legal activities that I have pursued were significant cases which did not progress to trial or legal matters that did not involve litigation. These matters include representing Enron Corp in multiple investigations by law enforcement, Congress, and various federal agencies in the wake of the company's unexpected collapse, ensuring that the United States held the Detroit Police Department and the Detroit Department of Transportation to their agreed-upon reform commitments as established by consent decree to settle civil rights claims; and bringing the U.S. Department of Justice's first case to challenge a refusal to allow non-medical professionals to administer insulin to younger-than-school-aged children.

I have not performed any lobbying activities or registered as a lobbyist.

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

None.

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

None

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

None.

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

required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

Because of my long tenure with the U.S. Attorney's Office, I would likely be disqualified from cases that originated or were pending during my time at the office. I would also likely be disqualified from cases involving the Ford Motor Company for a period of time after taking the bench. In all instances I would be mindful of any potential conflicts of interest in all of my cases and would not hesitate to recuse myself from any case where there was an actual or perceived conflict.

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

If faced with a potential conflict of interest, I would refer to Canon 3 of the Code of Conduct for United States Judges and 28 U.S.C. § 455, as well as any other applicable canons, rules, statutes. As appropriate, I would advise the parties before me of the potential conflict and seek their input. I would evaluate each situation on a case-by-case basis to determine the appropriate action, seek counsel where necessary, and recuse myself where necessary.

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

In working for the Department of Justice, there were many barriers to representing clients other than the United States, even for *pro bono* cases. Accordingly, I instead focused on volunteering my time on non-legal matters as my way of giving back to the community. In addition, I have been actively involved in pro bono issues through my work with the Federal Bar Association, as well as assisting with oral advocacy exercises for first-year

students at Wayne State University School of Law by being a judge for their mock appellate arguments.

26. **Selection Process:**

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

The Eastern District of Michigan has a judicial selection commission. Senators Stabenow and Peters engaged a bipartisan committee to screen and interview candidates, and the committee provided the senators with a list of candidates they recommended for the position. On June 14, 2022, I submitted an application, and I interviewed with the committee on July 13, 2022. On August 19, 2022, I interviewed with attorneys from the White House Counsel's Office. Since February 9, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 3, 2023, the President announced his intent to nominate me.

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

No.