

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Gary Scott Feinerman

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

United States District Judge for the Northern District of Illinois

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

Office: Sidley Austin LLP
 One South Dearborn Street
 Chicago, Illinois 60603

Residence: 

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

1965; Skokie, Illinois

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.

1988-1991, Stanford Law School; J.D., 1991

1983-1987, Yale College; B.A., 1987

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

2007-present & 1989
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603
Partner (2007-present)
Summer Associate (1989)

2003-2007
Office of the Illinois Attorney General
100 West Randolph Street
Chicago, Illinois 60601
Solicitor General

1996-2003 & 1990-1993
Mayer, Brown, Rowe & Maw
71 South Wacker Drive
Chicago, Illinois 60606
Partner (2000-2003)
Associate (1992-1993, 1996-1999)
Summer Associate (1991)
Summer Associate (1990) (1999 K Street, NW, Washington, DC 20006)

1994-1996
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Counsel, Office of Policy Development
Detail to the Office of the Counsel of the President (1995)

1993-1994
Supreme Court of the United States
Washington, D.C. 20543
Law Clerk to Justice Anthony M. Kennedy

1991-1992
United States Court of Appeals for the Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604
Law Clerk to Circuit Judge Joel M. Flaum

1990
Williams & Connolly
725 12th Street, NW
Washington, D.C. 20005
Summer Associate

1989-1990
Stanford Law School
Stanford, California 94305
Research Assistant to Professor Robert Rabin

1987-1988
ICF, Incorporated
9300 Lee Highway
Fairfax, Virginia 22031
Research Assistant, Waste and Water Management Group

Other Affiliations (uncompensated)

2008-present
National-Louis University
122 South Michigan Avenue
Chicago, Illinois 60603
Trustee

2008-present
Constitutional Rights Foundation Chicago
407 South Dearborn Street
Chicago, Illinois 60605
Vice Chair (2008-2010)
At-Large Member, Executive Committee (2010)

2005-present
Appellate Lawyers Association
c/o The Center for Association Resources
1901 North Roselle Road, #920
Schaumburg, Illinois 60195
President (2009-present)
Vice President (2008-2009)
Secretary (2007-2008)
Treasurer (2006-2007)
Director (2005-2006)

2003-2009
Umoja Student Development Corporation
2935 West Polk Avenue
Chicago, Illinois 60612
Director

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

I have not served in the military. I have registered 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.

Chicago Inn of Court, Master of the Bench (2008-present)

Best Brief Awards, National Association of Attorneys General (2004 (two), 2005, 2006, 2007)

Leadership Greater Chicago, Fellow (2001-2002)

“40 Under 40,” Crain’s Chicago Business (Nov. 2001)

Urban A. Sontheimer Award, Stanford Law School (1991)

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

Appellate Lawyers Association of Illinois, 2003-present

Director, 2005-2006

Treasurer, 2006-2007

Secretary, 2007-2008

Vice President, 2008-2009

President, 2009-present

American Constitution Society, 2009-present

Chicago Lawyers Chapter, Board of Advisors, 2009-present

Chicago Inn of Court, 2008-present

Master of the Bench, 2008-present

Constitutional Rights Foundation Chicago, 2007-present

Board, 2007-present

Vice Chair, 2008-2010

At-Large Member, Executive Committee, 2010

Seventh Circuit Bar Association, 2006-present

Earlier in my career, I was a member of the American Bar Association, the Illinois State Bar Association, and/or the Chicago Bar Association, but I cannot recall which one(s). I do know that I have not been a member for many years.

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.

Illinois, 1991

There has been no lapse in membership.

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

Supreme Court of the United States, 1997

United States Court of Appeals for the D.C. Circuit, 1997

United States Court of Appeals for the Sixth Circuit, 1999

United States Court of Appeals for the Seventh Circuit, 1991

U.S. District Court for the Central District of Illinois, 2001

United States District Court for the Northern District of Illinois, 1992

(Trial bar, 2000)

There have been no lapses in membership.

11. Memberships:

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

Stanford Law Society of Chicago, 1991-present

Anti-Defamation League, 1992-present

Board, Chicago/Upper Midwest Region, 1997-present

Co-Chair, Civil Rights Committee, Chicago/Upper Midwest Region, 2004-2009

New Trier Democratic Organization, 2005-present

Lake Shore Country Club, 2005-present

Elizabethan Club, Yale University, 1987

- 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.

None of the organizations I have listed presently discriminates or has discriminated while I have been a member. Lake Shore Country Club was founded in 1908 by members of the Jewish faith at a time when Jews were not permitted to join most other clubs. In light of its history, Lake Shore today retains a predominantly Jewish membership, though there now are many non-Jewish members. The club for some of its history had rules that disfavored women generally and with respect to certain club facilities, but such practices have ended; the club's current president is female. The club's by-laws currently state: "Neither the Board nor any committee shall take into account, in reaching any decision, the race, sex, color, religion or national origin of any person." The club's informal policies are also non-discriminatory.

12. Published Writings and Public Statements:

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

Note, "Unconstitutional Conditions: The Crossroads of Substantive Rights and Equal Protection," 43 Stan. L. Rev. 1369 (1991)

"A View from the Petitioning States," scotusblog.com, Apr. 3, 2007

"Illinois Pay-to-Play Measures Impose Significant New Burdens on State Contractors and Bidders," Sidley Austin LLP, Dec. 24, 2008 (web posting)

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

I have not prepared or contributed to any report, memoranda or policy statement on behalf of any bar association, committee, conference, or organization.

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

On January 24, 2005, and January 23, 2006, I testified before the Illinois Supreme Court Rules Committee on behalf of the Attorney General of Illinois regarding proposed amendments to the Illinois Supreme Court Rules. I did not retain copies of my notes.

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

The following is a list of the speeches and panel discussions of which I have a record. I spoke from notes, outlines, or powerpoints at some of those events, and furnish copies of those that I retained.

October 9, 2009 – CLE presentation entitled “Attorney-Client Privilege and the Work Product Doctrine,” Practicing Law Institute Managing Complex Federal Litigation 2009 Seminar, in Chicago.

July 29, 2009 – Presentation regarding the most recent U.S. Supreme Court term to the Anti-Defamation League, Chicago/Upper Midwest, Civil Rights Committee, in Chicago. I have no notes or transcript. The address of the organization is: 309 West Washington Street, #750, Chicago, IL 60606.

July 9, 2009 – Panel discussion entitled “Sixth Annual Supreme Court Term in Review,” American Constitution Society, Chicago Lawyers Chapter, in Chicago. I have no notes or transcript. The address of the organization is: 1333 H Street, NW, Washington, DC 20005.

July 9, 2009 – Presentation regarding developments in the U.S. Supreme Court to Tenth District Dems University, in Highland Park, Illinois.

June 30, 2009 – Remarks upon installation as President of the Appellate Lawyers Association of Illinois, in Chicago.

May 6, 2009 – Panel discussion entitled “Future of Appellate Practice,” 2009 Wisconsin State Bar Annual Convention, in Milwaukee. I have no notes or transcript. The address of the organization is: 5302 Eastpark Blvd., Madison, WI 53718.

October 11, 2008 – Panel discussion regarding the U.S. Supreme Court at an event held by the Obama presidential campaign, in Chicago. I have no notes or transcript.

October 5, 2008 – Panel discussion regarding legal and technology topics at a fundraiser held by Silicon Valley Lawyers for Obama, in Atherton, California. I have no notes or transcript.

July 30, 2008 – CLE presentation entitled “Attorney-Client Privilege and the Work Product Doctrine: Review and Recent Developments,” Practicing Law Institute Managing Complex Federal Litigation 2008 Seminar, in Chicago.

July 15, 2008 – Presentation regarding the most recent U.S. Supreme Court term to the Anti-Defamation League, Chicago/Upper Midwest, Civil Rights Committee, in Chicago.

September 18, 2007 – Presentation regarding the most recent U.S. Supreme Court term to the Anti-Defamation League, Chicago/Upper Midwest, Civil Rights Committee, in Chicago.

July 19, 2007 – Panel discussion entitled “Appellate Advocacy in Illinois: Best Practices,” National Association of Women Lawyers, in Chicago. I have no notes or transcript. The address of the organization is: 321 North Clark Street, Chicago, IL 60654.

June 2, 2007 – Panel discussion entitled “The Intersection of Law, Politics & the Press in the 21st Century,” Yale College 20th Reunion, in New Haven, Connecticut. I have no notes or transcript.

April 16, 2007 – Presentation entitled “Confessions of a Blue State Solicitor General,” American Constitution Society, University of Chicago Chapter. I have no notes or transcript. The address of the organization is: 1333 H Street, NW, Washington, DC 20005.

February 2-3, 2007 – Participated in symposium entitled “The Supreme Court at Mid-Term,” Stanford Law School, in Stanford, California. I have no notes or transcript.

December 8, 2006 – Panel discussion entitled “Illinois Supreme Court Review: Recent Cases, Trends and Practice Before the Court,” Illinois State Bar Association, in Chicago. I have no notes or transcript. The address of the organization is: 20 South Clark Street, Chicago, IL 60603.

October 24, 2006 – Presentation entitled “Reflections of a Blue State Solicitor General,” Appellate Lawyers Association of Illinois, in Chicago.

August 22, 2006 – Presentation regarding the most recent U.S. Supreme Court term to the Anti-Defamation League, Chicago/Upper Midwest, Civil Rights Committee, in Chicago. I have no notes or transcript. The address of the organization is: 309 West Washington Street, #750, Chicago, IL 60606.

March 8, 2006 – Panel discussion entitled “Student Censorship: Real or Imagined Threat?”, Oakton Community College, in Des Plaines, Illinois. I have no notes or transcript. The address of the organization is: 1600 East Golf Road, Des Plaines, IL 60016.

January 10, 2006 – Panel discussion entitled “Chief Justice Rehnquist and the Future of the United States Supreme Court,” Federalist Society, Chicago Lawyers Chapter, in Chicago. I have no notes or transcript. The address of the organization is: 1015 18th Street, NW, Washington, DC 20036.

October 20, 2005 – Panel discussion entitled “Capital Punishment from Both Sides,” American Constitution Society, University of Chicago Chapter. I have no notes or transcript. The address of the organization is: 1333 H Street, NW, Washington, DC 20005.

October 12, 2005 – Panel discussion entitled “Can Principled Federalism Be Progressive?”, American Constitution Society, Chicago Lawyers Chapter, in Chicago. I have no notes or transcript. The address of the organization is: 1333 H Street, NW, Washington, DC 20005.

September 29, 2005 – Panel discussion entitled “Hidden Treasures of the Illinois Constitution,” Appellate Lawyers Association of Illinois, in Chicago. I have no notes or transcript. The address of the organization is: c/o The Center for Association Resources, 1901 North Roselle Road, #920, Schaumburg, IL 60195.

August 8, 2005 – Panel discussion entitled “State Bank Preemption,” American Bar Association, Preemption and Federalism Subcommittee, in Chicago. I have no notes or transcript. The address of the organization is: 321 North Clark Street, Chicago, IL 60654.

February 13, 2005 – Panel discussion entitled “Ten Commandments Cases Forum,” KAM Isaiah Israel, in Chicago. I have no notes or transcript. The address of the organization is: 1100 East Hyde Park Blvd., Chicago, IL 60615.

August 9, 2004 – Presentation regarding the U.S. Supreme Court to a group of high school teachers, sponsored by the Constitutional Rights Foundation Chicago, in Chicago. I have no notes or transcript. The address of the organization is: 407 South Dearborn Street, Chicago, IL 60605.

June 2, 2004 – Panel discussion entitled “Technology and the Appellate Courts,” ABA Appellate Judges Conference/Council of Appellate Lawyers, in Chicago. I have no notes or transcript. The address of the organization is: 321 North Clark Street, Chicago, IL 60654.

December 12, 2003 – Panel discussion entitled “Equal Justice Under Law,” Constitutional Rights Foundation Chicago, in Chicago. I have no notes or transcript. The address of the organization is: 407 South Dearborn Street, Chicago, IL 60605.

November 5, 2003 – Panel discussion entitled “Supreme Court Advocacy,” National Association of Attorneys General, in Washington, DC. I have no notes or transcript. The address of the organization is: 2030 M Street, NW, Washington, DC 20036.

- 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.

“Feinerman to Lead Appellate Lawyers Group,” Chicago Daily Law Bulletin (June 30, 2009)

“Supreme buzz around Chicago judge,” Chicago Sun-Times (Feb. 9, 2009)

“Younger Attorneys Can Get on the Fast Track into Court with a Trend to Appoint State Solicitors General,” Miami Daily Business Review (Aug. 20, 2008). Identical or nearly identical versions of this article appeared in many publications.

“State SGs Enter Exclusive High Court Club,” Fulton County Daily Report (Apr. 15, 2008). Identical or nearly identical versions of this article appeared in many publications.

“Supreme Court Oral Arguments to Go Online,” Chicago Daily Law Bulletin (Dec. 7, 2007)

“Feinerman to Enter Private Practice; Successor Named,” Chicago Daily Law Bulletin (July 19, 2007)

“As Justices Search for Legal Answers, States Offer Friendly Suggestions,” Chicago Daily Law Bulletin (July 11, 2007)

“Justice Kennedy takes significant spot in the center,” USA Today (May 11, 2007)

“Justices Rely on Rule Book in Defending State Laws,” Chicago Daily Law Bulletin (Apr. 21, 2007)

“Madigan Charges Ahead, Leaving Inexperience in the Dust,” Chicago Lawyer (July 2006)

“Ruling sides with death row inmates,” St. Louis Post-Dispatch (June 13, 2006)

“Chicago Lawyer’s 2005 Person of the Year: Joel M. Flaum,” Chicago Lawyer (December 2005)

“He Hopes Appellate Lawyers Follow His Lead, Join Up,” Chicago Daily Law Bulletin (June 3, 2005)

“Supreme Court widens out-of-state wine shipments,” St. Louis Post-Dispatch (May 17, 2005)

“Thou shalt not,” St. Louis Post-Dispatch (Feb. 27, 2005)

“Appellate Lawyers’ Version of High Wire Act: Oral Argument,” Chicago Daily Law Bulletin (Apr. 24, 2004)

“Deep in Suburbia,” New York Times (Feb. 29, 2004)

“Big-Firm Vet Names State Appeals Chief,” Chicago Daily Law Bulletin (Apr. 15, 2003)

“40 Under 40,” Crain’s Chicago Business (Nov. 19, 2001)

When I was Solicitor General of Illinois, I commented in dozens of interviews on behalf of the Attorney General of Illinois on pending and decided cases handled by the Attorney General’s Office.

I appeared on “Legally Speaking,” WGN Radio, on August 8, 2009.

In 1999 and 2000, I appeared twice on “Chicago Tonight,” WTTW-TV, both on shows devoted to Supreme Court-related topics. I have no records indicating when precisely the shows aired, and have no tapes or transcripts.

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

I have not held a judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
 - i. Of these, approximately what percent were:

jury trials? ____%; bench trials ____% [total 100%]

civil proceedings? ____%; criminal proceedings? ____% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

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

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

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

From 2003-2007, I served as Solicitor General in the Office of the Illinois Attorney General. I was appointed by Illinois Attorney General Lisa Madigan.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

From 2007-2008, I volunteered as Chair of the Law & Judiciary policy committee for then-Senator Obama's presidential campaign.

In 2004, my wife and I held a fundraiser at our home for then-State Senator Obama's campaign for the United States Senate.

In 1998, I wrote position papers as a volunteer for the campaign of John Schmidt, my then-colleague at Mayer Brown, for the Democratic nomination for Illinois Governor.

In 1992, Michael Kennedy, a friend from high school, ran as the Democratic candidate for United States Congress in the 10th District of Illinois. On a volunteer basis, I assisted in formulating policy positions.

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;

1993-1994; I served as a law clerk to Justice Anthony M. Kennedy, U.S. Supreme Court.

1991-1992; I served as a law clerk to Judge Joel M. Flaum, U.S. Court of Appeals for the Seventh Circuit.

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

I have never practiced alone.

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

2007-present
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603
Partner

2003-2007

Office of the Illinois Attorney General
100 West Randolph Street
Chicago, Illinois 60601
Solicitor General

1996-2003, 1992-1993

Mayer, Brown, Rowe & Maw
71 South Wacker Drive
Chicago, Illinois 60606
Partner (2000-2003)
Associate (1992-1993, 1996-1999)

1994-1996

United States Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530
Counsel, Office of Policy Development
Detail to the Office of the Counsel of the President (1995)

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

I have never served as a mediator or arbitrator.

b. Describe:

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

I served as a law clerk for two years, from 1991-1992 for Judge Flaum of the United States Court of Appeals for the Seventh Circuit, and from 1993-1994 for Justice Kennedy of the Supreme Court of the United States. As is typical, my role was to help Judge Flaum and Justice Kennedy prepare for oral arguments, draft opinions, and review opinions drafted by other chambers.

From 1994-1996, I served as counsel in the U.S. Department of Justice, Office of Policy Development. I was a member of the Working Group for Judicial Nominations, and also did traditional policy work involving, among other things, implementation of the Violent Crime Control and Law Enforcement Act of 1994 and the Violence Against Women Act.

As a young (1992-1993) and mid-level (1996-1997) associate at Mayer Brown, my practice was varied. In some cases, I served a supporting role,

drafting briefs and conducting written discovery. In other cases, I prepared witnesses and cross-examined the opposing party's witnesses at trial.

As a senior associate (1998-1999) and partner (2000-2003) at Mayer Brown, I served as lead counsel in some cases. In other cases, I handled the day-to-day operation of the litigation for a senior partner, or served in a lead brief writing capacity.

As Solicitor General in the Office of the Illinois Attorney General (2003-2007), I was responsible for the Civil Appeals and Criminal Appeals Divisions, which together had about 40 lawyers. Approximately half of my time was devoted to administration, policy matters, and reviewing draft briefs written by others. The other half was devoted to cases that I personally handled for the Office.

As a partner at Sidley Austin (2007-present), about half my time is spent on appeals in which I serve as lead appellate counsel; about a quarter is spent as a member of larger litigation teams, such as in multidistrict litigation matters pending in federal district court; and about a quarter is spent as lead counsel in other litigated trial court matters.

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

As Solicitor General of Illinois, my client was the State of Illinois and its agencies, officials and employees. Most of my work was in courts of review, although I occasionally handled matters in state and federal trial court. My work covered a broad range of subject matter areas: direct criminal appeals, federal habeas corpus actions, constitutional challenges to state statutes, section 1983 cases, and administrative review actions.

At Sidley and Mayer Brown, my clients have primarily been corporations and businesses, but also have included not-for-profit groups, school districts, and individuals. Most of my work has been in the areas of commercial litigation, tort, and tax.

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

Over 90% of my practice has been litigation. I appeared in court relatively infrequently as a younger associate (1992-1993), with greater frequency as a mid-level and senior associate (1996-1999), and with even greater frequency as a partner (2000-2003, 2007-present). While Solicitor General of Illinois (2003-

2007), I appeared often in court, primarily in courts of review but occasionally in state or federal trial court.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 50% |
| 2. state courts of record: | 40% |
| 3. other courts: | |
| 4. administrative agencies: | 10% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 75% |
| 2. criminal proceedings: | 25% |

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 to verdict or judgment six cases: one commercial litigation case in the U.S. District Court for the Northern District of Illinois; one commercial litigation case in the Circuit Court of Cook County; and four cases before state public utility commission administrative law judges under the Telecommunications Act of 1996. I was associate counsel in all such cases.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 17% |
| 2. non-jury: | 83% |

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

I argued two cases before the Supreme Court of the United States: Illinois v. Lidster, 540 U.S. 419 (2004), and Forest Grove Sch. Dist. v. T.A., 129 S. Ct. 2484 (2009). I have written and/or appeared as counsel on many merits briefs, and many certiorari petitions and oppositions to certiorari.

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. Lebron v. Gottlieb Memorial Hospital, ___ N.E.2d ___, 2010 WL 375190 (Ill. Feb. 4, 2010) (2007-2010)

The plaintiffs in this medical malpractice case brought a constitutional challenge to Illinois Public Act 94-677, which enhanced regulation of the medical insurance industry and medical profession, and reformed components of the medical malpractice system. The state trial court, invoking the Illinois Constitution's separations of powers clause, invalidated the provision limiting the liability of hospitals and physicians for noneconomic damages (*e.g.*, pain and suffering) to \$1 million and \$500,000, respectively. A direct appeal was taken to the Supreme Court of Illinois, where I briefed and argued the matter on behalf of the defendant hospital. The Court affirmed the trial court's judgment.

Counsel for the co-appellant physician was Theodore Olson, Gibson Dunn & Crutcher LLP, 1050 Connecticut Ave., NW, Washington, DC 20036, Tel: 202-955-8500. Opposing counsel was Todd Smith, Power, Rogers & Smith, P.C., 70 West Madison Street, Chicago, IL 60602, Tel: 312-236-9381.

2. Mack v. McCann, 385 F. Supp. 2d 751 (N.D. Ill. 2005), vacated on reconsideration, 441 F. Supp. 2d 928 (N.D. Ill. 2006), *aff'd*, 530 F.3d 523 (7th Cir. 2008) (2005-2008)

This habeas case concerned an Apprendi challenge to the life sentence imposed on an inmate convicted in state court of murdering a bank security guard. The district court initially granted habeas relief, holding that the life sentence violated Apprendi. I became personally involved at that point and argued the motion for reconsideration before the district court, which granted reconsideration and denied habeas relief. I then briefed and argued the case before the Seventh Circuit, which affirmed.

District Judge Castillo (N.D. Ill.) and Circuit Judges Flaum, Ripple and Rovner (7th Cir.) heard the case. Opposing counsel was John Stainthorpe, People's Law Office, 1180 North Milwaukee Avenue, Chicago, IL 60622, Tel: 773-235-0070.

3. Thomas v. Page, 04-OK-013 (Circuit Court of Kane County, Illinois), 837 N.E.2d 483 (Ill. App. 2005) (2004-2007)
Shaw Suburban Media Group, Inc. v. Thomas, No. 07 C 3289 (N.D. Ill.) (2007)

In the state case, Robert Thomas (personally, not in his capacity as Justice of the Supreme Court of Illinois) sued the Kane County Chronicle and one of its columnists for libel. The media defendants issued subpoenas to the other six Justices of the Supreme Court of Illinois (“Non-Party Justices”), as the allegedly libelous statements concerned Thomas’s alleged actions in connection with a case before the Court. The Non-Party Justices were represented by the Illinois Attorney General’s Office. I briefed and argued an interlocutory appeal concerning the Non-Party Justices’ invocation of the judicial deliberation privilege; the Appellate Court of Illinois ruled in our favor. On remand, I defended the oral depositions of two Non-Party Justices. I then prepared the Non-Party Justices for trial, and represented them at trial to protect the judicial deliberation privilege.

In the federal case, filed after Thomas prevailed at trial before the state trial court, the media defendants sued all seven Justices of the Supreme Court, the three Appellate Court Justices who heard the above-referenced appeal, and the state trial judge (all in their official capacities), seeking to enjoin the state court system from proceeding with the case because, at the time, Thomas was Chief Justice of the Supreme Court. I represented the defendants in their official capacity, briefing a motion to dismiss and a reply in support of the motion. Both cases then settled.

Circuit Judge Donald O’Brien and Appellate Court Justices Hoffman, Cahill and O’Brien heard the state case. District Judge Castillo and Magistrate Judge Schenkier heard the federal case. Counsel for Thomas (in his individual capacity) were Joe Power & Todd Smith, Power, Rogers & Smith, P.C., 70 West Madison Street, Chicago, IL 60602, Tel: 312-236-9381. Counsel for the media entities were Steven Mandell & Steven Baron, Mandel Menkes LLC, 333 West Wacker Drive, Chicago, IL 60606, Tel: 312-251-1000.

4. Crusius v. Illinois Gaming Board, 837 N.E.2d 88 (Ill. 2005) (2004-2005)

This case concerned Emerald Casino’s efforts under Section 11.2 of the Illinois Riverboat Gambling Act to move its riverboat operation from East Dubuque to Rosemont. Plaintiff Crusius, a taxpayer, brought suit against the Illinois Gaming Board, its members, the Comptroller of Illinois, and the Treasurer of Illinois (collectively, the “State Defendants”), alleging that Section 11.2 was “special legislation” and thus invalid under Article IV, § 13 of the Illinois Constitution. The Village of Rosemont intervened as a defendant. The trial court upheld the constitutionality of Section 11.2, and the Appellate Court of Illinois affirmed. The Supreme Court of Illinois granted Plaintiff’s petition for leave to appeal, and allowed Emerald Casino and the Official Committee of Unsecured Creditors of

Emerald Casino, Inc. to intervene as appellees to defend the legislation. The Supreme Court then allowed the State Defendants to realign as appellants.

I served as lead counsel for the State Defendants, briefing and arguing the matter in the Supreme Court of Illinois. The Court rejected our position, holding that Section 11.2 was not special legislation.

Counsel for Crusius were Terence A. Norton, Sonnenschein Nath & Rosenthal, 8000 Sears Tower, Chicago, IL 60606, Tel: 312-876-7939, and Jay Stewart, Better Government Association, 111 East Adams Street, Chicago, IL 60603, Tel: 312-427-8330. Opposing counsel for Emerald Casino was Robert Gasaway, Kirkland & Ellis, 665 Fifteenth Street, NW, Washington, DC 20005, Tel: 202-879-5175. Opposing counsel for Village of Rosemont was William R. Quinlan, Quinlan & Carroll, 30 North LaSalle Street, Chicago, IL 60602, Tel: 312-263-0900.

5. Illinois v. Lidster, 540 U.S. 419 (2004) (2003-2004)

Following a bench trial, the Circuit Court of DuPage County convicted Robert Lidster of driving under the influence of alcohol. The Appellate Court of Illinois reversed the conviction. Relying upon City of Indianapolis v. Edmond, 531 U.S. 32 (2000), the court ruled that the informational checkpoint where Lidster was apprehended effected an unreasonable seizure under the Fourth Amendment. By a 4-3 vote, the Supreme Court of Illinois affirmed, agreeing with the appellate court that the checkpoint was per se unlawful under Edmond because it sought evidence related to a criminal investigation. The Supreme Court of the United States granted certiorari and reversed. I briefed and argued the case for the State. By a 9-0 vote, the Court held that informational checkpoints are not per se unlawful under Edmond. By a 6-3 vote, the Court held that the checkpoint used in this case satisfied the applicable balancing test.

Opposing counsel was Donald Ramsell, Ramsell & Armamentos LLC, 128-F County Farm Road, Wheaton, IL 60187, Tel: 630-665-8780.

6. OurHouse, Inc. v. United NewVentures, Inc., No. 01 CH 11170 (Circuit Court of Cook County, Illinois) (2001-2003)

United NewVentures, a subsidiary of UAL Corporation, acquired MyPoints.com. OurHouse, Inc. brought suit against NewVentures, alleging that NewVentures had agreed to provide OurHouse with certain e-mail marketing rights upon the acquisition of MyPoints.com. The trial court dismissed several of OurHouse's claims. The matter was stayed when UAL and its subsidiaries filed for bankruptcy; the stay was still in effect at the time I joined the Illinois Attorney General's office.

I served as lead counsel for NewVentures. I drafted pleadings, motions, and responses to motions; argued contested motions before the trial judge; prepared and answered written discovery; and defended depositions.

Circuit Judge Richard Billik heard the case. Opposing counsel was Michael Weinberg, Novack and Macey, 303 West Madison Street, Suite 1500, Chicago, IL 60606, Tel: 312-419-6900.

7. Nicor Mercury Cases (Circuit Court of Cook County, Illinois) (2000-2003)

In 2000, mercury spills were discovered at homes served by Nicor Gas. A class action and several individual actions were filed against Nicor in the Circuit Court of Cook County. The class action settled, and most of the individual actions were still pending by the time I left for the Illinois Attorney General's office. The class action and some of the individual actions were styled:

In re Mercury Class Action Litigation, No. 00 CH 13226
Denver v. Nicor, Inc., No. 00 L 9875
Habetler v. Nicor, Inc., No. 00 L 10723
Mrugacz v. Nicor, Inc., No. 00 L 13348
Schmaedeke v. Northern Ill. Gas Co., No. 01 L 3211

I served as the lead brief writer for Nicor and argued dispositive motions.

Circuit Judge Paul Biebel, Jr., heard the case. Opposing counsel included William Harte, 111 West Washington Street, Suite 1100, Chicago, IL 60602, Tel: 312-726-5015, and Michael D. Hayes, Varga Berger Ledsky Hayes & Casey, 224 South Michigan Avenue, Chicago, IL 60604, Tel: 312-341-9400. Counsel for Nicor's co-defendant was James Morsch, Butler Rubin Saltarelli & Boyd, 70 West Madison Street, Suite 1800, Chicago, IL 60602, Tel: 312-444-9660.

8. Career Publishing Network, LLC v. Cass Communications, Inc., No. 99 C 1482 (N.D. Ill.) (1999-2001)

Career Publishing Network and Cass Communications both produced career handbooks for college students. They entered into a contract under which each sold advertisements into the other's handbooks. After a series of disputes, CPN brought suit, and Cass filed counterclaims. After a seven-day trial, the jury returned verdicts in favor of CPN on its most of its claims and on all of Cass's counterclaims. The case settled during the pendency of a post-trial motion for attorney fees and the appeal from the main judgment.

I served as counsel for CPN. I was responsible for the day-to-day conduct of the case, and drafted pleadings, drafted and argued motions, prepared and answered written discovery, took and defended depositions, drafted the pretrial order, and

drafted and argued the jury instructions. I tried the case to verdict before a jury with a senior partner and an associate.

District Judge William Hibbler heard the case. Opposing counsel was Jerald Esrick, Wildman Harrold Allen & Dixon, 225 West Wacker Drive, Suite 3000, Chicago, IL 60606, Tel: 312-201-2508.

9. Mississippi Chem. Corp. v. Terra Int'l, Inc., Nos. 5:95-CV-127 and 5:98-CV-20 (S.D. Miss.) (1996-2000)
Terra Int'l, Inc. v. Mississippi Chem. Corp., 119 F.3d 688 (8th Cir. 1997)
In re Terra Int'l, Inc., 134 F.3d 302 (5th Cir. 1998)
Mississippi Chem. Corp. v. Terra Int'l, Inc., No. 97-60792 (5th Cir.)
In re Insurance Co. of N. Am., No. 98-60269 (5th Cir.)

In December 1994, a massive explosion leveled Terra International's fertilizer facility in Port Neal, Iowa. An investigation by Terra concluded that the explosion was caused by flaws in an ammonium nitrate neutralizer designed by Mississippi Chemical Company ("MCC"). In August 1995, Terra and MCC filed reciprocal actions against one another in federal district court in Iowa and Mississippi, respectively; Terra brought product claims against MCC, while MCC brought declaratory judgment and defamation claims against Terra.

I served on the legal team representing Terra. After the Iowa federal district court ordered the Iowa case transferred to Mississippi, I brief the matter before the Eighth Circuit, which affirmed the transfer. I drafted numerous discovery motions and motions *in limine*, supervised team members who drafted the other motions, argued motions, and defended depositions. I also briefed matters in the Fifth Circuit, including a successful mandamus action by Terra. The case settled in 2000, before trial.

District Judge Bramlette and Magistrate Judge Nicols presided in the Southern District of Mississippi. Opposing counsel was R. David Kaufman, Brunini, Grantham, Grower & Hewes, 1400 Trustmark Building, 248 East Capitol Street, Jackson, MS 39201. Counsel for Terra's co-party was George Zelcs, now at Korein Tillery, Three First National Plaza, Suite 6600, Chicago, IL 60602, Tel: 312-641-9760.

10. Representing Ameritech Corporation in Proceedings Under the Telecommunications Act of 1996 (1996-2003)

The Telecommunications Act of 1996 became law in February 1996. Along with a large team at Mayer Brown, I represented Ameritech Corporation (and SBC, after it acquired Ameritech) in matters arising out of the Act.

I helped to prepare and try four cases to judgment before state public utility commissions. These cases (called "arbitrations" under the Act) involved the

terms and conditions of interconnection agreements between the incumbent local exchange carrier (Ameritech) and new local entrants (e.g., AT&T, MCI). In each case, I drafted pleadings, prepared written direct testimony, cross-examined witnesses, and drafted post-trial submissions. Those cases were:

AT&T Communications of Illinois, Inc. v. Ameritech Illinois, Nos. 96-AB-003 and 96-AB-004 (Illinois Commerce Commission)

Teleport Communications Group Inc. v. Ameritech Illinois, No. 96-AB-001 (Illinois Commerce Commission)

AT&T Communications of Ohio, Inc. v. Ameritech Ohio, No. 00-1188-TP-ARB (Public Utilities Commission of Ohio)

AT&T Communications of Wisconsin, Inc. v. Ameritech Wisconsin, No. 05-MA-120 (Public Service Commission of Wisconsin) (took place in 2000)

The arbitrations before the state public utility commissions, as well as the FCC rulemakings under the Act, were the subject of litigation in courts of review. I drafted Ameritech's briefs in several of those appeals, including:

AT&T Corp. v. Iowa Utilities Bd., 525 U.S. 366 (1998)

Michigan Bell Tel. Co. v. Strand, Nos. 99-1408 and 99-1674 (6th Cir.)

Southwestern Bell Tel. Co. v. FCC, 153 F.3d 597 (8th Cir. 1998), vacated sub nom., Ameritech Corp. v. FCC, 526 U.S. 1142 (1999)

MCI Telecommunications Corp. v. US WEST Communications, Inc., 204 F.3d 1262 (9th Cir. 2000) (amicus brief)

Ameritech Michigan v. Michigan Public Serv. Comm'n, No. 209828 (Mich. App.)

The forums for these cases included the Illinois Commerce Commission, the Public Service Commission of Wisconsin, the Public Utilities Commission of Ohio, the United States Courts of Appeals for the Sixth Circuit, Eighth Circuit, and Ninth Circuit, the Michigan Court of Appeals, and the Supreme Court of the United States. As a general rule, each side in these cases had a very large team of lawyers, and it is nearly certain that most if not all of the ALJs, judges, and opposing counsel would be unable to distinguish my contribution from those of my Mayer Brown colleagues.

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.)

My work as an attorney has been principally as a litigator, both in private practice and for the Office of the Illinois Attorney General. As Solicitor General in the Attorney General's Office, I also had significant management component over an appellate department with forty attorneys and about ten non-legal staff members. Putting aside the two years I served as a law clerk, my only other significant legal work was for the Office of Policy Development at the United States Department of Justice. My responsibilities at the Department included judicial nominations and traditional policy work, including implementation of the Violent Crime Control and Law Enforcement Act of 1994 and the Violence Against Women Act.

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

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

From 2007 to the present, I taught several sessions of the "Supreme Court Practicum" course at Northwestern University School of Law. The course is team-taught by a Northwestern professor and attorneys at Sidley Austin.

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

I currently am entitled to receive payments from deferred benefit plans at Mayer Brown and Sidley Austin, and from the Illinois State Employee Retirement System. If confirmed, and to the extent permitted by the terms of the plans, I plan to request that my interests be liquidated and distributed to me.

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

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, if I am confirmed, except that I would consider teaching at a law school in Chicago to the extent I could do so consistent with my judicial responsibilities.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

Parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest during my initial service would include family members, relatives, close friends, former clients, former law partners, matters handled by Sidley Austin or Mayer Brown, or matters substantially related to matters I handled while employed by the Office of the Illinois Attorney General.

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

I would handle all matters involving actual or potential conflicts-of-interest through the careful application of the Code of Conduct for United States Judges as well as other relevant canons and statutory provisions.

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

I have regularly performed legal services at no charge for financially disadvantaged people and those unable to retain a firm like Mayer Brown or Sidley Austin. My pro bono work was exclusively in litigated matters, and was performed in federal and state court and before the Immigration and Naturalization Service.

A recent example is the representation of plaintiffs in a Fair Housing Act case. Prior to my involvement, the district court and a divided Seventh Circuit panel rejected the plaintiffs' religious discrimination claims against their condominium association and its president. The plaintiffs retained me to file an en banc petition, which the Seventh Circuit granted. I argued the case, and the court unanimously reversed the district court's judgment and remanded for trial. Bloch v. Frischholz, 587 F.3d 771 (7th Cir. 2009). The court held that the Fair Housing Act prohibits discrimination against those who have already taken possession of their dwellings, and also that the plaintiffs had presented sufficient evidence of intentional discrimination to warrant a trial.

Earlier in my career, I represented an individual in asylum proceedings before the Immigration and Naturalization Service. My client sought asylum on the ground that the separate government in the northern Somalia — called Somaliland — would persecute him based upon his clan identity and his father's political activities. The ALJ granted asylum.

Also earlier in my career, I drafted an amicus brief on behalf of the Anti-Defamation League, the Chicago Lawyers' Committee for Civil Rights Under Law, the Asian-American Institute, the Chicago Urban League, Horizons Community Services, the Illinois Ethnic Coalition, the Japanese American Citizens League, MALDEF, and others in In re B.C., 680 N.E.2d 1355 (Ill. 1997). The Appellate Court of Illinois interpreted the Illinois Hate Crime Law as applying only where the victim was a member of the racial or ethnic group targeted by the perpetrator. The ADL and its fellow amici argued that the law applies even where the victim is not a member of the group targeted by the perpetrator (e.g., where a white defendant burns a cross on the lawn of the white member of an interracial couple). The Supreme Court of Illinois agreed with our interpretation of the statute and reversed the Appellate Court of Illinois.

The final example I will mention is an amicus brief prepared on behalf of the Anti-Defamation League, the Catholic Conference of Illinois, the Christian Legal Society, the Church of Jesus Christ of Latter-Day Saints, Concerned Christian Americans, the Greek Orthodox Diocese of Chicago, the Illinois Conference of Churches, the Illinois Family Institute, and other organizations in City of Chicago Heights v. Living Word Outreach Full Gospel Church, 749 N.E.2d 916 (Ill. 2001). The amici argued, in support of the defendant church, that the Illinois Religious Freedom Restoration Act was constitutional. The Supreme Court of Illinois disposed of the case without reaching the constitutional issue.

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.

Senator Durbin appointed a selection commission to recommend candidates to fill vacancies on the United States District Court for the Northern District of Illinois. I submitted an application. I interviewed with two members of the commission and then with the entire commission. The commission's recommendations were not made public. I was interviewed by Senator Durbin and a staff member. In August 2009, Senator Durbin submitted seven names, including mine, to the White House. I subsequently was informed that my name had been forwarded to the Justice Department for vetting. On November 10, 2009, I was interviewed at the Justice Department by staff from the Department and from the Office of the Counsel to the President. I have had periodic conversations regarding paperwork and process. On February 24, 2010, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

I, **GARY SCOTT FEINERMAN**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Feb 23, 2010

(DATE)

Gary Scott Feinerman

(NAME)



Shari L. Emme

(NOTARY)

April 13, 2010

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I write to update the response to Question 12.d of my Senate Questionnaire with information about speaking engagements that occurred after my confirmation hearing on March 10, 2010.

On March 24, 2010, I fulfilled a long-standing commitment to speak at two events sponsored by the Milwaukee Jewish Federation, which is located at 1360 North Prospect Avenue, Milwaukee, WI 53202. One talk was for the Federation's Benjamin Cardozo Society, while the other was for the Women's Division. The topic at both events was the "Mezuzah Case," the religious discrimination case (Bloch v. Frischholz) described in the response to Question 25 of my Senate Questionnaire. At both events, I discussed the factual background of the case, the legal arguments made by both sides, and the Seventh Circuit's panel and en banc decisions. I spoke without notes and took questions from the audience. To my knowledge, there was no press coverage, but the Federation's announcements of the events are attached and can be found on the Internet at (http://www.milwaukeejewish.org/local_includes/downloads/40084.pdf) and (http://www.milwaukeejewish.org/local_includes/downloads/39043.pdf), respectively.

I have no further commitments for public speaking.

Sincerely,



Gary Feinerman



cc: The Honorable Jeff Sessions
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510