

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Michael Etan Farbiarz

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

United States District Judge for the District of New Jersey

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.

Port Authority of New York and New Jersey
4 World Trade Center
New York, New York 10007

Residence:

Glen Ridge, New Jersey

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

1973; New York, New York

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

1996 – 1999, Yale Law School; J.D., 1999

1995 – 1996, Cambridge University, Trinity College; no degree received (Fiske Scholar)

1991 – 1995, Harvard University; A.B., 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.

2016 – present

Port Authority of New York and New Jersey

4 World Trade Center

New York, New York 10007

General Counsel (2016 – present)

Counsel, Port Authority of New York and New Jersey subsidiaries (Port Authority Trans-Hudson Corporation, Newark Legal and Communications Center Urban Renewal

Corporation, New York and New Jersey Railroad) (2016 – present)

Director, Port Authority Insurance Captive Entity (2016 – present)

Acting Inspector General (2020 – 2021)

2014 – 2016

New York University Law School

40 Washington Square

New York, New York 10012

Senior Fellow

Spring 2014

Columbia Law School

435 West 116th Street

New York, New York 10027

Adjunct Instructor

2004 – 2014

United States Attorney's Office, Southern District of New York

One Saint Andrew's Plaza

New York, New York 10007

Co-Chief, Terrorism and International Narcotics Unit (2010 – 2014)

Deputy Chief, Terrorism and National Security Unit (2009 – 2010)

Assistant United States Attorney (2004 – 2014)

2001 – 2004

Davis Polk & Wardwell

450 Lexington Avenue

New York, New York 10017

Associate

2000 – 2001

Judge José A. Cabranes

United States Court of Appeals for the Second Circuit

141 Church Street

New Haven, Connecticut 06511

Law Clerk

1999 – 2000

Chief Judge Michael B. Mukasey
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007
Law Clerk

Summer 1999
Howard Smith & Levin
1330 Avenue of the Americas
New York, New York 10019
Summer Associate

Summer 1998
Morrison & Foerster
425 Market Street
San Francisco, California 94105
Summer Associate

Summer 1998
Jenner & Block
1099 New York Avenue, Northwest
Washington, DC 20001
Summer Associate

Summer 1997
United States Attorney's Office, Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, Virginia 22314
Intern

1995
Harvard Student Agencies
One Story Street
Cambridge, Massachusetts 02138
Researcher/Editor

Other affiliation (uncompensated):

2015 – 2017
Congregation Shomrei Emunah
67 Park Street
Montclair, New Jersey 07042
Board of Trustees

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 timely 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.

Senior Fellow, New York University Law School (2014 – 2016)

Attorney General's Exceptional Service Award (2011)

Federal Bureau of Investigation Director's Award, Outstanding Counterintelligence Investigation (2011)

National Association of Former United States Attorneys, Exceptional Service Award (2011)

Intelligence Community Legal Award, Team of the Year (2011)

Federal Law Enforcement Foundation, Federal Prosecutor Award (2010)

Attorney General's Distinguished Service Award (2008)

Organized Crime Drug Enforcement Task Force Award (2007)

New York County Lawyers Association Award (2004)

Articles Editor, *Yale Law Journal* (1998 – 1999)

Fiske Scholar, Cambridge University (1995 – 1996)

Harvard University

David Donald Prize for Excellence in American History (1995)

Phi Beta Kappa (1993)

Michael Christian Memorial Fellowship (1993)

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

Association of the Federal Bar of New Jersey

New Jersey State Bar Association

10. **Bar and Court Admission:**

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

New York, 2000
New Jersey, 2018

There have been no lapses in membership. Additionally, I took and passed the Connecticut bar examination in 1999, but never became a member of the Connecticut bar.

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

United States Court of Appeals for the Second Circuit, 2005
United States District Court for the District of New Jersey, 2018
United States District Court for the Southern District of New York, 2001

I no longer regularly practice in the Court of Appeals and accordingly let my membership lapse in 2017. There have been no other 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.

Congregation Shomrei Emunah, Member, Board of Trustees (2015 – 2017)

Deer Lake Club (2010 – present)

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

In 2010, my family applied for membership in Deer Lake Club, a hiking, fishing, and swimming club in Boonton, New Jersey. After being accepted, we learned that the club's by-laws/rules could be construed as allowing only families headed by a man and a woman. We wrote to the club indicating that the rules seemed to discriminate, and that we would accordingly not join the club unless the rules were changed. The rules were changed and we joined the club. To the best of my knowledge none of the other organizations with which I am affiliated 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 practices.

12. Published Writings and Public Statements:

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

I have worked to locate all responsive materials by searching my files and conducting extensive on-line searches, but there may be materials that I have inadvertently not identified or located.

Accuracy and Adjudication: The Promise of Extraterritorial Due Process, 116 COLUM. L. REV. 625 (2016). Copy supplied.

Extraterritorial Criminal Jurisdiction, 114 MICH. L. REV. 507 (2016). Copy supplied.

Researcher/Editor, LET'S GO: INDIA AND NEPAL (1997 edition). Copy supplied.

Editor, LET'S GO: MEXICO AND CENTRAL AMERICA (1994 edition). Copy supplied.

Pleased to Punch, Harvard Crimson (Dec. 9, 1993). Copy supplied.

Dining, Haute-Style, Harvard Crimson (Dec. 9, 1993). Copy supplied.

What's On Your Powerbook, Harvard Crimson (Dec. 2, 1993). Copy supplied.

No Escape, Harvard Crimson (Nov. 4, 1993). Copy supplied.

Close, but Crummy Cigar, Harvard Crimson (Oct. 28, 1993). Copy supplied.

She's Sassy, Not Seventeen, Harvard Crimson (Oct. 14, 1993). Copy supplied.

Turn and Run: Causes of the Deterioration of the African-American/Jewish

Relationship During the 1970s, Mosaic (1992). 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.

Contributor, *The United States District Court for the Southern District of New York: A Retrospective 1990 – 2000*, New York County Lawyers Association Committee on the Federal Courts (2002). Copy supplied.

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

On September 9, 2007, along with other former law clerks to Chief Judge Michael Mukasey, I signed a letter in support of Judge Mukasey's nomination to be United States Attorney General. Copy supplied.

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

I have tried to locate all responsive materials by searching my files and conducting extensive on-line searches, but there may be materials that I have inadvertently not identified or located.

April 13, 2022: Panelist, "A Discussion on Government Lawyering in New York," New York University Law and Government Society, New York University Law School, New York, New York. I spoke with law students about pursuing a career in public service by serving in state or local government. I have no notes, transcript, or recording. The address for the New York University Law School is 40 Washington Square, New York, New York 10012.

December 14, 2021: Speaker, "Upcoming Construction at the Port Authority of New York and New Jersey," Alliance for Action, Forsgate, New Jersey. I spoke about the Port Authority of New York and New Jersey's \$37 billion capital plan.

I have no notes, transcript, or recording. The address for Alliance for Action is 91 Fieldcrest Avenue A24, Edison, New Jersey 08837.

August 24, 2020: Panelist, "A Special Look Inside the Port Authority of New York and New Jersey During the Pandemic – What Lawyers Can Learn From How this Billion Dollar Organization is Handling the Crisis," New Jersey State Bar Association, virtual presentation. I gave a presentation on public agency leadership during the pandemic crisis. I have no notes, transcript, or recording. The address for the New Jersey State Bar Association is One Constitution Square, New Brunswick, New Jersey 08901.

January 8, 2020: Speaker, Denis F. McLaughlin Advanced Trial Advocacy Workshop Seton Hall Law School, Newark, New Jersey. I spoke to selected law students about trial advocacy technique and professional development. I have no notes, transcript, or recording. The address for Seton Hall Law School is 1109 Raymond Boulevard, Newark, New Jersey 07102.

December 13, 2019: Speaker, Port Authority Police Academy, Jersey City, New Jersey. I spoke to cadets of the Port Authority Police Academy about the role of police officers in society. I have no notes, transcript, or recording. The address for the Port Authority Police Department is 241 Erie Street, Jersey City, New Jersey 07310.

October 30, 2019: Guest Lecturer, "National Security Law," Columbia University Law School, New York, New York. I spoke about national security investigations and trials. I have no notes, transcript, or recording. The address for Columbia University Law School is 435 West 116th Street, New York, New York 10027.

August 15, 2019: Speaker, Port Authority Police Academy, Jersey City, New Jersey. I spoke to cadets of the Port Authority Police Academy about the role of police officers in society. I have no notes, transcript, or recording. The address for the Port Authority Police Department is 241 Erie Street, Jersey City, New Jersey 07310.

October 12, 2018: Speaker, Port Authority Police Academy, Jersey City, New Jersey. I spoke to cadets of the Port Authority Police Academy about the role of police officers in society. I have no notes, transcript, or recording. The address for the Port Authority Police Department is 241 Erie Street, Jersey City, New Jersey 07310.

April 5, 2018: Guest Lecturer, in course entitled "National Security Law," Fordham University School of Law, New York, New York. I spoke about national security investigations and trials. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

April 5, 2016: Panelist, "Counter-terrorist measures in the E.U. and the U.S.," Jean Monnet Center for International and Regional Economic Law and Justice and the New York University Law School Center on Law and Security, New York, New York. I spoke about national security investigations and trials. I have no notes, transcript, or recording. The address for the Monnet Center is 22 Washington Square North, New York, New York 10011.

Fall 2016 or Winter 2017 (specific date unknown): Speaker, Port Authority Police Academy, Jersey City, New Jersey. I spoke to cadets of the Port Authority Police Academy about the role of police officers in society. I have no notes, transcript, or recording. The address for the Port Authority Police Department is 241 Erie Street, Jersey City, New Jersey 07310.

October 8, 2015: Panelist, "Terrorism and Criminal Law," Center for Jewish History, New York, New York. Video available at <https://www.c-span.org/video/?328562-1/discussion-combatting-terrorism#>.

Fall 2015 (specific date unknown): Guest Lecturer, in course entitled "Criminal Law," New York University Law School, New York, New York. I spoke about substantive criminal law for a course taught by Professor James Jacobs. I have no notes, transcript, or recording. The address for New York University Law School is 40 Washington Square, New York, New York 10012.

May 29, 2015: Panelist, "Extraterritorial Application of U.S. Law to the Cloud," New York University Law School Information Law Institute and the New York University Law School Center on Law and Security, New York, New York. Video available at <https://www.youtube.com/watch?v=0U5WOYNQCqQ>.

March 9, 2015, Moot Court Judge, Fordham University School of Law, New York, New York. I served as part of a three-judge moot panel, for a class taught by United States Circuit Judge Denny Chin. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

February 20, 2015: Panelist, "Terror Suspects: Pretrial Considerations in Civilian Terrorism Trials," *The Journal of National Security Law & Policy* and The Georgetown Center on National Security and the Law, Washington, DC. Video available at <https://securitypolicylaw.syr.edu/2015-jnslp-symposium-webcast-now-online/#s:georgetown-law-feb-11-2015>.

March 10, 2014, Moot Court Judge, Fordham University School of Law, New York, New York. I served as part of a three-judge moot panel, for a class taught by United States Circuit Judge Denny Chin. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

February 5, 2014: Guest Lecturer, in course entitled “Advanced Seminar on National Security and Foreign Relations Law,” Fordham University School of Law, New York, New York. I spoke about national security investigations and trials. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

March 2013 (specific date unknown): Moot Court Judge, Fordham University School of Law, New York, New York. I served as part of a three-judge moot panel, for a class taught by United States Circuit Judge Denny Chin. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

March 28, 2012: Guest Lecturer, course entitled “Federal Criminal Prosecution,” Yale Law School, New Haven, Connecticut. I spoke about national security investigations and trials for a course taught by Professor Kate Stith. I have no notes, transcript, or recording. The address for Yale Law School is 120 Wall Street, New Haven, Connecticut 06510.

March 2, 2012: Moot Court Judge, Fordham University School of Law, New York, New York. I served as part of a three-judge moot panel, for a class taught by United States Circuit Judge Denny Chin. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

October 31, 2011: Guest Lecturer, in course entitled “Federal Criminal Law,” Columbia University Law School, New York, New York. I spoke about national security investigations and trials. I have no notes, transcript, or recording. The address for Columbia University Law School is 435 West 116th Street, New York, New York 10027.

October 25, 2007: Guest Lecturer, in course entitled “National Security Law,” Fordham University School of Law, New York, New York. I spoke about national security investigations and trials. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

- 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.

Press Release, Office of the Hudson County Prosecutor, *Roselle Man Arrested on Forgery Charges for Possessing and Selling Fraudulent NJ Temporary License Plates* (July 23, 2021). Copy supplied.

Press Release, United States Attorney's Office, District of Massachusetts, *Government Contractor Agrees to Plead Guilty to Fraudulently Billing Federal and State Construction Contracts* (Oct. 29, 2020). Copy supplied.

Press Release, United States Attorney's Office, Eastern District of New York, *President of Navillus Contracting Charged with Defrauding Union Benefits Funds* (July 30, 2020). Copy supplied.

Robert Levine, *Measuring Law's Long Arm*, New York University Law School Magazine (Sept. 9, 2014). Copy supplied.

Edmund Lee, *Upswing*, Village Voice (May 5, 1998). Copy supplied.

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

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.

During the spring and/or summer of 2016, I was briefly part of a group of academic and other experts convened to provide advice on national security matters to the presidential campaign of Hillary Clinton.

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 2000 to 2001, I served as a law clerk to the Honorable José A. Cabranes of the United States Court of Appeals for the Second Circuit.

From 1999 to 2000, I served as a law clerk to the Honorable Michael B. Mukasey of the United States District Court for the Southern District of New York.

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

I have not practiced law alone.

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

2001 – 2004
Davis Polk and Wardwell
450 Lexington Avenue
New York, New York 10017
Associate

2004 – 2014
United States Attorney's Office, Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007
Co-Chief, Terrorism and International Narcotics Unit (2010 – 2014)
Deputy Chief, Terrorism and National Security Unit (2009 – 2010)
Assistant United States Attorney (2004 – 2014)

2016 – present

Port Authority of New York and New Jersey
4 World Trade Center
New York, New York 10007

General Counsel (2016 – present)

Counsel, Port Authority of New York and New Jersey subsidiaries (Port Authority Trans- Hudson Corporation, Newark Legal and Communications Center Urban Renewal Corporation, New York and New Jersey Railroad) (2016 – present)

Director, Port Authority Insurance Captive Entity (2016 – present)

Acting Inspector General (2020 – 2021)

- 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 2016, I have served as the General Counsel of the Port Authority of New York and New Jersey, a public transportation agency established by New York and New Jersey, with the approval of the United States Congress under the Compact Clause of the Constitution.

As General Counsel, I report directly to both the agency's Board of Commissioners and the agency's chief executive officer; I manage a law department of approximately 120 people, plus outside counsel; I supervise the agency's Office of Ethics and Compliance; and I am responsible for a broad range of legal matters, principally related to litigation, transactional matters, and regulatory matters.

As to litigation, hundreds of matters are typically pending at any moment, in New Jersey and New York courts; in federal and state courts; in trial and appellate courts; and in arbitral settings and before administrative agencies. These matters generally concern a mix of administrative law, antidiscrimination law, bankruptcy, class actions, commercial disputes,

employment law, environmental law, tort law, and constitutional claims under the First, Fourth, and Fourteenth Amendments.

Transactional matters include work on major projects associated with the agency's \$37 billion capital plan, such as addressing land use, environmental, and procurement issues, and overseeing negotiation and drafting of complex contracts related to large-scale construction projects and public-private partnerships. Important transactional matters that I have worked on include the Port Authority's largest-ever investment in New Jersey, the rebuilding of Terminal A at Newark Liberty International Airport; major capital construction in New Jersey, including at the Harrison Port Authority Trans-Hudson ("PATH") train station and at the agency's seaports in Newark and Elizabeth; and early-stages support for the replacement of the Newark AirTrain, for the trans-Hudson Gateway program, and for the rebuilding of the Port Authority Bus Terminal.

Regulatory matters typically focus on compliance with federal safety, operational, and financial standards related to the agency's three major airports; the nation's busiest seaport; the PATH commuter rail network; and numerous bridges and tunnels.

Finally, and in addition to the above, I served from 2020 to 2021 as the agency's Acting Inspector General. In that capacity, from Office of Inspector General headquarters in Hoboken, New Jersey, I supervised approximately 100 additional staff, charged with: conducting audits; conducting "fraud, waste, and abuse" investigations; and serving as the investigative arm for the Port Authority's Civilian Complaint Review Board, which receives and assesses civilian complaints against Port Authority police officers.

From 2004 to 2014, I was an Assistant United States Attorney in the Southern District of New York, and from 2010 to 2014 I served as Co-Chief of the Terrorism and International Narcotics Unit.

As Co-Chief, I directed the work of more than 20 federal prosecutors in the investigation and prosecution of highly complex and urgent matters of, among other things, international and domestic terrorism, espionage, and global arms-trafficking.

As an Assistant United States Attorney, I represented the United States in all phases of the federal criminal process. I started in the General Crimes unit (2004 to 2005), and then served in in the Narcotics unit (2005 to 2006) and the Terrorism and National Security unit (2006 to 2009); the Terrorism and National Security unit was merged with the International Narcotics unit in 2010 and I then served in the merged Terrorism and International Narcotic unit (2010 to 2014). I led more than 100

investigations, preparing search warrant and wiretap applications, and engaging in Grand Jury practice. I appeared in federal court very frequently, during many years on a near daily basis. I conducted large numbers of contested factual hearings and handled all pre-trial litigation on my cases. I tried seven cases, including a number of highly complex trials that each extended for approximately one month. Finally, I virtually always handled my own appeals; I served as both principal draftsman on relevant appellate briefs and as oral advocate on approximately 13 appeals before the United States Court of Appeals for the Second Circuit.

From 2001 to 2004, I was a litigation associate at Davis Polk and Wardwell. I participated in two trials, engaged in commercial litigation, and assisted with legal and factual analysis in confidential internal investigations.

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

At the Port Authority of New York and New Jersey, my principal client is the agency. I am also sometimes called upon to advise the agency's Board of Commissioners. I do not specialize; my focus is on a broad mix of matters.

As an Assistant United States Attorney, my client was the United States. With rare exceptions, such as handling an occasional federal habeas corpus action, I focused exclusively on criminal matters.

At Davis Polk and Wardwell, my clients were a bar association, which I helped represent at a *pro bono* trial; various companies, such as an insured pressing a post-9/11 business interruption claim; and certain entities in internal investigations. I did not specialize, and virtually all of my work was civil.

- 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.

As General Counsel of the Port Authority, approximately 25 percent of my work has been focused on litigation-related matters. I have not appeared in court. As an Assistant United States Attorney, 100 percent of my work was focused on litigation, and I appeared in court very frequently. As a litigation associate, 100 percent of my work was focused on litigation, and I appeared in court occasionally.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 85%

- 2. state courts of record: 15%
- 3. other courts: <5%
- 4. administrative agencies: <5%

ii. Indicate the percentage of your practice in:

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

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

I have tried nine cases to verdict, and in each of those cases I worked with at least one other attorney. I have presented oral argument in approximately 13 federal appeals.

i. What percentage of these trials were:

- 1. jury: 78%
- 2. non-jury: 22%

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

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

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Ghailani*, 98 Cr. 1023 (S.D.N.Y) (Kaplan, J.); 733 F.3d 29 (2d Cir. 2013) (Cabranes, Leval, Parker, JJ.)

From 2009 to 2013, I represented the United States in this federal terrorism prosecution. The core allegation against the defendant, Ghailani, was that he, along with other al Qaeda operatives, orchestrated the simultaneous 1998 truck bombings of the United States Embassies in Nairobi, Kenya and Dar es Salaam, Tanzania, which resulted in 224 deaths and thousands of injuries. I was the lead prosecutor. My role was to personally handle all significant pre-trial litigation, including a range of difficult and novel constitutional issues under the Fifth and Sixth Amendments; to try the case along with my colleagues; to advocate in writing and orally at sentencing; and to argue the appeal. The large majority of the evidence against Ghailani was obtained from outside of the United States and the case involved extensive litigation under the Classified Information Procedures Act. At trial, I delivered the rebuttal summation and put on the majority of key witnesses, including: numerous civilian Tanzanian witnesses who interacted with Ghailani in the run-up to the bombings; victims of the bombings; and various law-enforcement agents, who testified, among other things, about the explosives used in the truck bombs and how and where the bombs were built. The trial lasted approximately five weeks. Ghailani was convicted on one count, of conspiring to destroy buildings and property of the United States, resulting in death, and acquitted on many others; he was sentenced principally to a term of life imprisonment. His conviction and sentence were affirmed on appeal. I argued the appeal before the United States Court of Appeals for the Second Circuit, and I was the principal drafter on the appellate brief.

Reported decisions include: 761 F. Supp. 2d 167 (S.D.N.Y. 2011); 761 F. Supp. 2d 114 (S.D.N.Y. 2011); 751 F. Supp. 2d 515 (S.D.N.Y. 2010); 751 F. Supp. 2d 502 (S.D.N.Y. 2010); 751 F. Supp. 2d 498 (S.D.N.Y. 2010); 743 F. Supp. 2d 261 (S.D.N.Y. 2010); 743 F. Supp. 2d 242 (S.D.N.Y. 2010); 687 F. Supp. 2d 365 (S.D.N.Y. 2010); 686 F. Supp. 2d 279 (S.D.N.Y. 2009); 98 Cr. 1023 (LAK), 2010 WL 4006381 (S.D.N.Y. Oct. 6, 2010).

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2. *United States v. Metsos et al.*, 10 Cr. 598 (S.D.N.Y.) (Wood, J.)

From before it became public until it concluded in 2010, I represented the United States in this federal counterintelligence prosecution, which principally focused on a large ring of deep-cover Russian secret agents who operated covertly in the United States for many years, undertaking various tasks at the behest of Russian intelligence, and hiding both their true identities and their connection to Russia from their work colleagues, neighbors, and others. (Most of the Russian deep-cover agents lived as married couples in, among other states, New Jersey, Washington, Massachusetts, and New York.) In total, 11 defendants were charged and arrested. One of these defendants was captured and

detained abroad, released, and became a fugitive. The remaining 10 defendants were arrested in the United States; detained; pled guilty pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C); and deported immediately to Vienna, where they were traded for four people who had been held in Russian custody for alleged contact with Western intelligence agencies. I was the lead prosecutor. For several years, before the matter became public, I was the Assistant United States Attorney overseeing the investigation, which involved, among other things, extensive judicially-authorized electronic surveillance, and numerous judicially-authorized physical searches, executed in districts around the United States. In addition, before the case was charged, I was responsible for securing appropriate declassification determinations and, along with my colleagues, preparing numerous Federal Rule of Criminal Procedure 41 search warrants. I drafted the two criminal complaints, which totaled 55 pages; oversaw post-arrest interrogations of defendants who waived their *Miranda* rights; and argued the critical detention hearings. I prepared the relevant informations and agreements pursuant to which the defendants pled guilty, and I handled the guilty plea proceedings.

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3. *United States v. Muse*, 09 Cr. 512 (S.D.N.Y.) (Preska, C.J.)

From 2009 to 2010, I represented the United States in this federal piracy prosecution, the first major piracy prosecution in more than 150 years. The core allegation against the defendant, Muse, was that he led an armed group of pirates that attacked various large container ships in the Indian Ocean, including the Maersk Alabama, which was captured in 2009 after being sprayed by AK-47 fire, and whose captain was held hostage at sea and mistreated over the course of several days. In the prosecution, my principal role was to: investigate the matter; draft the Complaint; charge the case before the Grand Jury; handle pre-trial matters; and supervise the investigation that led to the superseding indictment, as more evidence was developed after Muse had been transferred to the United States for prosecution. Muse pled guilty to six counts, including hijacking a ship, kidnapping, and hostage-taking, and was sentenced principally to a term of imprisonment of 405 months.

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4. *United States v. Kassir*, 04 Cr. 356 (S.D.N.Y.) (Keenan, J.)

From 2007 to 2009, I represented the United States in this federal terrorism prosecution. The core allegation against the defendant, Kassir, was that, in support of al Qaeda, he: came to the United States from Europe to establish a terror training camp in rural Oregon; recruited locals to the camp; and taught them to kill, including with knives, explosives, and poisons. Kassir was arrested on a flight passing through the Czech Republic and extradited to the United States. Some of the evidence against Kassir was obtained from outside of the United States and the case involved extensive litigation under the Classified Information Procedures Act. Along with my colleague, my role was to: handle pre-trial litigation; try the case; and assist with sentencing. The trial lasted approximately four weeks. At trial, I delivered the opening jury address and also the rebuttal summation, and put on multiple critical witnesses, including numerous civilian witnesses who directly interacted with Kassir at the training camp and a law-enforcement witness who recovered evidence (including large volumes of shell casings) from the training camp. Kassir was convicted of 11 counts, including conspiracy to kill and provision of material support to a foreign terrorist organization, and was sentenced principally to a term of life imprisonment; his conviction and sentence were affirmed on appeal, although due to the press of business I did not handle the appeal. (Kassir had been dispatched to the United States by a senior terror leader, who was extradited, tried, and convicted in 2014; as Co-Chief of the Terrorism and International Narcotics Unit, I directly supervised that prosecution.)

Decisions reported only in electronic databases: No. 09-3974-cr., 406 Fed. Appx. 526 (2d Cir. Jan. 19, 2011); 04 Cr. 356 (JFK), 2009 WL 2913651 (Sept. 11, 2009); 04 Cr. 356 (JFK), 2008 WL 2653952 (S.D.N.Y. July 3, 2008); 04 Cr. 356 (JFK), 2009 WL 995139 (Apr. 9, 2009); 04 Cr. 356 (JFK), 2009 WL 976821 (Apr. 9, 2009); 04 Cr. 356 (JFK),

2009 WL 910767 (Apr. 2, 2009); 04 Cr. 356 (JFK), 2008 WL 2695307 (July 8, 2008). In addition to the above, a number of decisions were reported after I left the Department of Justice.

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5. *United States v. Wyatt*, 05 Cr. 59 (S.D.N.Y.) (Chin, J.)

From 2005 to 2008, I represented the United States in this federal fraud prosecution. The core allegation against the defendant, Wyatt, was that he paid bribes to the Government of Iraq to procure Iraqi oil shipments for a very large oil company he had founded. Along with my colleagues, my role was to: investigate the matter; charge the case in the Grand Jury; handle pre-trial litigation, including a range of novel and difficult issues as to the scope of both the federal wire-fraud statute and the Confrontation Clause; try the case; and assist with sentencing. The trial was scheduled to last approximately five weeks, but Wyatt pled guilty after approximately three weeks of trial. At trial, I put on multiple witnesses, including a critical Iraqi witness who was relocated to the United States, who had served for years as a senior financial official in Saddam Hussein's Government, and who testified, among other things, as to financial records he had secreted out of Baghdad. Wyatt was convicted of conspiring to violate the federal wire fraud statute and sentenced principally to 12 months and one day imprisonment and more than \$11 million dollars in restitution payments. Wyatt's co-defendants, including Mr. Chalmers and the two oil companies he operated, pled guilty shortly before trial, and I helped to prosecute those matters as well, from 2005 to 2008.

Reported decisions: 474 F. Supp. 2d 555 (S.D.N.Y. 2007); 410 F. Supp. 2d 278 (S.D.N.Y. 2006); 05 Cr. 59 (DC), 2007 WL 591948 (S.D.N.Y. Feb. 27, 2007); 05 Cr. 59 (DC), 2007 WL 624063 (S.D.N.Y. Feb. 26, 2007); 05 Cr. 59 (DC), 2006 WL 1062917 (S.D.N.Y. Apr. 18, 2006).

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6. *United States v. Park*, 619 F. Supp. 2d 89 (S.D.N.Y. 2009); 533 F. Supp. 2d 474 (S.D.N.Y. 2008) (Chin, J.)

From 2005 to 2008, I represented the United States in this federal counterintelligence prosecution. The core allegation against the defendant, Park, was that he acted as an agent of the Government of Iraq; received funds in Baghdad from then-Iraqi Foreign Minister Tariq Aziz; secreted those funds into the United States; and used those funds to bribe at least one senior United Nations official. The principal goal of Park's efforts was to ensure the establishment of the so-called United Nations Oil-for-Food Program on terms favorable to Saddam Hussein's Government. Along with my colleagues, my role was to: investigate the matter; prepare the Complaint; charge the case in the Grand Jury; handle pre-trial litigation; try the case; and participate in sentencing. The trial lasted approximately four weeks. I delivered the opening jury address and put on multiple witnesses, including a critical Jordanian witness who directly interacted with Park soon after he crossed the border with bagfuls of cash from Central Bank of Iraq. Park was convicted of conspiring to serve as an unregistered foreign agent, and was initially

sentenced principally to a term of imprisonment of 60 months; his sentence was subsequently reduced to 37 months.

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7. *United States v. Marcelino et al.*, 06 Cr. 36 (S.D.N.Y.) (Cote, J.)

From 2005 to 2008, I represented the United States in this federal narcotics prosecution. Eight defendants were charged in connection with their participation in a conspiracy to bring cocaine into the northeastern United States. During the investigation, approximately 143 kilograms of cocaine were seized, based on a series of Title III wiretap applications and Rule 41 search warrant applications that I drafted. Large portions of the cocaine recovered had been secreted inside religious statues, and held in a local warehouse. Each of the 8 defendants pled guilty in the Southern District of New York to a federal controlled substances offense, with the exception of one defendant whose case was transferred under Federal Rule of Criminal Procedure 20 to another district. The Southern District of New York defendants were sentenced principally to terms of imprisonment of: 120 months, 97 months, 70 months, 36 months, 30 months, 30 months, and time served. I was the sole prosecutor handling the investigation and prosecution, and my role was to: lead the investigation; charge the case in the Grand Jury; handle all pre-trial matters, including discovery; and conduct each of the sentencings.

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8. *United States v. Mastellone*, 06 Cr. 787 (S.D.N.Y.) (Marrero, J.)

From 2005 to 2008, I represented the United States in this federal fraud prosecution. The defendant, Mastellone was charged with the largest fraud ever perpetrated against the September 11 Victims' Compensation Fund. Mastellone received more than \$1.075 million from the Fund, based on claims that he had been "totally and permanently disabled" in the attacks on the World Trade Center. But videos obtained from a covert pole camera as well as from other sources showed him dancing, shoveling snow, carrying a person on his back, and going about his normal activities without hindrance. The defendant pled guilty to fraudulently stealing money from the United States, and was sentenced principally to a term of imprisonment of 30 months. My role was to: lead the investigation; charge the case in the Grand Jury; handle all pre-trial matters, including discovery; and to oversee the sentencing. In the context of a subsequent and separate civil False Claims Act proceeding, handled by another Department of Justice attorney, Mastellone was ordered to pay treble damages of more than \$3 million.

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9. *New York County Lawyers' Association v. State*, Index No. 102987/00 (N.Y. S. Sup. Ct., N.Y. Cnty.) (Suarez, J.).

From 2001 to 2003, I represented the plaintiff, a local bar association, in this civil action brought against New York State and New York City. The plaintiff alleged that the rates

paid to attorneys for indigent children and adults in New York City criminal and family courts, which rates had been set during the mid-1980s, were so low that a systematic violation was occurring with respect to defendants' right to effective assistance of counsel. At the close of a multi-week trial, the trial court ruled in the plaintiff-bar association's favor, and entered a permanent injunction directing that attorneys' fees be raised across the board. The State and City appealed, and the parties settled while the appeal was pending. As a result of the lawsuit, compensation rates paid to thousands of attorneys for the indigent, which had been set at \$25/hour for out-of-court work and \$40/hour for in-court work, were increased: to \$75/hour for *all* work, in court or out, in felony criminal cases and in family court cases. Along with my colleagues, my role was to: conduct factual and legal analysis with respect to questions of organizational standing; assist with both the preparation of expert materials and pre-trial legal filings; and to assist with the drafting of post-trial and appellate briefs. In addition, during the trial, I put on multiple witnesses.

Reported decisions: *New York County Lawyers' Ass'n*, 294 A.D.2d 69 (1st Dep't 2002); *New York County Lawyers' Ass'n*, 196 Misc.2d 761 (2002); *New York County Lawyers' Ass'n*, 192 Misc.2d 424 (2002); *New York County Lawyers' Ass'n*, 188 Misc.2d 776 (2001).

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10. *Duane Reade, Inc. v. St. Paul Fire & Marine Ins. Co.*, 02 Civ. 7676 (S.D.N.Y.)
(Rakoff, J.).

From 2002 to 2004, I represented an insured, Duane Reade, a drug store chain, in this civil action. On September 11, 2001, Duane Reade's most heavily-trafficked store was destroyed, and the company sued its insurer under a business interruption policy, seeking a declaration as to the meaning of critical policy terms, and alleging breach of contract claims for nonpayment of the insured's full losses. The case raised difficult and novel questions of substantive insurance law, as well as Article III ripeness questions. Along with my colleagues, my role was to: respond to the insurer's motion to dismiss; take and defend depositions; prepare the plaintiff's summary judgment motion; respond to the insurer's summary judgment motion; assist at trial, including by putting on multiple witnesses; and to draft the insured's federal appellate brief. My involvement with the matter ended when I left the firm in 2004, before oral argument in the federal Court of Appeals; after I left, the case went on for a number of years.

Reported decisions: 411 F.3d 384 (2d Cir. 2005); 261 F. Supp. 2d 293 (S.D.N.Y. 2003); 279 F. Supp. 2d 235 (S.D.N.Y. 2003).

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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.)

During my time as General Counsel of the Port Authority, I designed and executed the legal process that culminated in 2018 in raising minimum wages for approximately 40,000 workers at the agency's three major airports. I worked to: craft a rigorous public hearing and comment process to gather relevant facts, analogous to the federal notice-and-comment process; prepare critical Board resolutions; and develop a 110+ page analysis of the legal theory and factual basis for the new minimum wage, that publicly explained the Port Authority's legal authority to require higher wages and why doing so was not preempted by certain federal laws.

In addition, as General Counsel I drafted the first-ever Code of Ethics for the Port Authority's Board of Commissioners; helped to establish, and now supervise, the agency's first-ever Office of Ethics and Compliance; and oversaw the drafting of the agency's first-ever Code of Ethics for Employees, first-ever Code of Ethics for Vendors, and first-ever Code of Ethics for Lessees.

Furthermore, as General Counsel I led negotiations with the agency's 23 unions that moved employees-in-contract from 0 percent to 100 percent. In addition, I have overseen the negotiation and drafting of complex legal documentation for numerous billion-dollar-plus transactions, including two of the largest public-private partnerships in United States history, and certain large and complex long-term construction and operations and maintenance contracts.

From 2004 to 2014, I was an Assistant United States Attorney in the Southern District of New York; during that period, from 2010 to 2014, I served as Co-Chief of the Terrorism and International Narcotics Unit. Many of the investigations and prosecutions I directly and closely supervised were of national and international significance. These included: the investigation and prosecution of an Islamic Revolutionary Guard Corps plot to kill the Saudi Ambassador to the United States in Washington, DC; military/intelligence/law-enforcement operations that captured terror operatives in Libya and in the Indian Ocean, and brought them to the United States for trial; convictions after trial of the most prominent terror leader in Europe, a globally notorious arms-trafficker, and a senior al Qaeda leader; and the capture and conviction of the Taliban operative who in 2010 sought to detonate a car bomb in New York City's Times Square.

In addition to serving as a supervisor, as an Assistant United States Attorney I directly handled cases on my own, including significant matters involving terrorism,

counterintelligence, and piracy. For my work on cases that I personally handled, I received numerous awards, including the Department of Justice's single-highest annual award (in 2011) and the Department of Justice's second-highest annual award (in 2008).

From 2001 to 2004, I was a litigation associate at Davis Polk and Wardwell. Among other matters, I participated in a lengthy *pro bono* state court trial and a federal court trial on an insurance claim; I prepared and put on multiple witnesses at each of these two trials.

I have not registered as a lobbyist, but in my role at the Port Authority I often interact with public officials on behalf of the agency's interests.

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.

In the spring semester of 2016, I taught *Criminal Procedure: The Adjudicatory Part, From First Appearance to Post Conviction* at New York University School of Law. Syllabus supplied.

In the spring semester of 2015, I taught *National Security Law: Transnational Exercises of American Power* at New York University School of Law. Syllabus supplied.

In the fall semesters of 2015 and 2014, I taught *National Security Law* at New York University School of Law. Syllabi supplied.

In the spring semester of 2014, I co-taught *Intelligence, Surveillance, and Privacy* at Columbia University School of Law. Course outline supplied.

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

None.

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

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.

As a general matter, I would handle any matters involving actual or potential conflicts of interest in accord with the Code of Conduct for United States Judges, and any applicable statutes, ethical canons and opinions, and rules.

At a minimum, I would recuse myself from all matters I have worked on. In addition, for a fixed period of time I would recuse myself from any cases in which the parties include the Port Authority of New York and New Jersey or Port Authority Commissioners, officers, employees, or agents alleged to have been acting in the scope of their Port Authority duties. Such matters are readily identifiable from the pleadings. As to determining the appropriate period of time during which I would plan to recuse, and certain additional questions (such as how to proceed when the Port Authority is the real party in interest in a litigation) I would consult the Code of Conduct for United States Judges, and any applicable statutes, ethical canons and opinions, and rules.

I do not believe that my family members, as parties or counsel, are likely to have matters that arise in federal court in the District of New Jersey. I have no financial arrangements that are likely to generate actual or potential conflicts, and the organizations that I am a member of are not likely to have matters that arise in federal court. Aside from Port Authority matters, there are no categories of cases that are likely to present actual or potential conflicts of interest issues.

- 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 any matters involving actual or potential conflicts of interest in

accord with the Code of Conduct for United States Judges, and any applicable statutes, ethical canons and opinions, and rules. Upon becoming aware of information that might raise actual or potential conflicts of interest issues, I would promptly notify the parties of all relevant information, and provide them with an ample opportunity to be heard and to express their views, including by affording them the opportunity to brief any recusal or conflict issues.

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

I believe strongly in the ethical imperative reflected in Canon 2 of the American Bar Association's Code of Professional Responsibility, and I have devoted virtually my entire professional career to public service. During the period of my career in which I worked at a private law firm, I spent large amounts of time on pro bono work, including a multi-week trial focused on improving the legal representation provided to indigent defendants. During my career in public service, I have not done pro bono work per se, but I have engaged in volunteer and community service, principally through my synagogue in New Jersey, where I have served on the Board of Trustees and undertaken various hands-on community service activities.

26. **Selection Process:**

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

I received a questionnaire from a member of Senator Booker's Judicial Selection Advisory Group during April 2021. I submitted it in May 2021 and was interviewed by the Group in August 2021. I was interviewed by Senator Booker in August 2022. Shortly thereafter, I was interviewed by Senator Menendez and then by attorneys at the Office of the White House Counsel. Since August 15, 2022, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On December 21, 2022, 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.