

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lydia Kay Griggsby

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

United States District Judge for the District of Maryland

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

United States Court of Federal Claims
717 Madison Place, Northwest
Washington, District of Columbia 20439

Silver Spring, Maryland

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

1968; Baltimore, Maryland

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

1990 – 1993, Georgetown University Law Center; J.D., 1993
1986 – 1990, University of Pennsylvania; B.A., 1990

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

2014 – present
United States Court of Federal Claims
717 Madison Place, Northwest

Washington, District of Columbia
20439
Judge

2006 – 2014
United States Senate Committee on the Judiciary
Hart Senate Office Building, Suite 221
Washington, District of Columbia 20510
Chief Counsel for Privacy and Information Policy (2008 – 2014)
Privacy Counsel (2006 – 2008)

2004 – 2005
United States Senate Select Committee on Ethics
Hart Senate Office Building, Suite 220
Washington, District of Columbia 20510
Counsel

1998 – 2004; Summer 1991
United States Attorney's Office for the District of Columbia
Civil Division
555 Fourth Street, Northwest
Washington, District of Columbia 20530
Assistant United States Attorney (1998 – 2004)
Summer Law Clerk (Summer 1991)

1995 – 1998
United States Department of Justice
Civil Division, Commercial Litigation Branch
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Trial Attorney

1993 – 1995
DLA Piper, LLP
The Marbury Building
6225 Smith Avenue
Baltimore, Maryland 21209
Associate Attorney

Summer 1992
Venable, LLP
750 East Pratt Street, Suite 900
Baltimore, Maryland 21202
Summer Associate

September 1990 – May 1991

Georgetown University Law Center
Edward Bennett Williams Law Library
111 G Street, Northwest
Washington, District of Columbia 20001
Student Librarian

Other Affiliations (Uncompensated):

The Society, Incorporated, Supporting the Arts
1315 Duke Street
Alexandria, Virginia 22341
National Ethics Officer (2017 – 2020)
Member, National Chapter Establishment Committee (2013 – 2015)
Member, National Nominating Committee (2011 – 2013)
Vice President, Washington, District of Columbia Chapter (2011 – 2012)

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

I have not served in the military. I was not required to register for 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.

Professional Honors:

Court of Federal Claims Loren Smith Service Award (2019)
Department of Justice Special Achievement Award (2003, 2000, 1999, 1997)
Inspector General's Award for Enhancing the Quality of Life for Federally Assisted Housing Residents Through Civil Litigation (2001)
Secretary of State Commendation Letter for Successful Civil Litigation in James C. Wood, Jr. ex rel. United States v. The American Institute in Taiwan (2001)
United States Attorney's Community Outreach Award (2000)
White House Closing the Circle Award (2000)

Educational Honors:

American Criminal Law Review, Topics Editor (1992 – 1993)
Center for Applied Legal Studies Clinic (1991 – 1992)
Sphinx Senior Honor Society (1989 – 1990)
Onyx Honor Society (1989 – 1990)

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.

Alliance of Black Women Attorneys (1993 – 1995)
American Bar Association (1993 – 1995; 2003 – 2004; 2013 – present)
American Law Institute (2020 – present)
Greater Washington Area Chapter, Women Lawyers Division (1996 – 1998)
National Bar Association (2012 – present)

10. **Bar and Court Admission:**

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

Maryland, 1993
District of Columbia, 2000

There have been no lapses in membership. I currently maintain judicial status in Maryland.

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

Supreme Court of the United States, 2004
United States Court of Appeals for the District of Columbia Circuit, 2000
United States District Court for the District of Columbia, 1998 (inactive)
United States Court of Federal Claims, 1995

There have been no lapses in membership although, as noted, my bar membership in the United States District Court for the District of Columbia is inactive. The United States District Court for the District of Columbia requires that attorneys renew their membership every three years to maintain active status. Since I completed my tenure with the United States Attorney's Office for the District of Columbia in 2004, I have not practiced before the United States District Court for the District of Columbia and I currently maintain provisional membership or inactive status.

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.

Baltimore Homecoming Alumni Ambassador (2019 – present)
Delta Sigma Theta Sorority, Incorporated (1987 – present)
 Parliamentarian, Washington, D.C. Alumnae Chapter (2008 – 2010)
Folger Shakespeare Theater (2011 – present)
 Volunteer Usher (2011 – present)
Junior League of Washington (2011 – 2015)
The Links, Incorporated, Patuxent River (Maryland) Chapter (2011 – present)
 Parliamentarian (2012 – 2013; 2018 – 2020)
The Society, Incorporated, Supporting the Arts (2007 – present)
 National Ethics Officer (2017 – 2020)
 Member, National Chapter Establishment Committee (2013 – 2015)
 Member, National Nominating Committee (2011 – 2013)
 Vice President, Washington, D.C. Chapter (2011 – 2012)
The University Club of Washington (2017 – present)
University of Pennsylvania Secondary School Committee (2000 – 2006)

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

Membership in The Junior League of Washington; Delta Sigma Theta Sorority, Incorporated; The Society, Incorporated; and The Links, Incorporated is extended only to women. Delta Sigma Theta Sorority, Incorporated is an international sorority and public service organization. The Junior League of Washington; The Society, Incorporated; and The Links Incorporated are community service organizations that serve communities located within the Washington, D.C. metropolitan area. Otherwise, to the best of my knowledge, none of these organizations 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. The University Club of Washington is a social club for professionals. Since my affiliation with The University Club of Washington, to the best of my knowledge, The University Club of Washington has not discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor,

editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Tax Evasion, Seventh Survey of White Collar Crime, 29 Am. Crim. L. Rev. 609 (1991 – 1992). Copy supplied.

Letter to the Editor entitled, “No Big Deal,” Daily Pennsylvanian, Nov. 7, 1989. 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.

To the best of my knowledge, I have not prepared or contributed to the preparation of any publicly available reports, memoranda, or policy statements.

- 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.

June 4, 2014: I testified regarding my nomination to be a Judge of the United States Court of Federal Claims before the Senate Committee on the Judiciary, Washington, District of Columbia. Transcript supplied.

September 22, 2008: I gave brief remarks on Freedom of Information Act policy and procedure, the Smithsonian Institution, Board of Regents, Washington, District of Columbia. Copy of meeting minutes 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.

March 3, 2021: Speaker, “Women in Leadership,” Baltimore Leadership School for Young Women, Baltimore, Maryland. Notes supplied.

February 27, 2021: Panelist, "Women in Leadership Forum," Patuxent River (Maryland) Chapter, The Links, Incorporated, Gaithersburg, Maryland. Notes supplied.

October 7, 2020: Panelist, "Alumni in the Law Forum," The Park School of Baltimore, Brooklandville, Maryland. Notes supplied.

July 25, 2020: Panelist, "Government Contract Law Forum," National Bar Association, Washington, District of Columbia. Notes supplied.

November 20, 2019: Speaker, "Justice and Free Society," The Park School of Baltimore, Brooklandville, Maryland. Notes supplied.

September 19, 2019: Speaker, "Freedom of Speech and the First Amendment," The Baltimore Leadership School for Young Women, Baltimore, Maryland. Notes supplied.

July 16, 2019: Speaker, "Inside the Court of Federal Claims," United States Court of Federal Claims, Washington, District of Columbia. Notes supplied.

May 15, 2019: Panelist, "Government Contract Law Forum," American Bar Association, Contract Claims and Disputes Resolution Committee, Washington, District of Columbia. Notes supplied.

April 12, 2019: Speaker, "Justice and Free Society," Montgomery County Chapter, Jack and Jill of America, Incorporated, Silver Spring, Maryland. Notes supplied.

March 11, 2019: Panelist, "Forum on the Legislation to Create the Office of Government Information Services," National Archives, Washington, District of Columbia. Notes supplied.

November 28, 2018: Speaker, "The Right Choices Lead to a Pathway of Success," The Baltimore Leadership School for Young Women, Baltimore, Maryland. Notes supplied.

November 1, 2018: Panelist, "Trial Practice Tips for New and Experienced Practitioners Forum," United States Court of Federal Claims Bar Association, Washington, District of Columbia. Notes supplied.

August 1, 2018: Speaker, "Careers in Public Service," United States Court of Federal Claims, Washington, District of Columbia. Notes supplied.

May 9, 2018: Panelist, "Government Contract Law Forum," American Bar Association, Contract Claims and Disputes Resolution Committee, Washington, District of Columbia. Notes supplied.

March 30, 2018: Speaker, "Celebrating Women's History Month," Patuxent River (Maryland) Chapter, The Links, Incorporated, Gaithersburg, Maryland. Notes supplied.

March 16, 2018: Speaker, "Pearls of Wisdom for a Career in Public Service," Gamma Chapter, Delta Sigma Theta Sorority, Incorporated, Philadelphia, Pennsylvania. Notes supplied.

March 15, 2018: Panelist, "The Judge's Perspective - Hot Topics and Tips for Effective Advocacy Forum," American Bar Association, Federal Procurement Institute, Annapolis, Maryland. Notes supplied.

January 24, 2018: Panelist, "Views from the Bench Forum," Washington Bar Association, Washington, District of Columbia. Notes supplied.

October 9, 2013: Panelist, "Privacy Versus Protection Forum," Cyber Maryland Conference, Baltimore, Maryland. Notes supplied.

April 18, 2013: Panelist, "ECPA Reform Forum," United States Chamber of Commerce, Telecommunications & E-Commerce Committee, Washington, District of Columbia. I discussed the outlook for ECPA reform legislation in Congress. I have no notes, transcript, or recording. The address for the United States Chamber of Commerce is 1615 H Street, Northwest, Washington, District of Columbia 20062.

March 16, 2012: Panelist, "Freedom of Information Act Legislation Forum," American University, Washington College of Law, Washington, District of Columbia. Audio and video of the panel is available at: <http://www.c-spanvideo.org/program/AUWa> and at http://media.wcl.american.edu/Mediasite/Play/23_039047-9a32-49e4-a5cf-65c4b6a37bfe.

March 2, 2012: Panelist, "The Legislative Agenda for Technology Policy Issues Forum," TechAmerica, Washington, District of Columbia. I discussed potential digital privacy and cybersecurity legislation in the Congress. I have no notes, transcript, or recording. The address for TechAmerica is 601 Pennsylvania Avenue, Northwest, #600, Washington, District of Columbia 20004.

March 14, 2011: Panelist, "A Legislative Outlook-An Inside Look at FOIA Activity in the 112th Congress Forum," American University, Washington College of Law, Washington, District of Columbia. Notes supplied.

April 8, 2010: Speaker, "Federal Data Breach Legislation," Electronic Privacy Information Center, Washington, District of Columbia. I discussed the legislative outlook for federal data breach notification legislation in the Congress. I have no

notes, transcript, or recording. Press coverage supplied. The address for the Electronic Privacy Information Center is 1718 Connecticut Avenue, Northwest, Washington, District of Columbia 20009.

January 22, 2010: Panelist, "Legislative Staffers and Agency Led Discussion 2010 Top Issues Forum," Electronic Privacy Information Center, Washington, District of Columbia. I discussed the legislative outlook for federal data breach notification and digital privacy legislation in the Congress. I have no notes, transcript, or recording. The address for the Electronic Privacy Information Center is 1718 Connecticut Avenue, Northwest, Washington, District of Columbia 20009.

January 20, 2010: Panelist, "Transparency in the Obama Administration: A First-Year Assessment of the New Office of Government Information Services Forum," Collaboration on Government Secrecy and American University, Washington College of Law, Washington, District of Columbia. Audio and video available at: http://media.wcl.american.edu/Mediasite/Play/9e7_a5cd0-c3_07-4f89-8_8ae-d74bca4b_12b8.

October 28, 2009: Panelist, "Federal Data Breach Legislation Forum," Symantec, Mountain View, CA. I discussed the legislative outlook for federal data privacy legislation in Congress. I have no notes, transcript, or recording. Press coverage supplied. The address for Symantec is 350 Ellis Street, Mountain View, CA 94093.

January 29, 2009: Panelist, "Information Policy in the New Administration Forum," Collaboration on Government Secrecy and American University, Washington College of Law, Washington, District of Columbia. Video available at: <http://media.wcl.american.edu/Mediasite/Play/4d44c7ea-4797-42f6-9846-52423ca9fc01>.

December 4, 2008: Panelist, "Laws in the Works Forum," American Society of Access Professionals, Washington, District of Columbia. Remarks supplied.

September 22, 2008: Speaker, "Freedom of Information Act Policy and Procedure," Smithsonian Institution, Board of Regents, Washington, District of Columbia. A copy of the meeting minutes is supplied in response to question 12c.

March 17, 2008: Panelist, "Freedom of Information Day Forum," American University, Washington College of Law, Washington, District of Columbia. Audio available at: <http://www.podfeed.net/episodes.asp?p=35&id=2749&ct=1>.

July 6 – 7, 2006: Panelist, "Internet Drugs Conference," Harvard Law School, Cambridge, MA. I discussed the risks to youth associated with the purchase and sale of prescription drugs via the Internet. I have no notes, transcript, or

recording. The address of Harvard Law School is 1563 Massachusetts Avenue, Cambridge, MA 02138.

February 23, 2004: Panelist, "Government Employment and the Value of a Liberal Arts Education Forum," University of Pennsylvania, Philadelphia, PA. I discussed my professional experiences as an attorney for the Department of Justice. I have no notes, transcript, or recording. Press coverage supplied. The address for the University of Pennsylvania is 3451 Walnut Street, Philadelphia, PA 19104.

May 17, 1990: Panelist, "Student Life Exchanges: The Greek Experience Forum," University of Pennsylvania, Philadelphia, PA. I discussed my experiences as an undergraduate student and member of a university-affiliated sorority. I have no notes, transcript, or recording. The address for the University of Pennsylvania is 3451 Walnut Street, Philadelphia, PA 19104.

- 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.

Kaitlyn Rental, Student, University of Pennsylvania, interview on careers in public service for publication in *The Public Sector Pivot*. Publication anticipated in April 2021.

The ALI Reporter, Winter Newsletter, *Getting to Know ALI in 2020, New Members Attend Their First Project Meeting Held Virtually*, Nov. 2020. Copy supplied.

Baltimore Homecoming, video remarks on coming home to Baltimore, Maryland, Oct. 2018. Video of remarks available at: <https://vimeo.com/301272066>.

Andrew Noyes, *Leahy Plans Hearing to Look at Cybersecurity Cooperation*, Nat'l J.'s Congress Daily, Oct. 29, 2009. Copy previously supplied in response to 12d.

Beverly Lumpkin, *Congress Needs to Learn a Little Openness Itself*, Project on Government Oversight Blog, Mar. 13, 2008. Copy supplied.

E-Government; Definition of 'Media' Was an Obstacle Delaying FOIA Bill, Tech. Daily, Aug. 8, 2007. Copy supplied.

Bill Miller, *Owners of Troubled Properties Targeted; US. Suits Seek to Seize Crime-Ridden Buildings*, Wash. Post, July 27, 2000. Copy supplied.

Bill Miller, *Nuisance Law Claims Its First Success; Owners of Troubled Logan Circle Building Promise to Clean It Up*, Wash. Post, June 2, 1999. Copy supplied.

Adam Levine, *After Four-Year Absence, Sorority Chapter Begins Anew on Campus*, Daily Pennsylvanian, Apr. 16, 1990. Copy supplied.

Adam Levine, *150 Gather for Mandela Rally*, Daily Pennsylvanian, Feb. 15, 1990. Copy supplied.

Su-Lin Cheng, *Greek Leaders Express Support for Proposed Peer Review Panel*, Daily Pennsylvanian, Nov. 2, 1989. 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.

2014 – present

Judge, United States Court of Federal Claims

The United States Court of Federal Claims hears civil monetary claims involving the United States. The Court has nation-wide jurisdiction.

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

I have presided over approximately 191 cases that have gone to judgment and were resolved on the pleadings. I have presided over 1 case that has gone to judgment following a trial.

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

jury trials:	0%
bench trials:	100%

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

civil proceedings:	100%
criminal proceedings:	0%

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

Please see attached list of opinions.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature 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).

1. Jones v. United States, 146 Fed. Cl. 1 (2019).

This class action litigation involved a claim for premium pay brought by current and former employees of the United States Department of Veterans Affairs. The plaintiffs alleged that they had been regularly scheduled to work on Sundays and that they were entitled to receive Sunday premium pay under the applicable federal pay statutes. After the plaintiffs reached a tentative settlement with the government, the Court held a fairness hearing to consider approval of the class settlement. After holding a fairness hearing, the Court held that the proposed settlement was fair, reasonable, and adequate, approved the settlement, and entered judgment in favor of the plaintiffs.

For Plaintiff:

Ira M. Lechner
1150 Connecticut Avenue, Northwest
Suite 1050
Washington, D.C. 20036
(858) 864-2258

For Defendant:

Bryan Michael Byrd
U.S. Department of Justice - Civil Division
1100 L Street, Northwest
Washington, D.C. 20530
(202) 305-7607

2. Space Expl. Techs. Corp. v. United States, 144 Fed. Cl. 433 (2019).

In this case of first impression, SpaceX brought a bid protest challenging the Air Force's award of three Other Transaction Agreements ("OTAs") for launch services for national security missions. The case was the first case to consider whether the Court of Federal Claims has Tucker Act jurisdiction to resolve a bid protest challenging the award of OTAs. The Court held that the Court of Federal Claims did not have Tucker Act jurisdiction to resolve the bid protest challenging the award of the OTAs. The Court dismissed SpaceX's protest for lack of subject-matter jurisdiction, but transferred venue to the United States District Court for the Central District of California, pursuant to 28 U.S.C. § 1631, to permit SpaceX to continue to pursue its claims.

For Plaintiff:

Craig Alan Holman
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, D.C. 20001
(202) 942-5722

For Defendant:
Tanya Beth Koenig
U.S. Department of Justice - Civil Division
P. O. Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 305-7587

3. Geospatial Tech. Assocs., LLC v. United States, No. 16-346C, 2019 WL 1085258 (Fed. Cl. Mar. 7, 2019).

This patent and copyright infringement case involves claims that numerous government agencies have infringed upon a patent that patents technology involving automated image processing and target detection. The case involves the highly technical field of hyperspectral imaging and factually and legally complex infringement claims. The Court held a claims construction hearing, during which the Court heard fact and expert testimony related to the construction of several terms and phrases found in the claims of the patent in suit. The Court issued a claims construction decision. The litigation is ongoing.

For Plaintiff:
Richard Thomas Matthews
Williams Mullen
301 Fayetteville Street, Suite 1700
Raleigh, NC 27601
(919) 981-4000

For Defendant:
Jenna Elizabeth Munnelly
U.S. Department of Justice - Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 616-1061

4. Burnett v. United States, 139 Fed. Cl. 797 (2018).

This case involves multiple takings claims brought pursuant to the National Trails Systems Act, 16 U.S.C. §§ 1241–51, by several landowners who own property located adjacent to a railroad line in Missouri. After briefing on standing and title issues, the Court resolved several of the plaintiffs' takings claims based upon the application of Missouri property law. The litigation is ongoing.

For Plaintiffs:
John Robert Sears
Baker, Sterchi

100 North Broadway
21st Floor
St. Louis, MO 63102
(314) 345-5000

For Defendant:
Joseph Hosu Kim
U. S. Department of Justice
Environment and Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-0663
(202) 305-0207

5. WestRock Va. Corp. v. United States, 136 Fed. Cl. 267 (2018), *aff'd*, 928 F.3d 1019 (Fed. Cir. 2019), *reh'g granted, opinion withdrawn*, 783 F. App'x 1022 (Fed. Cir. 2019), *opinion modified and superseded on reh'g*, 941 F.3d 1315 (Fed. Cir. 2019).

This tax case involved a challenge to the United States Department of the Treasury's grant payment to an open-loop biomass cogeneration facility under Section 1603 of the American Recovery and Reinvestment Act. The questions presented in the case were what types of costs are reimbursable for open-loop biomass cogeneration facilities under Section 1603 and whether the plaintiff must allocate its costs basis in the open-loop biomass cogeneration facility to account for those costs attributable to electricity and steam production. The Court held that Section 1603 and the applicable Treasury Regulations require that the plaintiff allocate its cost basis and that the plaintiff's proposed allocation of cost basis was not reasonable. And so, the Court dismissed the case. The United States Court of Appeals for the Federal Circuit affirmed the Court's decision.

For Plaintiff:
Pamela J. Marple
Greenberg Traurig, LLP
2101 L Street, Northwest
Suite 1000
Washington, D.C. 20037
(202) 331-3100

For Defendant:
Courtney Metz Hutson
U.S. Department of Justice, Tax Division
Ben Franklin Station
Post Office Box 26
Washington, D.C. 20044
(202) 616-2004

6. CliniComp Int'l, Inc. v. United States, 134 Fed. Cl. 736 (2017), *aff'd*, 904 F.3d 1353 (Fed. Cir. 2018).

This bid protest case involved a challenge to the VA's decision to directly solicit a sole source contract to provide the agency's new electronic health records system. At issue in the case was whether the protester could establish standing to challenge the agency's sole source award. The Court held that the record evidence in the case showed that the plaintiff could not have competed for the contract at issue and, therefore, the plaintiff was not a qualified bidder that had standing to pursue the bid protest. And so, the Court dismissed the case for lack of subject-matter jurisdiction. The United States Court of Appeals for the Federal Circuit affirmed the Court's decision.

For Plaintiff:

Richard Joe Rupert Raleigh, Jr.
Wilmer & Lee, P.A.
100 Washington Street
Suite 100
Huntsville, AL 35801
(256) 533-0202

For Defendant:

William Porter Rayel
U.S. Department of Justice
Commercial Litigation Branch, Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 616-0302

7. Swain County v. United States, No. 16-531C, 2017 WL 1488808 (Fed. Cl. Apr. 26, 2017).

This case involved a breach of contract claim brought by Swain County, NC against the government, related to the construction of the North Shore Road. The plaintiff alleged that the government breached a settlement agreement that the Tennessee Valley Association and the United States Department of Interior entered into with Swain County by failing to make certain payments called for in that agreement. The question was whether Swain County had a right to presently due money damages under the terms of the settlement agreement at issue, to establish subject-matter jurisdiction under the Tucker Act. The Court held that plaintiff's claims were not for presently due money damages, because the government had additional time to make the payments to Swain County under the terms of the settlement agreement. And so, the Court dismissed the case for lack of subject-matter jurisdiction.

For Plaintiff:
Thomas Leo McGovern, III
Hogan Lovells US LLP
555 13th Street, Northwest
Washington, D.C. 20004-1109
(202) 637-5784

For Defendant:
Tara K. Hogan
U.S. Department of Justice (C)
Commercial Litigation Branch, Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 616-2228

8. Cal. Dep't of Water Res. v. United States, 128 Fed. Cl. 603 (2016).

This case involved a novel Contract Disputes Act (“CDA”) claim brought by the California Department of Water Resources (“CDWR”) to recover damages as reimbursement for certain scheduling coordinator charges that the CDWR incurred in the connection with the operation of several water storage and distribution facilities located in California. At issue was whether several agreements that the CDWR entered into with the United States Bureau of Reclamation constituted procurement contracts as contemplated by the CDA. The Court’s analysis involved an examination of the relevant agreements and consideration of the statutory text of the CDA. After briefing and oral argument on the government’s motion to dismiss, the Court held that the agreements at issue were not contracts for the procurement of property, services, or the construction, alteration, repair, or maintenance of real property, as required to be subject to the CDA. And so, the Court dismissed the case for lack of subject-matter jurisdiction.

For Plaintiff:
Matthew Jay Goldman
California Department of Justice
1300 I Street
P.O. Box 944255
Sacramento, CA 95816
(916) 324-4223

For Defendant:
Geoffrey Martin Long
U.S. Department of Justice - Civil Division
Post Office Box 480
Ben Franklin Station

Washington, D.C. 20044
(202) 307-0159

9. Piszel v. United States, 121 Fed. Cl. 793 (2015), *aff'd*, 833 F.3d 1366 (Fed. Cir. 2016), *cert. denied*, 138 S. Ct. 85 (2017).

This case involved novel illegal exaction and contract-based Fifth Amendment takings claims regarding the plaintiff's right to severance compensation under an employment agreement with the Federal Home Loan Mortgage Corporation ("Freddie Mac"). The plaintiff, a former Chief Financial Officer of Freddie Mac, alleged a taking and illegal exaction resulting from a statute and regulations barring the payment of so-called "golden parachute" compensation upon his termination as an employee of Freddie Mac. Plaintiff sought to recover these benefits under illegal exaction and takings theories. The Court held that plaintiff had not alleged a plausible "in effect" illegal exaction claim. The Court also held that plaintiff had no cognizable property interest in his employment agreement with Freddie Mac. And so, the Court denied the claim and dismissed the case. The United States Court of Appeals for the Federal Circuit affirmed the Court's decision. Piszel v. United States, 833 F.3d 1366 (Fed. Cir. 2016). The Supreme Court of the United States denied plaintiff's petition for a writ of certiorari.

For Plaintiff:
William Edward Donnelly
Murphy and McGonigle
555 Thirteenth Street, Northwest
Suite 410W
Washington, D.C. 20004
(202) 661-7011

For Defendant:
David A. Harrington
Senior Trial Attorney
U.S. Department of Justice - ENRD
Post Office Box 663
601 D Street, Northwest
Washington, D.C. 20004-0663
(202) 305-0244

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
1. Space Expl. Techs. Corp. v. United States, 144 Fed. Cl. 433 (2019).

For Plaintiff:

Craig Alan Holman
Arnold & Porter Kaye Scholer LLP (D.C.)
601 Massachusetts Avenue, Northwest
Washington, D.C. 20001
(202) 942-5722

For Defendant:
Tanya Beth Koenig
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Washington, D.C. 20044
(202) 305-7587

2. eVideo, Inc. v. United States, 136 Fed. Cl. 164 (2018), *aff'd*, 748 F. App'x 327 (Fed. Cir. 2019).

For Plaintiff:
Patrick R. Delaney
Ditthavong & Steiner, P.C.
44 Canal Center Plaza
Alexandria, VA 22314
(703) 519-9951

For Defendant:
David Allen Foley, Jr.
U.S. Department of Justice - Civil Division
P.O. Box 888
Ben Franklin Station
Washington, D.C. 20044
(202) 307-0346

3. WestRock Va. Corp. v. United States, 136 Fed. Cl. 267 (2018), *aff'd*, 928 F.3d 1019 (Fed. Cir. 2019), *reh'g granted, opinion withdrawn*, 783 F. App'x 1022 (Fed. Cir. 2019), *opinion modified and superseded on reh'g*, 941 F.3d 1315 (Fed. Cir. 2019).

For Plaintiff:
Pamela J. Marple
Greenberg Traurig, LLP
2101 L Street, Northwest
Suite 1000
Washington, D.C. 20037
(202) 331-3100

For Defendant:

Courtney Metz Hutson
U.S. Department of Justice, Tax Division
Ben Franklin Station
Post Office Box 26
Washington, D.C. 20044
(202) 616-2004

4. Austin v. Sec'y of Health & Human Servs., 141 Fed. Cl. 268 (2018), *aff'd*, 818 F. App'x 1005 (Fed. Cir. 2020).

For Plaintiff:
Robert Joel Krakow
Law Office of Robert J. Krakow, P.C.
233 Broadway
Suite 2320
New York, NY 10279-2320
(212) 227-0600

For Defendant:
Mollie Danielle Gorney
U. S. Department of Justice
Vaccine/Torts Branch, Civil Division
P.O. Box 146
Ben Franklin Station
Washington, D.C. 20044-0146
(202) 616-4029

5. York Telecom Corp. v. United States, 130 Fed. Cl. 186 (2017), *aff'd*, 708 F. App'x 682 (Fed. Cir. 2018).

For Plaintiff:
Daniel J. Donohue
Polsinelli, PC
1401 Eye Street, Northwest
Suite 800
Washington, D.C. 20005
(202) 626-8395

For Defendant:
Elizabeth Anne Speck
U.S. Department of Justice - Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 307-0369

6. Wash. Mut., Inc. v. United States, 130 Fed. Cl. 653 (2017), *aff'd sub nom. WMI Holdings Corp. v. United States*, 891 F.3d 1016 (Fed. Cir. 2018).

For Plaintiffs:

Maria O'Toole Jones
Miller & Chevalier
900 Sixteenth Street, Northwest
Black Lives Matter Plaza
Washington, D.C. 20006
(202) 626-6057

For Defendant:

Jennifer Dover Spriggs
Attorney of Record
Tax Division, Court of Federal Claims Section
U.S. Department of Justice
950 Pennsylvania Ave, Northwest
Washington, D.C. 20530-0001
(202) 514-2901

7. Swain County v. United States, No. 16-531C, 2017 WL 1488808 (Fed. Cl. Apr. 26, 2017).

For Plaintiff:

Thomas Leo McGovern, III
Hogan Lovells US LLP
555 Thirteenth Street, Northwest
Washington, D.C. 20004-1109
(202) 637-5784

For Defendant:

Tara K. Hogan
U.S. Department of Justice
Commercial Litigation Branch, Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 616-2228

8. CliniComp Int'l, Inc. v. United States, 134 Fed. Cl. 736 (2017), *aff'd*, 904 F.3d 1353 (Fed. Cir. 2018).

For Plaintiff:

Richard Joe Rupert Raleigh, Jr.
Wilmer & Lee, P.A.
100 Washington Street

Suite 100
Huntsville, AL 35801
(256) 533-0202

For Defendant:
William Porter Rayel
U.S. Department of Justice
Commercial Litigation Branch, Civil Division
Post Office Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 616-0302

9. Piszel v. United States, 121 Fed. Cl. 793 (2015), *aff'd*, 833 F.3d 1366 (Fed. Cir. 2016), *cert. denied*, 138 S. Ct. 85 (2017).

For Plaintiff:
William Edward Donnelly
Murphy and McGonigle
555 Thirteenth Street, Northwest
Suite 410W
Washington, D.C. 20004
(202) 661-7011

For Defendant:
David A. Harrington
Senior Trial Attorney
U.S. Department of Justice
Post Office Box 663
601 D Street, Northwest
Washington, D.C. 20004-0663
(202) 305-0244

10. Abbas v. United States, 124 Fed. Cl. 46 (2015), *aff'd*, 842 F.3d 1371 (Fed. Cir. 2016).

Plaintiff was represented pro se.

For Defendant:
Alexander Orlando Canizares
Former Department of Justice Attorney
Perkins Coie, LLP (D.C.)
700 13th Street, Northwest
Suite 800
Washington, D.C. 20005-3960
(202) 654-1769

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

Blue Cross and Blue Shield of North Carolina v. United States, 131 Fed. Cl. 457 (2017), *aff'd*, 729 F. App'x 939 (Fed. Cir. 2018), *rev'd and remanded sub nom. Maine Cmty. Health Options v. United States*, 140 S. Ct. 1308 (2020).

Piszel v. United States, 121 Fed. Cl. 793 (2015), *aff'd*, 833 F.3d 1366 (Fed. Cir. 2016), *cert. denied*, 138 S. Ct. 85 (2017).

- 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.

James-Cornelius on Behalf of E. J. v. Sec'y of Health & Human Servs., No.1:17-vv-1616 (Fed. Cl. July 15, 2019), *vacated and remanded*, 984 F.3d 1374 (Fed. Cir. 2021). This vaccine injury compensation case involved a challenge to the Office of Special Master's decision to deny the petitioner's request for an award of attorneys' fees. The Court held that the special master did not abuse her discretion or commit legal error by denying the request for attorneys' fees and sustained the decision of the special master. After the Court issued its decision, the United States Court of Appeals for the Federal Circuit issued its decision in Cottingham on Behalf of K.C. v. Sec'y of Health and Human Servs., 971 F.3d 1337 (Fed. Cir. 2020), which addresses the standard for determining whether a vaccine injury claim establishes a reasonable basis for attorneys' fees. The United States Court of Appeals for the Federal Circuit (Circuit Judges O'Malley, Reyna, and Chen) held that Cottingham required a remand of the case, because the special master failed to consider relevant objective evidence in conducting the analysis of the petitioner's request for attorneys' fees. And so, the court of appeals vacated the special master's decision and remanded the case to the special master for further proceedings.

Oliva v. United States, No. 18-104C, 2019 WL 1953131 (Fed. Cl. May 1, 2019), *rev'd and remanded*, 961 F.3d 1359 (Fed. Cir. 2020). This case involved breach of contract claims brought by a former government employee seeking relocation incentive pay and lost salary due to the government's breach of an employment settlement agreement. The Court held that plaintiff had not plausibly alleged a claim for relocation incentive pay and that plaintiff did not allege a plausible claim for lost salary. The United States Court of Appeals for the Federal Circuit (Circuit Judges Newman, Dyk, and Wallach) held that plaintiff plausibly claimed that the breaches of his employment settlement agreement were the cause of his lost salary and that plaintiff plausibly alleged that he is entitled to lost relocation incentive pay. And so, the court of appeals reversed and remanded the case.

Veterans4You, Inc. v. United States, 145 Fed. Cl. 181 (Fed. Cl. 2019), *rev'd and remanded sub nom. Veterans4You LLC v. United States*, 985 F.3d 850 (Fed. Cir. 2021). This bid protest case involved a challenge to the Government Printing Office's ("GPO") printing mandate and the GPO's solicitation to provide imprinted suicide prevention cable locks, labels, and wallet cards on behalf of the Department of Veterans Affairs. The Court held that the GPO printing mandate was not in conflict with the Veterans Benefits Act, that the VA met its obligations under the VBA regarding set-asides for veteran-owned small businesses, and that the GPO reasonably determined that it could not set aside the procurement. The United States Court of Appeals for the Federal Circuit examined the constitutionality of the GPO printing mandate, an issue that had not been raised before, or decided by, the trial court. The court of appeals (Circuit Judges Lourie, Clevenger, and Chen) held that the GPO printing mandate should be construed narrowly to avoid constitutional concerns and held that the printing mandate applies only to the printing of written or graphic published materials. Because the procurement did not involve the printing of written or graphic published materials, the court of appeals reversed and remanded the case.

Langkamp v. United States, 131 Fed. Cl. 85 (2017), *rev'd and remanded*, 943 F.3d 1346 (Fed. Cir. 2019). This case involved a claim that the government breached a settlement agreement by failing to pay the full amount of the lump sum payment required under that agreement after the annuity company making the payments went into bankruptcy. The Court held that the government did not guarantee these future payments under the terms of the settlement agreement in the event of a default by the annuity company and that the government could not have entered into such a contractual obligation. The United States Court of Appeals for the Federal Circuit (Circuit Judges Lourie, Mayer, and Taranto) held that the government's obligation to make the payments required under the settlement agreement was not extinguished by the purchase of annuities and that the contractual obligation to make these future payments did not exceed the government official's settlement authority. And so, the court of appeals reversed and remanded the case.

Brown v. United States, 133 Fed. Cl. 186 (2017), *rev'd and remanded*, 735 F. App'x 1033 (Fed. Cir. 2018). This case involved a military pay claim challenging the decisions of the Army Board for Correction of Military Records ("ABCMR") to deny the plaintiff's request for disability compensation under 10 U.S.C. §§ 1201 and 1203. The Court held that the evidentiary record supported the ABCMR's decision to deny plaintiff's request for compensation and that plaintiff waived his challenge to the ABCMR's decision based upon an alleged hernia and shoulder condition. The United States Court of Appeals for the Federal Circuit (Circuit Judges Prost, Moore, and Stoll) held that plaintiff sufficiently raised the hernia and shoulder condition claim before the ABCMR, and reversed and remanded the case.

Vandesande v. United States, No. 09-258C, 2017 WL 6521686 (Fed. Cl. Dec. 21, 2017); No. 09-258C, 2017 WL 745734 (Fed. Cl. Feb. 24, 2017), *aff'd in part, rev'd in part and remanded*, 771 F. App'x. 471 (Fed. Cir. 2019). This case involved a breach of contract claim alleging that United States Postal Service ("USPS") breached an employment settlement agreement with the plaintiff. The Court held that plaintiff had not established that the USPS breached the settlement agreement by either failing to reinstate the plaintiff, failing to make certain tax consequence payments to the plaintiff, failing to pay certain interest to the plaintiff, or failing to pay certain tax consequences. The United States Court of Appeals for the Federal Circuit (Circuit Judges Newman, Schall, and O'Malley) affirmed the Court's determinations on all breach of contract claims except the claim that the government breached the settlement agreement by failing to pay certain tax consequences. And so, the Federal Circuit affirmed in part, reversed in part and remanded the case.

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

I have issued approximately 89 unpublished opinions, approximately 45% of all of my opinions. All of my unpublished opinions are publicly available on the United States Court of Federal Claim's website at <https://www.uscfc.uscourts.gov/opinion-search>.

- 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.

Pizsel v. United States, 121 Fed. Cl. 793 (2015), *aff'd*, 833 F.3d 1366 (Fed. Cir. 2016), *cert. denied*, 138 S. Ct. 85 (2017).

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

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

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant

or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I review all cases on my docket to assess the necessity or propriety of recusal from a particular case. I routinely disclose and raise any potential issues that may warrant my recusal with the parties at the earliest opportunity, to determine whether there is any basis for a recusal and to obtain their views. I have not recused myself from any matter that has been before me, nor has any litigant or party requested or suggested that I recuse myself from any matter.

15. Public Office, Political Activities and Affiliations:

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

I have not held public office. I have had no unsuccessful candidacies for public 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.

Voter Protection Counsel, Obama for America (2012, 2008). I provided pro bono legal advice on election laws and procedures.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as a law clerk.

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

I have not practiced alone.

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

1993 – 1995
DLA Piper, LLP
The Marbury Building
6225 Smith Avenue
Baltimore, Maryland 21209
Associate Attorney

1995 – 1998
United States Department of Justice
Civil Division, Commercial Litigation Branch
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Trial Attorney

1998 – 2004
United States Attorney's Office for the District of Columbia
Civil Division
555 Fourth Street, Northwest
Washington, District of Columbia 20530
Assistant United States Attorney

2004 – 2005
United States Senate Select Committee on Ethics
Suite 220, Hart Senate Office Building
Washington, District of Columbia 20510
Counsel

2006 – 2014
United States Senate Committee on the Judiciary
Suite 221, Hart Senate Office Building
Washington, District of Columbia 20510
Chief Counsel for Privacy and Information Policy (2008 – 2014)
Privacy Counsel (2006 – 2008)

2015 – present
United States Court of Federal Claims

717 Madison Place, Northwest
Washington, District of Columbia 20439
Judge

- 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.

I began my career in private practice at DLA Piper, LLP. The areas of focus during my tenure with the firm were commercial real estate transactions and banking law. I drafted legal documents for commercial real estate transactions. I researched legal issues related to real estate law on behalf of clients, conducted title searches, and drafted legal memoranda and correspondence.

In 1995, I was appointed to the position of Trial Attorney for the Civil Division, Commercial Litigation Branch of the Department of Justice. My legal practice changed from commercial transaction work to civil litigation involving monetary claims brought against the United States. From 1995 to 1998, I was the lead counsel in several civil cases litigated in the United States Court of Federal Claims. During that time period, I also occasionally litigated appellate cases before the United States Court of Appeals for the Federal Circuit.

In 1998, I was appointed as an Assistant United States Attorney for the District of Columbia. My legal practice continued to focus on civil litigation. However, my areas of focus changed to include employment discrimination law, matters arising under the Federal Tort Claims Act, the Freedom of Information Act, and the Privacy Act. My practice also changed to include affirmative litigation on behalf of the United States. During my tenure at the United States Attorney's Office for the District of Columbia, I served as the Affirmative Civil Enforcement Coordinator for the office and represented the United States in cases brought under the False Claims Act. During my tenure as an Assistant United States Attorney, I litigated numerous cases before the United States District Court for the District of Columbia and litigated several appellate matters before the United States Court of Appeals for the District of Columbia Circuit.

In 2004, I commenced employment with the United States Senate as Counsel for the Select Committee on Ethics. The character of my legal practice changed to providing confidential legal advice and guidance to senators, officers, and employees of the Senate regarding the Senate's Code of Conduct and federal ethics law. I investigated ethics complaints and drafted letters and ethics opinions.

In 2006, I commenced employment as Counsel for the United States Senate Committee on the Judiciary. The character of my legal practice changed to providing legal advice on civil law and policy matters related to the Freedom of Information Act, the Privacy Act, and the Electronic Communications Privacy Act. In that position, I drafted and negotiated legislation, drafted legal memoranda and correspondence, prepared hearing statements and questions, and engaged in other legislative activities on behalf of the Committee on the Judiciary.

In 2014, I was appointed a Judge of the United States Court of Federal Claims. In this position, I hear complex cases involving civil monetary claims against the United States.

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

The clients with whom I worked closely while in private practice were financial institutions, such as Maryland National Bank and GE Capital Corporation. For these clients, I researched legal issues related to real estate law, conducted title searches, and negotiated deeds of trust, contracts of sale, and other legal agreements.

During my tenure with the Department of Justice and at the United States Attorney's Office for the District of Columbia, I represented the United States Government in civil litigation.

During my tenure with the Senate Select Committee on Ethics, I represented the members of the Select Committee.

In my position as chief privacy counsel for the Senate Judiciary Committee, I represented the chairman of the Senate Committee on the Judiciary and the interest of the people of the United States.

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

During my tenure as a Trial Attorney with the Department of Justice and Assistant United States Attorney with the U.S. Attorney's Office for the District of Columbia, I frequently appeared in court at the trial and appellate levels.

While in private practice, I did not engage in litigation or appear in court. During my tenure as an employee of the United States Senate, I did not engage in litigation or appear in court.

i. Indicate the percentage of your practice in:

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

ii. Indicate the percentage of your practice in:

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

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

All of the cases in federal district court or the United States Court of Federal Claims in which I participated, and which have been tried to final decision were resolved on the court pleadings. Based upon a PACER search, I estimate that I prepared the court pleadings and briefs in approximately 30 to 40 cases that were resolved on the pleadings.

i. What percentage of these trials were:

1. jury: 0%
2. non-jury: 0%

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

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

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

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. United States v. Toyota Motor Corporation, 117 F. Supp. 2d 34 (D.D.C. 2000); No. 99-cv-01888 (D.D.C. July 1, 2003) (consent decree).

This case involved civil claims against Toyota Motor Corporation for Clean Air Act violations involving 2.2 million vehicles manufactured between 1996 and 1998. Following several years of litigation and extensive discovery, the parties resolved the case under a consent decree that required Toyota to, among other things, spend \$20 million on a supplemental environmental project to make its vehicles run cleaner, accelerate compliance with certain emission control requirements, and pay a \$500,000 civil penalty. The United States District Court for the District of Columbia (Judge Henry H. Kennedy, Jr.) approved the consent decree on July 1, 2003.

I began working on the case during the settlement negotiations phase. I worked closely with co-counsel at the Environmental Enforcement Section of the Department of Justice. As counsel of record, I had the primary responsibility for drafting the court pleadings in this case associated with the settlement. The case received significant national attention because of the far-reaching impact of the settlement on so many Toyota vehicles and the positive impact on the environment.

My co-counsels were: Mark A. Gallagher, U.S. Department of Justice, Environmental Enforcement Section, P.O. Box 7611, Washington, D.C. 20044, (202) 514-2701; and John Peter Suarez, former Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, now Vice President and General Counsel, Sam's Club, Department 8352, 608 Southwest Eighth Street, Bentonville, AR 72716, (479) 277-7430.

The defendants were represented by: Hamilton Loeb, deceased.

2. United States v. 57/55 Pound Bags, more or less, of Potato Starch, No. 02-cv-02361 (D.D.C. Jan. 10, 2003).

This case involved a complaint for forfeiture *in rem* filed under the Federal Food, Drug and Cosmetic Act against articles of contaminated food stored at a Washington, D.C. food market. At the government's request, the district court issued a warrant for arrest *in rem* to seize the food. Thereafter, the parties entered into a consent decree condemning the seized food, ordering the owner to pay the cost to destroy the contaminated food and awarding other costs. The United States District Court for the District of Columbia

(Judge Ellen S. Huvelle) approved the consent decree on January 7, 2003. Along with counsel for the Food and Drug Administration, I prepared the government's court pleadings in the case, represented the government in court, and negotiated and drafted the consent decree.

My co-counsels were: Daniel E. Troy, retired; and Michael N. Varrone, Trial Attorney, Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, (301) 796-8721.

The defendant was represented by: Simon M. Osnos, Osnos & Associates, LLC, 7700 Leesburg Pike, Suite 434, Falls Church, VA 22043, (703) 356-8428.

3. Wood ex rel. United States v. American Institute in Taiwan, No. 98-cv-01952-CKK (D.D.C. Feb. 28, 2001), *aff'd*, 286 F.3d 526 (D.C. Cir. 2002).

This appeal involved a *qui tam* lawsuit brought under the False Claims Act against the American Institute in Taiwan, a unique entity that Congress established in the Taiwan Relations Act to conduct consular services and cultural exchange with the people on Taiwan. The United States declined to intervene in the case and moved to dismiss the case on the grounds that the American Institute enjoyed sovereign immunity from suit under the False Claims Act. In the district court, Judge Colleen Kollar-Kotelly ruled in favor of the government and dismissed the case. On appeal, the United States Court of Appeals for the District of Columbia Circuit (Circuit Judges Tatel, Garland and Williams) affirmed the district court's decision and held that the American Institute in Taiwan was immune from suit under the doctrine of sovereign immunity. I handled the case at the appellate level, assisting in drafting the government's appellate briefs and the preparation for oral argument.

My co-counsels were: Douglas N. Letter, retired; and R. Craig Lawrence, Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 Fourth Street, Northwest, Washington, D.C. 20530, (202) 252-2500.

The appellant was represented by: William Paul Lawrence, II, Waters & Krause, LLP, 37163 Mountville Road, Middleburg, Virginia 20117, (540) 687-6999; and Bradley S. Weiss, Miner, Barnhill & Galland, PC, 325 N. LaSalle Street, Chicago, IL 60654, (312) 751-1170.

4. United States v. Borger Management, No. 00-cv-02392 (D.D.C. Dec. 6, 2000) (consent decree) and United States v. Calomiris, No. 00-cv-02391 (D.D.C. Dec. 5, 2000) (consent decree).

These two cases involved the first civil cases litigated under the Residential Lead-Based Paint Hazard Reduction Act. The litigation resulted in consent agreements with two of Washington, D.C.'s largest property management companies at the time, resolving allegations that the landlords violated the lead disclosure law by failing to warn their tenants about lead-based paint hazards in their buildings. The cases were filed in the

United States District Court for the District of Columbia as part of a coordinated effort by the Federal Government to eliminate childhood lead poisoning. Under the consent decrees, the landlords agreed to abate lead-based paint hazards in all of their rental units, at an estimated cost of \$500,000, to pay civil penalties and to commit \$10,000 towards support of community-based projects to reduce the incidence of childhood lead poisoning in the District of Columbia. The district court (Judges Royce C. Lamberth and James Robertson) approved the consent decrees on December 5, 2000. I served as counsel of record for the United States in both cases. I prepared the court pleadings in the cases, participated in the settlement negotiations and assisted in the drafting of the consent decrees entered in the cases. The cases received significant local and national attention because they were the first of their kind and served as a model for subsequent lead disclosure litigation in other jurisdictions.

My co-counsels were: John B. Shumway, Assistant General Counsel, Office of General Counsel, United States Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, D.C. 20410, (202) 402-5190; and Arthur James Parker, Assistant Attorney General, District of Columbia Office of the Attorney General, Suite 450 North, 441 Fourth Street, Northwest, Washington, D.C. 20001, (202) 727-3400.

The defendants in the Calomiris case were represented by: Harold L. Segall, Beveridge & Diamond, PC, 1350 I Street, Northwest, Washington, D.C. 20005, (202) 789-6038. The defendants in the Borger case were represented pro se.

5. McCain v. Reno, 98 F. Supp. 2d 5 (D.D.C. 2000).

This case involved a facial challenge to the constitutionality of the Bureau of Prisons' ("BoP") regulation governing the handling of incoming inmate mail. The plaintiff alleged that BoP's policy, which permitted prison officials to open mail sent by a state or federal court outside the presence of the inmate, violated the First, Sixth, and Fourteenth Amendments. The government argued that the inmate mail policy was related to legitimate penological interests and did not violate plaintiff's constitutional rights. I was responsible for the responsive pleading and motion for summary judgment. The United States District Court for the District of Columbia (Judge Paul Freidman) agreed with the government and rejected plaintiff's constitutional challenges to the regulation. The district court entered summary judgment in favor of the Bureau of Prisons on March 31, 2000.

The plaintiff was represented pro se.

6. Ignatiev v. United States, No. 98-cv-02152-HHK (D.D.C. Nov. 2, 1999), *aff'd in part, rev'd in part*, 238 F.3d 464 (D.C. Cir. 2001); Mihaylov v. United States, No. 98-cv-02151-HHK (D.D.C. Nov. 2, 1999), *rev'd*, 238 F.3d 464 (D.C. Cir. 2001).

These two related cases involved a novel Federal Tort Claims Act ("FTCA") claim against the United States Secret Service concerning the discretionary function exception to the FTCA. The plaintiffs-appellants sustained injuries during a robbery that occurred

outside of the Chancery of Bulgaria located in Washington, D.C. The Secret Service provided protection services for the Chancery and the agency had assigned agents to the Chancery on the night of the attack. Plaintiffs-appellants alleged that, in failing to prevent the robbery, the Secret Service was negligent in performing its duty to protect the Chancery under a duty imposed by the Vienna Convention, the Consular Convention, and federal law. The government maintained that the discretionary function exception to the FTCA prohibited the claim.

The United States District Court for the District of Columbia (Judge Henry H. Kennedy, Jr.) agreed with the government's position that the FTCA claim against the Secret Service fell within the discretionary function exception to that law and dismissed the cases. On appeal, the United States Court of Appeals for the District of Columbia Circuit (Circuit Judges Williams, Garland, and Silberman) held that plaintiffs-appellants failed to make a valid legal claim under the FTCA based on international and statutory law, but concluded that the district court should have given plaintiffs-appellants the opportunity to conduct discovery of the facts necessary to establish jurisdiction upon other grounds before dismissing the case. On remand, the district court granted the government's motion for summary judgment on May 27, 2005 (Mihaylov v. United States, No. 98-cv-02151-HHK (May 27, 2005) and Ignatiev v. United States, No. 98-cv-02152-HHK (May 27, 2005)).

I litigated the cases at the trial and appellate levels from 1998 to 2004 and presented oral argument in the cases on behalf of the United States before the United States District Court for the District of Columbia (Judge Henry H. Kennedy, Jr.) and the United States Court of Appeals for the District of Columbia Circuit (Circuit Judges Williams, Garland, and Silberman). The cases resolved an important legal issue regarding the application of the discretionary function exception to decisions about the allocation of law enforcement resources at foreign chanceries and embassies.

My co-counsel was: R. Craig Lawrence, Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 Fourth Street, Northwest, Washington, D.C. 20530, (202) 252-2500.

The plaintiffs-appellants were represented by: Marjorie A. O'Connell, 2055 L Street, Northwest, Washington, D.C. 20036, (202) 466-8200.

7. United States v. Property Identified as 1421 12th Street, Northwest, Washington, D.C., No. 99-cv-00998 (D.D.C. Jun. 2, 1999).

This case involved the first federal civil lawsuit filed against a drug-related nuisance property in the United States. The defendant apartment building had been a magnet for criminal activity for many years, resulting in more than 100 police calls to the property to respond to assaults, robberies and other crimes. The lawsuit was the first case filed under a law enacted by the District of Columbia City Council authorizing a court to order that a drug-related nuisance property be abated. The case also involved federal civil asset forfeiture claims that allowed the United States to establish federal jurisdiction and to bring the case in the United States District Court for the District of Columbia. The

property owners entered into a consent agreement that required that the owners increase security at the property. The district court (Judge Henry H. Kennedy, Jr.) approved the consent decree on June 2, 1999. I was responsible for developing the litigation strategy for this case, preparing the court pleadings in the case, and negotiating and drafting the consent decree. I worked closely with co-counsel in the Criminal Division of the United States Attorney's Office and with individuals residing in the local community who were concerned about this property. The case received significant local and national attention because it was the first case of its kind.

My co-counsel in this case was: Barry Wiegand, Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 Fourth Street, Northwest, Washington, D.C. 20530, (202) 252-7566.

The defendant was represented by: Scott A. Fenske, now General Counsel, Alerus Financial, NA, 401 DeMers Avenue, Grand Forks, ND 58201, (701) 795-3200; and Gary G. Everngam, deceased.

8. Snyder v. Office of Personnel Management, 136 F.3d 1474 (Fed. Cir. 1998).

This appeal involved a challenge to the Office of Personnel Management's ("OPM") regulations requiring that federal retirement annuities be reduced to provide for a survivor annuity for a spouse, if the federal employee is married at the time of retirement. The case presented a unique question regarding how the OPM's regulations should apply when a retiree divorces after separating from federal service and multiple divorce decrees purport to address the distribution of the retirement annuity.

The petitioner in the case sought to eschew payment of the spousal annuity to his former spouse. The petitioner was married at the time of his retirement from federal service but, subsequently, he and his spouse filed separate petitions for divorce in different states. The OPM and the Merit Systems Protection Board ("MSPB") concluded that the first divorce decree granted a decree obtained by the petitioner's former spouse awarding the former spouse a pro rata share of the petitioner's retirement annuity should govern the distribution of the petitioner's retirement annuity. The divorce decree specifically addressed the former spouse's entitlement to the annuity and the decree had not been amended, superseded or set aside by the later divorce decree obtained by the petitioner. The petitioner appealed the determination to the United States Court of Appeals for the Federal Circuit. The court of appeals (Circuit Judges Newman, Michel, and Plager) agreed with the government's position that OPM and the MSPB properly determined that the earlier divorce decree governed the distribution of the petitioner's retirement annuity. The Court also held that the OPM could not properly consider the petitioner's subsequent divorce decree, because the latter decree did not specifically address entitlement to the petitioner's retirement annuity and, therefore, was not acceptable for processing under OPM regulations. I prepared the government's appellate briefs in the case.

The petitioner was represented by: William O. Carlisle, 2632 Dade Drive, P.O. Box 54, Running Springs, CA 92382, (909) 867-2400.

The intervenor was represented by: Edwin C. Schilling, III, 2767 South Parker Road, #230, Aurora, CO 80014, (303) 755-5121.

My co-counsel was: Sharon Y. Eubanks, former Deputy Director, Civil Division, Commercial Litigation Branch, Department of Justice, National Whistleblower Center, 1200 Connecticut Avenue, Northwest, Washington, D.C. 20036, (202) 342-1903.

9. Ponder v. United States, No. 95-cv-00695-JPW (Fed. Cl. Nov. 6, 1996), *aff'd*, 117 F.3d 549 (Fed. Cir. 1997).

This case involved a challenge to the Air Force's policy on military pay for married service members sharing government-supplied base housing and a claim for back pay under the Tucker Act. At the time, the case raised new legal questions regarding how the military should compensate the growing number of married couples jointly serving in the military. Plaintiffs-appellants claimed that Mr. Ponder was entitled to receive a housing allowance during the period that he shared government-provided base housing with his service member spouse and child. The government argued that federal law prohibited the payment of a housing allowance for service members who are assigned to government-supplied base housing and moved to dismiss the case. The Court of Federal Claims (Judge John Paul Wiese) agreed with the government's position that the plaintiffs-appellants failed to state a claim under the Tucker Act and dismissed the case. On appeal, the United States Court of Appeals for the Federal Circuit (Circuit Judges Newman, Plager, and Schall) also agreed with the government's position that the plaintiffs-appellants did not assert a valid claim for back pay under the Tucker Act and affirmed the trial court's decision.

I litigated the case at the trial and appellate levels on behalf of the United States and prepared the court pleadings and briefs for the case.

My co-counsel was: Anthony H. Anikeeff, former Assistant Director, Civil Division, Commercial Litigation Branch, Department of Justice, Williams & Mullen, 8300 Greensboro Drive, Suite 1100, Tysons Corner VA 22102, (703) 760-5206.

Plaintiffs-appellants were represented pro se.

10. Bryant v. National Science Foundation, 105 F.3d 1414 (Fed. Cir. 1997), *reh'g denied*, (Apr. 23, 1997).

This employment law case involved an appeal of a Merit Systems Protection Board ("MSPB") decision to sustain the removal of an employee from federal service for chronic tardiness. In the appeal, the United States Court of Appeals for the Federal Circuit (Circuit Judges Rich, Clevenger, and Bryson) agreed with the government's position that the removal decision was appropriate and did not violate the Family and Medical Leave Act. The court of appeals sustained the MSPB's termination decision. I

prepared the briefs in the case and presented the oral argument on behalf of the United States.

My co-counsel was: Sharon Y. Eubanks, former Deputy Director, Civil Division, Commercial Litigation Branch, Department of Justice, National Whistleblower Center, 1200 Connecticut Avenue, Northwest, Washington, D.C. 20036, (202) 342-1903.

The petitioner was represented by: Frederic W. Schwartz, Jr., 16341 I Street, Northwest, Washington, D.C. 20006, (202) 463-0880.

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 tenure as an Assistant United States Attorney, I litigated the first federal lawsuit filed against a drug-related nuisance property in the United States. I also litigated the first civil cases filed under the Residential Lead-Based Paint Hazard Reduction Act to help prevent childhood lead poisoning in the District of Columbia. During my tenure with the Senate Committee on the Judiciary, I worked on several significant pieces of federal legislation. For example, in 2007, I was the lead Senate counsel for the Open Government Act of 2007, the first major reform to the Freedom of Information Act in more than a decade. President George W. Bush signed this legislation into law on December 31, 2007. In 2009, I served as the lead Senate counsel for the OPEN FOIA Act of 2009, another Freedom of Information Act reform bill. President Barack Obama signed this legislation into law on October 29, 2009.

I have not performed any lobbying activities.

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

I have not taught any courses.

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

I have made no arrangements for deferred income or future benefits to be derived from previous professional or business relationships.

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 do not have any such plans, commitments, or agreements.

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

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.

I do not anticipate any potential conflicts-of-interest. If confirmed, I would review the matters before me and would recuse myself from any matters in which a personal or fiduciary matter might cause others to question my impartiality.

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

If confirmed, I would carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances. I would conduct myself in a manner that will avoid situations in which my impartiality might be questioned. In any case where I have a question about whether a conflict-of-interest, real or apparent, may exist, I would consult 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.

Most of my legal career has been in government service. As a result, my ability to participate in pro bono activities has been limited. However, in my capacity as an Assistant United States Attorney, I advocated to eradicate drug-related nuisance properties that were harming communities in economically disadvantaged areas of the District of Columbia. I also litigated the first cases brought under the Residential Lead-Based Paint Hazard Reduction Act, which resulted in the lead abatement of several residential buildings located in economically disadvantaged neighborhoods within the District of Columbia.

I have volunteered at a Washington, D.C. food pantry which provides food to individuals and families in need and through my Church.

Since 2018, I have served as a mentor for the Baltimore Leadership School for Young Women. I also mentor youth and support young artists in Maryland and the District of Columbia through several civic organizations.

26. **Selection Process:**

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

On December 22, 2020, I interviewed with a judicial selection committee established to recommend candidates to fill vacancies on the United States District Court for the District of Maryland. The committee recommended my nomination. On January 12, 2021, I interviewed with Senators Benjamin Cardin and Christopher Van Hollen. In January 2021, Senators Cardin and Van Hollen recommended that the President nominate me to the position of Judge, United States District Court for the District of Maryland. On February 5, 2021, I interviewed with attorneys from the White House Counsel's Office. Since that time, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 30, 2021, 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.