

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Toby Jay Heytens

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

United States Circuit Judge for the Fourth Circuit

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

Office of the Virginia Attorney General
202 North Ninth Street
Richmond, Virginia 23219

Residence: Charlottesville, Virginia

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

1975; Duluth, Minnesota

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.

1997 – 2000, University of Virginia School of Law; J.D., 2000

1996, University of Oslo; no degree received (international summer school program)

1993 – 1997, Macalester College; B.A., 1997

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.

2018 – present
Office of the Virginia Attorney General
202 North Ninth Street
Richmond, Virginia 23219
Solicitor General (2018 – present)
Appellate Practice Transition Counsel (2018)

2006 – present
University of Virginia School of Law
580 Massie Road
Charlottesville, Virginia 22903
Professor of Law (2014 – present)
David H. Ibbeken '71 Research Professor of Law (2015 – 2018)
Co-Director, Supreme Court Litigation Clinic (Spring 2011, 2014 – 2015, 2016 – 2017,
Fall 2017)
Associate Professor of Law (2006 – 2014)

2017
Seattle Preparatory School
2400 Eleventh Avenue East
Seattle, Washington 98102
Mock trial camp instructor (June 2017)

2016
Seattle Preparatory School
2400 Eleventh Avenue East
Seattle, Washington 98102
Mock trial camp instructor (June 2016)

2014
Hogan Lovells US LLP
555 Thirteenth Street, Northwest
Washington, District of Columbia 20004
Contractor (March 2014)

2007 – 2010
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Assistant to the Solicitor General

2003 – 2006
O'Melveny & Myers LLP
1625 Eye Street, Northwest
Washington, District of Columbia 20006

Counsel (2005 – 2006)
Associate (2003 – 2004)

2005
Cornell Law School
Myron Taylor Hall
Ithaca, New York 14850
Visiting Assistant Professor of Law

2002 – 2003
Supreme Court of the United States
One First Street, Northeast
Washington, District of Columbia 20532
Law clerk for the Honorable Ruth Bader Ginsburg

2001 – 2002
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Bristow Fellow

2000 – 2001
United States Court of Appeals for the Third Circuit
613 Market Street
Philadelphia, Pennsylvania 19106
Law clerk for the Honorable Edward R. Becker

2000
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Summer associate

1999
National Prison Project of the American Civil Liberties Union
914 Fifteenth Street, Northwest, Suite 410
Washington, District of Columbia 20009
Summer law clerk

1999
Jenner & Block LLP
601 Thirteenth Street, Northwest
Washington, District of Columbia 20005
Summer associate

1998 – 1999
University of Virginia School of Law
580 Massie Road
Charlottesville, Virginia 22903
Research assistant to Professor James E. Ryan

1998
University of Virginia School of Law
580 Massie Road
Charlottesville, Virginia 22903
Research assistant to Professor Mary Anne C. Case

1998
The Thomas Jefferson Center for the Protection of Free Expression
400 Worrell Drive
Charlottesville, Virginia 22911
Summer law clerk

1997
People for the American Way
2000 M Street, Northwest, Suite 400
Washington, District of Columbia 20036
Summer intern

Other affiliations (uncompensated)

2010 – present
American Mock Trial Association
Webster Hall, Suite 212
3950 East Newman Road
Joplin, Missouri 64801
Director

2007 – present
Collegiate Mock Trial at the University of Virginia
[this organization does not have a mailing address]
Charlottesville, Virginia 22903
Coach of undergraduate mock trial team

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 registered for the selective service upon turning 18.

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.

To the best of my recollection, I have received the following honors and awards:

Coaches Hall of Fame, American Mock Trial Association (2021)

Shaping Justice Award for Extraordinary Achievement in Public Service, Public Interest Law Association at the University of Virginia (2021)

Best Brief Award, National Association of Attorneys General (2020)

Neal Smith Award, American Mock Trial Association (2020)

Lifetime Achievement, Superior (Wisconsin) Academic Hall of Fame (2019)

Best Brief Award, National Association of Attorneys General (2019)

Chief Justice W. Ward Reynoldson Award, American Mock Trial Association (2018, 2017, 2008)

Graduation Procession Marshall, University of Virginia (2017)

All-University Teaching Award, University of Virginia (2016)

David H. Ibbeken '71 Research Professor of Law, University of Virginia (2015)

Raven Award (Alumni), The Raven Society (2015)

Exemplary Legal Writing – Long Articles, *The Green Bag* (2014)

Exemplary Legal Writing – Briefs & Motions, *The Green Bag* (2006)

Alumni Association Award for Academic Excellence, University of Virginia School of Law (2000)

Roger & Madeline Traynor Prize, University of Virginia School of Law (2000)

Alumni Association Best Note Award, University of Virginia School of Law (2000)

Order of the Coif, University of Virginia School of Law (2000)

Articles Development Editor, *Virginia Law Review* (1999 – 2000)

Jackson & Walker Award, University of Virginia School of Law (1999)

Dr. Carl M. Franklin Prize for the First-Year Student with the Highest GPA, University of Virginia School of Law (1998)

Bracewell & Patterson Outstanding First-Year Oral Argument Award, University of Virginia School of Law (1998)

Phi Beta Kappa, Macalester College (1997)

W. Scott Nobles Prize in Communication Studies, Macalester College (1997)

Lowell Thomas Prize for Public Speaking, Macalester College (1997, 1996, 1995, 1994)

All-American Attorney, American Mock Trial Association (1997, 1995)

National Merit Scholarship, Macalester College (1993 – 1997)

Victor D. & Mary Nelson Scholarship, Superior (Wisconsin) Scholarship Foundation (1993 – 2000)

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.

Boyd-Graves Conference

Charlottesville Bar Association

Edward R. Coke Appellate Inn of Court

Old Dominion Bar Association

Virginia Bar Association

Appellate Practice Section Council (2018 – present)

Virginia State Bar

Diversity Conference (2018 – 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, 2003 (inactive)

District of Columbia, 2004

Virginia, 2016

There have been no lapses in membership. I took inactive status in Maryland in 2012, while I was a full-time faculty member at the University of Virginia School of Law.

- 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, 2007
United States Court of Appeals for the Third Circuit, 2004
United States Court of Appeals for the Fourth Circuit, 2016
United States Court of Appeals for the District of Columbia Circuit, 2019
United States District Court for the District of Columbia, 2018
United States District Court for the Eastern District of Virginia, 2018
United States District Court for the Western District of Virginia, 2018

There have been no lapses in membership.

11. **Memberships:**

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

American Constitution Society (2005 – 2006, 2019 – present)

American Mock Trial Association
Ombudsperson (2018 – present)
Development Chair (2014 – 2016)
Director (2010 – present)

Collegiate Mock Trial at the University of Virginia
Head Coach (2009 – present)
Assistant Coach (2006 – 2009)

Macalester College, Class Agent (2014 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above

currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

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

12. Published Writings and Public Statements:

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

To my recollection and through searches of my own records and publicly available databases, I have found the following works that I authored or co-authored:

With Justin Bernstein, *Case materials for Rogers v. Mars*, American Mock Trial Association (2020). Copy supplied.

With Martine E. Cicconi, *Symposium: Channeling an old chief to reject a new immunity*, SCOTUSblog (2020). Copy supplied.

Two Centuries of Virginia in the Supreme Court, On Appeal (Spring 2020). Copy supplied.

With numerous others, *Case materials for State of Midlands v. Jordan Ryder*, American Mock Trial Association (2019). Copy supplied.

Symposium: Campaigns and consequences, SCOTUSblog (2018). Copy supplied.

Interview of Shana Knizknik, *AMTA Spotlight: Distinguished Alumna*, AMTAConnect (2016). Copy supplied.

With numerous others, *Case materials for Riley Winter v. TBD, Inc.*, American Mock Trial Association (2016). Copy supplied.

Interview of Sarah Chervinsky, *AMTA Spotlight: Distinguished Alumna*, AMTAConnect (2015). Copy supplied.

Changing What Judges Do, 82 U. Chi. L. Rev. Dialogue 151 (2015). Copy supplied.

Reassignment, 66 Stan. L. Rev. 1 (2014). Copy supplied.

With numerous others, *Case materials for Andy and Lee Park v. Hayden Duran*, American Mock Trial Association (2014). Copy supplied.

Reassignment (and the Scheindlin Controversy), PrawfsBlawg (2013). Copy supplied.

With Sarah Sawtelle, *Earning a Bid: The Backstory of the 2013 NCT*, Pretrial Matters, Vol. 1, Issue 1 (Fall 2013). Copy supplied.

The Framework(s) of Legal Change, 97 Cornell L. Rev. 595 (2012). Copy supplied.

With numerous others, *Case materials for Lee and Andy Allen v. Neptune Underwater Expeditions*, American Mock Trial Association (2012). Copy supplied.

With numerous others, *Case materials for Andy and Lee Davis v. HappyLand Toy Company*, American Mock Trial Association (2010). Copy supplied.

With numerous others, *Case materials for State of Midlands v. Jackie Owens*, American Mock Trial Association (2009). Copy supplied.

Doctrine Formulation and Distrust, 83 Notre Dame L. Rev. 2043 (2008). Copy supplied.

Managing Transitional Moments in Criminal Cases, 115 Yale L.J. 922 (2006). Copy supplied.

School Choice & State Constitutions, 86 Va. L. Rev. 117 (2000). 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.

From 2019 to present, I have been a member of a committee of the Boyd-Graves Conference that prepared three reports involving possible reforms to Virginia's rules regarding service by publication. Copies supplied.

From 2016 to 2017, while at the University of Virginia School of Law, I co-chaired a committee on diversity, equity, and belonging that prepared an initial

draft of a report for the central University. I am unable to obtain a copy of the report. The University of Virginia School of Law's address is 580 Massie Road, Charlottesville, Virginia 22903.

- 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.

Testimony to the Local Government Committee of the Senate of Virginia (February 3, 2020). Recording available at https://virginia-senate.granicus.com/MediaPlayer.php?view_id=3&clip_id=2998.

Testimony to the Public Safety Committee of the Virginia House of Delegates (January 24, 2020). Recording available at <https://virginiageneralassembly.gov/house/chamber/chamberstream.php>.

Testimony to the Judiciary Committee of the Senate of Virginia (January 15, 2020). Recording available at https://virginia-senate.granicus.com/MediaPlayer.php?view_id=3&clip_id=2862.

Testimony to the Judiciary Committee of the Senate of Virginia (January 13, 2020). Recording available at https://virginia-senate.granicus.com/MediaPlayer.php?view_id=3&clip_id=2842.

Joint Letter to the Senate Judiciary Committee in Support of the Confirmation of David Stras to be Circuit Judge, U.S. Court of Appeals for the Eighth Circuit (May 11, 2017). Copy supplied.

Joint Letter to the Senate Judiciary Committee in Support of the Confirmation of Amul Thapar to be Circuit Judge, U.S. Court of Appeals for the Sixth Circuit (undated letter, 2017). Copy supplied.

Joint Letter to the Senate Judiciary Committee in Support of the Confirmation of Patricia Millett to be Circuit Judge, U.S. Court of Appeals for the D.C. Circuit (July 9, 2013). Copy supplied.

Comment to Rector and Board of Visitors of the University of Virginia (June 21, 2012). Copy supplied.

Joint Letter to the Senate Judiciary Committee in Support of the Confirmation of Jesse Furman to be District Judge, U.S. District Court for the Southern District of New York (July 1, 2011). 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.

The following list reflects my best effort to identify the speeches or talks I have delivered. To compile this list, I have searched my own records and Internet sources. There may, however, be other speeches or talks that I have been unable to recall or identify.

April 22, 2021: Guest Lecturer, Radford University, Radford, Virginia (Virtual Appearance). I was a guest moot court judge for undergraduate students in a class taught by Donald Martin. I have no notes, transcript, or recording. The address for Radford University is 801 East Main Street, Radford, Virginia 24142.

April 16, 2021: Presenter, American Mock Trial Association (Virtual Appearance). Recording available at <https://www.youtube.com/watch?v=UdkBzTCwTIU>. My portion begins at 34:55.

March 20, 2021: Panelist, "Alumni Discuss Experiences at UVA Law," University of Virginia School of Law, Charlottesville, Virginia (Virtual Appearance). Recording available at <https://www.youtube.com/watch?v=bNZvgd4T8hw>.

March 16, 2021: Guest Speaker, University of Virginia School of Law, Charlottesville, Virginia (Virtual Appearance). I was one of two guest speakers about state solicitor generals' offices for a class named "Law and Public Service." I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

February 21, 2021: Guest Speaker, Public Interest Law Association at the University of Virginia (Virtual Appearance). I gave brief remarks upon receiving the Shaping Justice Award from the Public Interest Law Association at the University of Virginia. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

February 9, 2021: Panelist, "Effective Legal Writing," John Marshall Inn of Court, Richmond, Virginia (Virtual Appearance). I was part of an online panel about effective legal writing sponsored by the John Marshall Inn of Court. I have no notes, transcript, or recording. The address for the American Inns of Court is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

January 8, 2021: Panelist, Menlo School, Menlo Mock Trial, Menlo School, California (Virtual Appearance). I was part of a panel about undergraduate mock trial competitions and their relationship to high school mock trial competitions. I have no notes, transcript, or recording. The address for the Menlo School is 50 Valparaiso Avenue, Atherton, California 94027.

November 21 – 22, 2020: Speaker, Collegiate Mock Trial at the University of Virginia (Virtual Appearance). I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

November 12, 2020: Panelist, American Academy of Appellate Lawyers, Rockville, Maryland (Virtual Appearance). I was a member of a panel about the life and legacy of Justice Ruth Bader Ginsburg. I have no notes, transcript, or recording. The address for the American Academy of Appellate Lawyers is 1300 Picard Drive, Suite LL 14, Rockville, Maryland 20850.

October 18, 2020: Mock Trial Judge, University of Virginia School of Law (Virtual Appearance). I judged the final round of an internal mock trial competition at the University of Virginia School of Law. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia, 22903.

October 6, 2020: Speaker, William & Mary Law School, Williamsburg, Virginia (Virtual Appearance). I spoke to a group of law students about the Equal Rights Amendment at an event sponsored by the American Constitution Society, the Women's Law Society, the Public Discourse Initiative, and If/When/How. I have no notes, transcript, or recording. The address for William & Mary Law School is 613 South Henry Street, Williamsburg, Virginia 23185.

September 30, 2020: Panelist, University of Virginia School of Law, Charlottesville, Virginia (Virtual Appearance). I was part of a panel about the life and legacy of Justice Ruth Bader Ginsburg sponsored by the University of Virginia School of Law's student chapter of the American Constitution Society. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia, 22903.

September 15, 2020: Panelist, VoteEquality! (Virtual Appearance). I was a panelist for one of the breakout groups as part of a webinar about the litigation in *Virginia v. Ferriero*. I have no notes, transcript, or recording. VoteEquality! does not appear to have a physical address.

September 4, 2020: Guest Speaker, University of Virginia School of Law, Charlottesville, Virginia. I spoke to a group of first-year law students in Professor Joe Fore's Legal Research and Writing class. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia, 22903.

August 20, 2020: Panelist, "Time to Talk Town Hall: Free Speech, Removal of Statues, and Ongoing Protests," Virginia State Bar, Diversity Conference, Richmond, Virginia (Virtual Appearance). Recording available at https://www.youtube.com/watch?v=S_QUrFCeRZk&fbclid=IwAR2M9vwHHn ujDBKjAGrZ22tpeSjVhOABpjpez0rTboaTZOMRDNRB_hJ8nDI.

April 16, 2020: Guest Speaker, Georgetown University Law Center, Washington, District of Columbia (Virtual Appearance). I spoke to a class of law students about the Virginia Solicitor General's Office and state solicitors general offices generally. I have no notes, transcript, or recording. The address for Georgetown University Law Center is 600 New Jersey Avenue, Northwest, Washington, District of Columbia 20001.

March 2, 2020: Panelist, "AG Powers and Responsibilities: The Legal and Ethical Considerations of State Attorneys General Exercising Their Authority," National Association of Attorneys General Training and Research Institute, Washington, District of Columbia. I was part of a panel about whether and when state attorneys general have a duty to defend the constitutionality of state laws and policies. I have no notes, transcript, or recording. The address for the National Association of Attorneys General is 1850 M Street, Northwest, Twelfth Floor, Washington, District of Columbia 20036.

December 13, 2019: Guest Speaker, University of Virginia School of Law. I gave a talk about appellate advocacy sponsored by the William Minor Lile Moot Court Board. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

December 2, 2019: Guest Lecturer, University of Richmond School of Law, Richmond, Virginia. I spoke to law students about the U.S. Supreme Court's capital punishment jurisprudence. I have no notes, transcript, or recording. The address for the University of Richmond School of Law is 203 Richmond Way, Richmond, Virginia 23173.

November 23 – 24, 2019: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

November 14, 2019: Panelist, National Association of Attorneys General, Washington, District of Columbia. I was part of a panel about seeking and opposing certiorari before the Supreme Court of the United States. I have no notes, transcript, or recording. The address for the National Association of Attorneys General is 1850 M Street, Northwest, Twelfth Floor, Washington, District of Columbia 20036.

November 7, 2019: Panelist, Virginia Bar Association, Richmond, Virginia. I was on a panel about attorney general opinions as part of the Virginia Bar Association's annual administrative law conference. I have no notes, transcript, or recording. The address for the Virginia Bar Association is 111 East Main Street, Suite 905, Richmond, Virginia 23219.

October 26, 2019: Panelist, "Introduction to the Equal Rights Amendment," University of Richmond School of Law, Richmond, Virginia. I was on a panel as part of an event called "A New Era for the Equal Rights Amendment" that was organized by VA ratify ERA. Transcript supplied.

October 18, 2019: Speaker, American Bar Association, Government and Public Sector Lawyers Division Legal Skills Conference, Richmond, Virginia. I gave lunchtime remarks about the role of government lawyers and public service. I have no notes, transcript, or recording, but press coverage is supplied. The address for the American Bar Association is 1050 Connecticut Avenue, Northwest, Washington, District of Columbia 20036.

September 28, 2019: Award Recipient, Superior (Wisconsin) Hall of Fame Induction Ceremony, Superior, Wisconsin. I delivered brief remarks after being inducted into the Superior (Wisconsin) Academic Hall of Fame. I have no notes, transcript, or recording. The address for Superior Middle School is 3625 Hammond Avenue, Superior, Wisconsin 54880.

September 23, 2019: Guest Lecturer, William & Mary Law School, Williamsburg, Virginia. I spoke to law students about U.S. Supreme Court practice. I have no notes, transcript, or recording. The address for William & Mary Law School is 613 South Henry Street, Williamsburg, Virginia 23185.

September 23, 2019: Speaker, "The State Role in Checking Presidential Excess," William & Mary Law School, Williamsburg, Virginia. I gave a lunchtime talk that was jointly sponsored by the American Constitution Society and the William & Mary Institute of Bill of Rights Law. I have no notes, transcript, or recording, but have attached an image of a social media post that references the event. The address for William & Mary Law School is 613 South Henry Street, Williamsburg, Virginia 23185.

September 20, 2019: Panelist, Virginia State Bar, Williamsburg, Virginia. I was a member of a panel titled “Keeping the Pipeline Flowing and Employment Best Practices” as part of the Virginia State Bar’s second annual Forum on Diversity in the Legal Profession that was held at William & Mary Law School in Williamsburg, Virginia. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Virginia State Bar is 1111 East Main Street, #700, Richmond, Virginia 23219.

September 13, 2019: Panelist, “Supreme Court Preview 2019 – Panel 1: Criminal Law,” William & Mary Law School, Williamsburg, Virginia. Recording available at <https://www.youtube.com/watch?v=aUTYtERtG8>.

September 12, 2019: Moot Court Judge, “Supreme Court Preview 2019, Bostock v. Clayton County, Georgia,” William & Mary Law School, Williamsburg, Virginia. Recording available at <https://www.youtube.com/watch?v=XIGPQ2V6hmE>.

August 16, 2019: Speaker, “Overview of the American Legal System and the Life of a Case,” University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.youtube.com/watch?v=lJOpSkyBl2Y>.

August 2019 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

July 23, 2019: Panelist, Virginia State Bar Disciplinary Conference, Glen Allen, Virginia. I was part of a panel titled “Recent Developments in the Disciplinary System.” I have no notes, transcript, or recording. The address for the Virginia State Bar is 1111 East Main Street, #700, Richmond, Virginia 23219.

July 22, 2019: Panelist, National Association of Attorneys General, Washington, District of Columbia (Virtual Appearance). I was part of an online panel titled “The Supreme Court Term in Review.” I have no notes, transcript, or recording. The address for the National Association of Attorneys General is 1850 M Street, Northwest, Twelfth Floor, Washington, District of Columbia 20036.

July 11, 2019: Moderator, National Association of Attorneys General, Washington, District of Columbia. I interviewed Joan Biskupic about her book *The Chief* as part of the National Association of Attorneys General’s annual state solicitor generals’ conference. I have no notes, transcript, or recording. The address for the National Association of Attorneys General is 1850 M Street, Northwest, Twelfth Floor, Washington, District of Columbia 20036.

June 26, 2019: Speaker, Office of the Virginia Attorney General, Richmond, Virginia. I spoke as part of a brown-bag lunch series for interns in the Office of the Virginia Attorney General in Richmond, Virginia. I have no notes, transcript, or recording. The address for the Office of the Virginia Attorney General is 202 North Ninth Street, Richmond, Virginia 23219.

April 25, 2019: Speaker, Federal Bar Association, Roanoke Chapter, Roanoke, Virginia. Notes supplied.

March 6, 2019: Panelist, The Federalist Society for Law and Public Policy, Washington, District of Columbia. I was part of a panel of state solicitors general at an event sponsored by the Washington, DC young lawyers chapter of the Federalist Society for Law and Public Policy. I have no notes, transcript, or recording. The address for the Federalist Society for Law and Public Policy is 1776 Eye Street, Northwest, Suite 300, Washington, District of Columbia 20006.

February 25, 2019: Speaker, Hill-Tucker Bar Association, Richmond, Virginia. I gave a talk about recent developments in litigation before the Supreme Court of the United States. I have no notes, transcript, or recording. The address for the Hill-Tucker Bar Association is 2104 West Laburnum Avenue, Suite 201, Richmond, Virginia 23227.

February 1, 2019: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a talk about appellate advocacy sponsored by the William Minor Lile Moot Court Board. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

January 17, 2019: Guest Lecturer, University of Virginia School of Law, Charlottesville, Virginia. I spoke about recent decisions of the U.S. Supreme Court in a short course taught by the Honorable Pamela A. Harris. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

December 1 – 2, 2018: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

November 29, 2018: Panelist, National Association of Attorneys General, Washington, District of Columbia. I was part of a panel on opposing petitions for a writ of certiorari. I have no notes, transcript, or recording. The address for the

National Association of Attorneys General is 1850 M Street, Northwest, Twelfth Floor, Washington, District of Columbia 20036.

November 26, 2018: Guest Lecturer, University of Richmond School of Law, Richmond, Virginia. I spoke with students in the Clinical Placement Program class about careers in public service. I have no notes, transcript, or recording. The address for the University of Richmond School of Law is 203 Richmond Way, Richmond, Virginia 23173.

November 17, 2018: Moot Court Judge, Richmond, Virginia. I was a judge for the American Bar Association's National Appellate Advocacy Competition. I have no notes, transcript, or recording. The address for the American Bar Association is 1050 Connecticut Avenue, Northwest, Washington, District of Columbia 20036.

October 19, 2018: Speaker, University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.yiuu.de/podcast/uva-law/the-law-students-guide-to-becoming-solicitor-general>.

October 18, 2018: Speaker, Charlottesville-Albemarle Bar Association, Charlottesville, Virginia. Notes supplied.

September 26, 2018: Panelist, "Leading the State: UVA's Attorneys General," University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.youtube.com/watch?v=09MDT7jUcN4>.

September 22, 2018: Panelist, William & Mary Law School, Williamsburg, Virginia. I was a member of two panels as part of William & Mary Law School's annual Supreme Court preview: a property rights panel and a lunchtime panel advertised as "The Legal 'Resistance' to the Trump Administration." I have no notes, transcript, or recording. The address for William & Mary Law School is 613 South Henry Street, Williamsburg, Virginia 23185.

September 20, 2018: Moderator, Virginia Bar Association's Appellate Summit, Richmond, Virginia. I moderated a panel on seeking and opposing certiorari before the U.S. Supreme Court. I have no notes, transcript, or recording. The Virginia Bar Association's address is 111 East Main Street, Suite 905, Richmond, Virginia 23219.

August 29, 2018: Panelist, Office of the Virginia Attorney General, Richmond, Virginia. I was part of a panel for attorneys in the Office of the Virginia Attorney General about writing for trial and appellate courts. I have no notes, transcript, or recording. The address for the Office of the Virginia Attorney General is 202 North Ninth Street, Richmond, Virginia 23219.

August 2018 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an

information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

July 21, 2018: Panelist, “The Roberts Court at Age 12: 2017 Supreme Court in Review,” Virginia Bar Association Summer Meeting, Hot Springs, Virginia. Notes supplied.

June 6, 2018: Speaker, Office of the Virginia Attorney General, Richmond, Virginia. I was part of a brown-bag lunch series for interns in the Office of the Virginia Attorney General. I have no notes, transcript, or recording. The address for the Office of the Virginia Attorney General is 202 North Ninth Street, Richmond, Virginia 23219.

April 17, 2018: Moot Court Judge, University of Richmond School of Law, Richmond, Virginia. I was a moot court judge for law students. I have no notes, transcript, or recording. The address for the University of Richmond School of Law is 203 Richmond Way, Richmond, Virginia 23173.

April 11, 2018: Speaker, Food Frenzy Kickoff Luncheon, Richmond, Virginia. I spoke at the kickoff luncheon for an annual food drive sponsored by the Office of the Virginia Attorney General. I have no notes, transcript, or recording. The address for the Office of the Virginia Attorney General is 202 North Ninth Street, Richmond, Virginia 23219.

February 8, 2018: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I spoke to a group of law students about appellate oral advocacy. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

November 16, 2017: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a presentation on exam-taking techniques sponsored by the Black Law Students Association. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

November 11 – 12, 2017: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

October 5, 2017: Moot Court Judge, University of Virginia School of Law, Charlottesville, Virginia. I was a judge for a moot court competition. I have no

notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

October 4, 2017: Panelist, Virginia Law Review Public Service Roundtable, Charlottesville, Virginia. I was part of a panel about careers in public service. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

September 28, 2017: Moderator, University of Virginia School of Law, Charlottesville, Virginia. I was a moderator for a panel of judges of the Virginia Court of Appeals who were holding a special sitting at the University of Virginia School of Law. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

September 26, 2017: Guest Speaker, University of Virginia School of Law, Charlottesville, Virginia. Slides supplied.

September 8, 2017: Speaker, University of Virginia School of Law, Charlottesville, Virginia. Notes supplied.

August 18, 2017: Guest Speaker, “What to Expect in the Law School Classroom,” University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.youtube.com/watch?v=-3kusFbA-VU>.

August 2017 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

July 21, 2017: Panelist, “The Roberts Court at Age Eleven: The 2016 Supreme Court Term in Review,” Virginia Bar Association, Hot Springs, Virginia. Notes supplied.

April 11, 2017: Speaker, University of Virginia School of Law, Charlottesville, Virginia. Slides supplied.

March 24, 2017: Panelist, University of Virginia School of Law, Charlottesville, Virginia. I was a commentator on a talk offered by Professor David Strauss of the University of Chicago but I have been unable to determine the specific nature of his talk. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

February 18 – 19, 2017: Speaker, American Mock Trial Association, Orlando, Florida. I made brief remarks on behalf of the American Mock Trial Association

at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

November 12 – 13, 2016: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

October 22, 2016: Moot Court Judge, University of Virginia School of Law, Charlottesville, Virginia. I was a judge for a moot court competition. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

August 19, 2016: Speaker, “Overview of the American Legal System and the Life of a Case,” Introduction to Law School for First-Year Law Students, University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.youtube.com/watch?v=FD2c6vAw4KI>. My remarks begin at 54:11.

August 2016 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

April 11, 2016: Panelist, “‘Exam 2.0’ Testing Tips from Professors Kimberly Kesler Ferzan and Toby Heytens,” University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.youtube.com/watch?app=desktop&v=8f9istajMSg&t=1743s>.

March 19 – 20, 2016: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening ceremony of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

February 20 – 21, 2016: Speaker, American Mock Trial Association, New Haven, Connecticut. I made brief remarks on behalf of the American Mock Trial Association at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges

throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

February 1, 2016: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a presentation about exam-taking techniques sponsored by the Black Law Students Association. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

January 19, 2016: Panelist, Directors of Diversity and Inclusion Training at the College of Arts of Sciences at the University of Virginia, Charlottesville, Virginia. I have no notes, transcript, or recording. The address for the University of Virginia is 248 McCormick Road, Charlottesville, Virginia 22904.

November 23, 2015: Commenter, “Judicial Duty and the Supreme Court’s Cult of Celebrity,” sponsored by the student chapter of the Federalist Society for Law and Public Policy at the University of Virginia School of Law, Charlottesville, Virginia. Audio available at <https://soundcloud.com/uva-law/judicial-duty-and-the-supreme-courts-cult-of-celebrity>.

November 21 – 22, 2015: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording, but press coverage is supplied. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

November 16, 2015: Panelist, “UVA Law Professors Discuss Exam Strategies,” University of Virginia School of Law, Charlottesville, Virginia. Recording available at <https://www.youtube.com/watch?v=HtFoZI71Y6w>. My remarks begin at 5:13.

November 11, 2015: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a presentation about exam-taking techniques sponsored by the Black Law Students Association. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

September 11, 2015: Speaker, University of Virginia School of Law, Charlottesville, Virginia. Notes supplied.

August 2015 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I

have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

March 14 – 15, 2015: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

February 14 – 15, 2015: Speaker, American Mock Trial Association, Richmond, Virginia. I made brief remarks on behalf of the American Mock Trial Association at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

2015 [month and date unknown]: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a presentation about exam-taking sponsored by the Office of the Dean of Students. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

2015 [month and date unknown]: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a talk on appellate oral advocacy to law students at the University of Virginia School of Law. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

November 1 – 2, 2014: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

October 1, 2014: Commenter, “Nicholas Quinn Rosenkranz’s ‘The Subjects of the Constitution,’” Federalist Society for Law and Public Policy, University of Virginia School of Law chapter, Charlottesville, Virginia. Notes supplied.

August 2014 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I

have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

April 24, 2014: Speaker, Stanford Law Review, Palo Alto, California. I spoke to Stanford Law School students about my article *Reassignment*. I have no notes, transcript, or recording. The address for the Stanford Law Review is Stanford Law School, Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

March 22 – 23, 2014: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

January 31 – February 2, 2014: Speaker, American Mock Trial Association, Manchester, New Hampshire. I made brief remarks on behalf of the American Mock Trial Association at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

November 2 – 3, 2013: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

September 20, 2013: Speaker, “Justice Sandra Day O’Connor’s Out of Order: Stories from the History of the Supreme Court,” Northside Library, Charlottesville, Virginia. Notes supplied.

August 2013 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

April 12, 2013: Speaker, Video Introduction of Justice Elena Kagan, American Mock Trial Association, National Championship Tournament, Washington, District of Columbia. Recording supplied.

March 22, 2013: Speaker, University of Virginia School of Law, Charlottesville, Virginia. Notes supplied.

February 21 or 22, 2013: Speaker, University of Washington School of Law, Seattle, Washington. I gave a talk about the research that became my article *Reassignment*. I have no notes, transcript, or recording. The address for the University of Washington School of Law is 4293 Memorial Way, Northeast, Seattle, Washington 98195.

November 3 – 4, 2012: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

October 8, 2012: Speaker, University of Minnesota Law School, Minneapolis, Minnesota. I gave a talk about the research that became my article *Reassignment*. I have no notes, transcript, or recording. The address for the University of Minnesota Law School is 2219 Nineteenth Avenue, South, Minneapolis, Minnesota 55455.

September 26, 2012: Moot Court Judge, University of Virginia School of Law, Charlottesville, Virginia. I was a judge for a moot court competition. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

August 2012 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

July 26, 2012: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a talk to law students about the research that became my article *Reassignment*. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

March 17 – 18, 2012: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

February 10 – 12, 2012: Speaker, American Mock Trial Association, Superior, Wisconsin. I made brief remarks on behalf of the American Mock Trial Association at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

November 5 – 6, 2011: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

September 14, 2011: Panelist, University of Virginia School of Law, Supreme Court Roundup, Charlottesville, Virginia. Recording supplied.

August 2011 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

March 19 – 20, 2011: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

February 15, 2011: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I spoke to a group of law students about appellate oral advocacy. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

February 5 – 6, 2011: Speaker, American Mock Trial Association, Chapel Hill, North Carolina. I made brief remarks on behalf of the American Mock Trial Association at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

November 6 – 7, 2010: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

September 20, 2010: Speaker, Farmington Country Club, Charlottesville, Virginia. I spoke to an informal “Breakfast Club” about the work of the Office of the Solicitor General in the United States Department of Justice. I have no notes, transcript, or recording. The address for Farmington Country Club is 1625 Country Club Circle, Charlottesville, Virginia 22901.

August 2010 [date unknown]: Speaker, Collegiate Mock Trial at the University of Virginia, Charlottesville, Virginia. I believe I made brief remarks at an information session hosted by the undergraduate mock trial team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

February 26 – 28, 2010: Speaker, American Mock Trial Association, Jamaica, New York. I made brief remarks on behalf of the American Mock Trial Association at the opening and closing ceremonies of an undergraduate mock trial competition and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

November 21 – 22, 2009: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

June 22, 2009: Speaker, Congressional Youth Leadership Conference, Washington, District of Columbia. I spoke to a group of students attending a law-related leadership conference; I do not recall the topic. I have no notes, transcript, or recording. The address for Envision (the organization that appears to have run the conference) is 1919 Gallows Road, Suite 700, Vienna, Virginia 22182.

February 14 – 15, 2009: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for

Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

November 1 – 2, 2008: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

July 3, 2008: Speaker, LeadAmerica, Washington, District of Columbia. I spoke to a group of middle and high school students attending a Law & Trial Advocacy Program in Washington, DC sponsored by LeadAmerica. I have no notes, transcript, or recording. The address for LeadAmerica is 515 South Federal Highway, Suite 301, Boca Raton, Florida 33433.

February 23 – 24, 2008: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

November 3 – 4, 2007: Speaker, Collegiate Mock Trial at the University of Virginia, Washington, District of Columbia. I made brief remarks at the opening and closing ceremonies of an undergraduate mock trial competition hosted by the team that I coach and also conducted orientation sessions for volunteer judges throughout the weekend. I have no notes, transcript, or recording. The address for Collegiate Mock Trial at the University of Virginia is 580 Massie Road, Charlottesville, Virginia 22903.

September 28, 2007: Breakout Session Leader, 2007 Summit for Appellate Judges, Lawyers & Staff Attorneys, Appellate Judges Education Institute, Washington, District of Columbia. I led a breakout session titled “Section 1983 Actions: An Overview, Plus Qualified Immunity, Hot Pursuit, and ‘Bong Hits 4 Jesus’” presented by the Appellate Judges Education Institute. I have no notes, transcript, or recording. The address for the Appellate Judges Education Institute is SMU Dedman School of Law, P.O. Box 750112, Dallas, Texas 75275.

February 2007 [date unknown]: Speaker, University of Virginia School of Law, Charlottesville, Virginia. Notes supplied.

December 2006 [date unknown]: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I gave a presentation about exam-taking techniques sponsored by the Black Law Students Association. I have no notes, transcript, or

recording, but press coverage is supplied. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

2006 [month and date unknown]: Moot Court Judge, University of Virginia School of Law, Charlottesville, Virginia. I was a judge for a moot court competition. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

2006 [month and date unknown]: Speaker, Washington & Lee Law School, Lexington, Virginia. I presented the research that became my article *Doctrine Formulation and Distrust* at the Virginia Junior Faculty Forum. I have no notes, transcript, or recording. The address for Washington & Lee Law School is 204 West Washington Street, Lexington, Virginia 24450.

January 23, 2006: Speaker, University of Illinois College of Law, Champaign, Illinois. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for the University of Illinois College of Law is 504 East Pennsylvania Avenue, Champaign, Illinois 61820.

January 19, 2006: Speaker, George Washington University Law School, Washington, District of Columbia. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for George Washington University Law School is 2000 H Street, Northwest, Washington, District of Columbia 20052.

January 13, 2006: Speaker, William & Mary Law School, Williamsburg, Virginia. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for William & Mary Law School is 613 South Henry Street, Williamsburg, Virginia 23185.

January 12, 2006: Speaker, University of Virginia School of Law, Charlottesville, Virginia. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

December 5, 2005: Speaker, University of Washington School of Law, Seattle, Washington. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for the University of Washington School of Law is 4293 Memorial Way, Northeast, Seattle, Washington 98195.

December 2, 2005: Speaker, University of Arizona James E. Rogers College of Law, Tucson, Arizona. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for the University of Arizona James E. Rogers College of Law is 1201 East Speedway Boulevard, Tucson, Arizona 85721.

November 28, 2005: Speaker, University of Minnesota Law School, Minneapolis, Minnesota. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for the University of Minnesota Law School is 229 Nineteenth Avenue South, Minneapolis, Minnesota 55455.

November 17, 2005: Speaker, University of Maryland School of Law, Baltimore, Maryland. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for the University of Maryland School of Law is 500 West Baltimore Street, Baltimore, Maryland 21201.

2005 [month and date unknown]: Speaker, Cornell Law School, Ithaca, New York. I presented the research that became my article *Managing Transitional Moments in Criminal Cases*. I have no notes, transcript, or recording. The address for Cornell Law School is Myron Taylor Hall, Ithaca, New York 14853.

April 2005 [date unknown]: Moderator, "The Constitutionality of the Solomon Amendment," Cornell Law School, Ithaca, New York. I moderated a panel about pending legal challenges to the Solomon Amendment. Notes supplied.

February 28, 2005: Panelist, Cornell Law School, Ithaca, New York. I do not recall the title of the panel. Notes supplied.

April 2003 [date unknown]: Speaker, American Mock Trial Association, Des Moines, Iowa. I gave brief remarks as one of two guests of honor at the American Mock Trial Association's National Championship Tournament. I have no notes, transcript, or recording. The address for the American Mock Trial Association is Webster Hall, Suite 212, 3950 East Newman Road, Joplin, Missouri 64801.

May 25, 1997: Graduation Speaker, Macalester College, St. Paul, Minnesota. I was one of several graduates who participated in offering the Prayer for Peace at Macalester College's undergraduate graduation ceremony. I have no notes, transcript, or recording. The address for Macalester College is 1600 Grand Avenue, St. Paul, Minnesota 55105.

February 8, 1994: Speaker at Public Forum, Macalester College, St. Paul, Minnesota. I made brief remarks at a public forum discussing changes to the academic calendar at my college. I have no notes, transcript, or recording, but

press coverage is supplied. The address for Macalester College is 1600 Grand Avenue, St. Paul, Minnesota 55105.

During the fall of 1994, I hosted a weekly two-hour radio show for my college radio station. I have no notes, transcript, or recording. The address for Macalester College is 1600 Grand Avenue, St. Paul, Minnesota 55105.

- 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.

I have not maintained a record of all interviews I have given, but I have searched my own records and Internet sources to provide as complete of a list as possible. Nonetheless, there may be interviews that I did not recall or locate.

Mike Fox, *3 Alumni To Be Honored for Public Service*, UVA Law News Release (Feb. 16, 2021). Copy supplied.

Bloomberg Law Podcast, *RBG The Feminist Icon and Legal Trailblazer* (Sept. 24, 2020). Available at <https://www.bloomberg.com/news/audio/2020-09-25/rbg-the-feminist-icon-and-legal-trailblazer-podcast>.

Herbert Bauernebel, *Mourning for Ruth Bader Ginsburg, worrying about the future*, Bild (Sept. 24, 2020). Copy supplied.

In Memoriam: U.S. Supreme Court Justice Ruth Bader Ginsburg, UVA Today (Sept. 19, 2020). Copy supplied (reprinted in multiple outlets).

Cases and Controversies Podcast, *SCOTUS Deep Dive: The Trump Financial Subpoena Cases* (Mar. 12, 2020). Available at <https://news.bloomberglaw.com/us-law-week/scotus-deep-dive-the-trump-financial-subpoena-cases-podcast>.

Common Law Podcast, *Episode 4: "The Law and Ethics of 'Game of Thrones.'" (Apr. 9, 2019)*. Available at <https://soundcloud.com/commonlawuva/episode-4-the-law-and-ethics-of-game-of-thrones>.

Coming Today: A Ginsburg Trifecta, Supreme Court Brief (Online), Nat'l L.J. (Feb. 20, 2018). Copy supplied.

Shelley Nelson, *Superior native serves as Virginia Solicitor General*, Superior Telegram (Jan. 16, 2018). Copy supplied.

Mary Wood, *Alumnus and Law Professor Named Virginia's New Solicitor General*, UVA Today (Jan. 10, 2018). Copy supplied (reprinted in multiple outlets).

Eric Williamson, *Clinic Headed to Supreme Court Again With City of Hays v. Vogt*, UVA Law News Release (Sept. 28, 2017). Copy supplied.

Mary Wood, *UVA Undergrad Mock Trial Team Captures National Title*, UVA Today (May 2, 2017). Copy supplied (reprinted in multiple outlets).

Derez Quizon, *Sweet revenge for mock trial team, which captures third national title*, The Daily Progress (May 1, 2017). Copy supplied.

Mary Wood, *With Help from Law Coaches, UVA Mock Trial Team Wins National Championship* (Apr. 27, 2017). Copy supplied (reprinted in multiple outlets).

Law Students of the Year: Danielle Desaulniers, University of Virginia School of Law, Nat'l Jurist (Mar. 8, 2017). Copy supplied.

Eric Williamson, *'Meticulous' Legal Mind Earns Professor Toby Heytens All-University Teaching Award*, UVA Law News Release (Apr. 21, 2016). Copy supplied.

Senate Republican leader: No lame-duck hearing of court pick, Univ. Wire (Mar. 23, 2016). Copy supplied.

Alexis Gravely, *Law profs. weigh in on Obama Supreme Court nomination*, The Cavalier Daily (Mar. 21, 2016). Copy supplied.

Dean Seal, *Three Supreme Court clerkships keep Virginia Law pipeline strong*, The Daily Progress (Mar. 12, 2016). Copy supplied.

Inside the Classroom: 6 questions with Professor Toby Heytens (approximately 2016, month and date unknown). Copy supplied.

Eric Williamson, *Professor Toby Heytens Recognized by The Green Bag for Long-Form Legal Article*, UVA Law News Release (Apr. 30, 2015). Copy supplied.

The Case for Competition, 2015 University of Virginia Giving Societies Annual Report. Copy supplied.

Faculty Q&A: Toby Heytens on the Practice of Judicial 'Reassignment', UVA Today (Mar. 19, 2014). Copy supplied (reprinted in multiple outlets).

Joe Forward, *Mock Trial. Real Leaders.*, Wisconsin Lawyer (Dec. 1, 2013). Copy supplied.

Nadya Labi, *Ahead of the Curve*, NYU L. Mag. (Sept. 5, 2013). Copy supplied.

Brian McNeill, *UVA Law Professor Takes Students Inside Office of Solicitor General*, UVA Law News Release (Jan. 17, 2013). Copy supplied.

Sharon Driscoll, *Meet Liz Magill*, Stanford Lawyer (Nov. 12, 2012). Copy supplied.

Professor roulette, Virginia Law Weekly (Oct. 5, 2012). Copy supplied.

Matt Kelly, *U. Va. Undergraduate Reedy Swanson Earns Carnegie Fellowship*, UVA Today (Apr. 2, 2012). Copy supplied (reprinted in multiple outlets).

Chris Dumond, *Supreme Court ruling has implications for Lynchburg-area GPS Case*, The News & Advance (Feb. 5, 2012). Copy supplied.

Tasha Kates, *Supreme Court issues opinions in UVa teacher argued cases*, The Daily Progress (July 3, 2011). Copy supplied.

University of Virginia Student Ben Wallace Selected as Truman Scholar, Univ. of Va. News Release (Mar. 31, 2011). Copy supplied.

Heytens Returns from Office of the Solicitor General, Va. L. Weekly (Sept. 10, 2010). Copy supplied.

U. Va. News Staff, *Law Professor Returns to Classroom from Solicitor General's Office*, UVA Today (Aug. 27, 2010). Copy supplied (reprinted in multiple outlets).

Denise Forster & Emily Williams, *From the Courtroom to the Classroom Past and Present Litigators Inspire Next Generation*, UVA Lawyer (Fall 2007). Copy supplied.

Mary Wood, *University of Virginia Law Professor to Work for Solicitor General*, UVA Today (July 19, 2007). Copy supplied (reprinted in multiple outlets).

Law Weekly Staff, *Law Students Coach Undergraduate Trial Team to Victory*, Va. L. Weekly (May 2, 2007). Copy supplied.

Lindsay Nair, *Standoff Leads to Federal Charges*, The Roanoke Times (July 14, 2006). Copy supplied.

Emily Williams, *Homecoming for New Faculty Hire Toby Heytens*, UVA Law News Release (June 26, 2006). Copy supplied.

Darcey Rhoades, *Clerking for the Supreme Court*, Virginia Law Weekly (Feb. 7, 2003). Copy supplied.

Amy Collins, *The Ultimate Legal Job*, Virginia Law Weekly (Feb. 2, 2001). Copy supplied.

Rich Bland & Erica Bachman, *Booming Barrister's Breaks Barriers*, Virginia Law Weekly (Feb. 11, 2000). Copy supplied.

Law Weekly Staff, *Legal Briefs: Heytens Wins Inaugural Prize for Highest First-Year GPA*, Virginia Law Weekly (Oct. 2, 1998). Copy supplied.

Kristina Dell, *How to Afford A Public Service Career*, Virginia Law Weekly (Sept. 17, 1997). Copy supplied.

Kate Wood, *Mock Trial teams place among the top ten in the nation*, The Mac Weekly (Apr. 10, 1997). Copy supplied.

George Ramsden, *Graduation speaker policies redesigned*, The Mac Weekly (Feb. 13, 1997). Copy supplied.

Carolyn Griffith, *Media-Wise*, Macalester Today (Feb. 1997). Copy supplied.

Bill Kinney, *Security aims to stop Grand Ave. snowball fight*, The Mac Weekly (Nov. 14, 1996). Copy supplied.

Steve Litner, *If America were a car, then Toby would be a Hovercraft.*, The Mac Weekly (Oct. 17, 1996). Copy supplied.

Janet Piehl, *History exodus continues*, The Mac Weekly (Apr. 11, 1996). Copy supplied.

Ryan Greenwood, *Macalester Mock trial team places second in nation*, The Mac Weekly (Apr. 4, 1996). Copy supplied.

Dave McGinnis, *Mock Trial Team Places 14th in Nationals*, The Mac Weekly (Apr. 13, 1995). Copy supplied.

Mock Trial: Real Achievement, Macalester Today (Aug. 1994). Copy supplied.

Anne Bretts, *Superior Central to reopen: School repairs finished early*, Duluth News-Tribune (month and date unknown, 1990). 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 served as a judge.

- 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 served as a judge.

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

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

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

On February 22, 2018, I was appointed Solicitor General of Virginia by Virginia Attorney General Mark R. Herring. I have never run for elective office or been nominated for another appointed office. I have never held a position with a national, state, or local political party organization.

- 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.

I have not held office or a title in a political party or election committee. In 2016, I made phone calls as an unpaid volunteer for the Hillary Clinton for President campaign. In 2017, I was an unpaid volunteer for Virginia Delegate David Toscano in his re-election campaign; I distributed literature, staffed a desk at an event, and made phone calls. In 2017, my spouse and I hosted a fundraiser for Virginia Attorney General Mark R. Herring. In 2020, I made phone calls as an unpaid volunteer for the Democratic Party of Wisconsin and sent text messages on behalf of the Joe Biden for President campaign.

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 Edward R. Becker, Circuit Judge of the United States Court of Appeals for the Third Circuit.

From 2002 to 2003, I served as a law clerk to the Honorable Ruth Bader Ginsburg, Associate Justice of the Supreme Court of the United States.

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

I have never practiced law alone.

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

2000
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Summer Associate

2001 – 2002
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Bristow Fellow

2003 – 2006
O'Melveny & Myers LLP
1625 Eye Street, Northwest
Washington, District of Columbia 20006
Counsel (2005 – 2006)
Associate (2003 – 2004)

2007 – 2010
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Assistant to the Solicitor General

2014
Hogan Lovells US LLP
555 Thirteenth Street, Northwest
Washington, District of Columbia 20004
Contractor (March 2014)

2018 – present
Office of the Virginia Attorney General
202 North Ninth Street
Richmond, Virginia 23219
Solicitor General (2018 – present)
Appellate Practice Transition Counsel (2018)

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

I have never served as a mediator or arbitrator.

b. Describe:

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

The overwhelming majority of my practice has consisted of two elements: appellate litigation across a wide variety of subjects (including civil and criminal matters) and trial court litigation involving constitutional issues. During my two tenures at the Office of the Solicitor General of the United States, the vast majority of my work involved litigation before the Supreme Court of the United States, and the same is true of my work with the University of Virginia School of Law's Supreme Court Litigation Clinic. During my time in private practice at O'Melveny & Myers, my

practice focused on appellate litigation before both the Supreme Court of the United States and United States Courts of Appeals. My work with the Office of the Virginia Attorney General has had the broadest scope of my career to date and has included substantial responsibility for litigation before the Supreme Court of the United States, the United States Court of Appeals for the Fourth Circuit, the Supreme Court of Virginia, and state and federal trial courts throughout Virginia.

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

Until beginning my current position as Solicitor General of Virginia, my practice had focused heavily on appellate litigation before federal courts. As Solicitor General of Virginia, I have also litigated numerous cases in federal trial courts and state trial and appellate courts.

During my time at O'Melveny & Myers, I represented a wide variety of clients, including criminal defendants, telecommunications firms, energy companies, the owners of a shopping mall, a model train company, and a group of law professors.

During my time at the Department of Justice, I exclusively represented the federal government, its officers, and its agencies in both criminal and civil litigation.

During my work with the University of Virginia's Supreme Court Litigation Clinic, I almost exclusively represented individuals, although I also did one case on behalf of a municipality.

At the Office of the Virginia Attorney General, I exclusively represent the Commonwealth, its officers, and its agencies in state and federal courts.

- 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.

The overwhelming majority of my practice has been in litigation, including work before the Supreme Court of the United States, the United States Court of Appeals for the Fourth Circuit, the Supreme Court of Virginia, and state and federal trial courts throughout Virginia. I have appeared in court with some frequency since 2007 and with even greater frequency since becoming Solicitor General of Virginia in early 2018.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 65%
 - 2. state courts of record: 35%

- 3. other courts: 0%
- 4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 70%
- 2. criminal proceedings: 30%

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

I have tried two cases to final decision in courts of record, and I was chief counsel in both cases. I have made numerous appearances in federal and state trial courts in connection with motions to dismiss, for summary judgment, for temporary or permanent injunctive relief, and for attorney's fees.

i. What percentage of these trials were:

- 1. jury: 0%
- 2. non-jury: 100%

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

While in the United States Solicitor General's Office, the principal focus of my practice was before the Supreme Court of the United States. I have also been involved in briefing and argument before the U.S. Supreme Court while with the Office of the Virginia Attorney General, the University of Virginia School of Law, and in private practice.

Argued cases

Mathena v. Malvo, 140 S. Ct. 919 (2020) (transcript, 2019 WL 5212705; reply brief for petitioner, 2019 WL 4640387; brief for petitioner, 2019 WL 2500424; reply brief in support of certiorari, 2018 WL 5729896; petition for a writ of certiorari, 2018 WL 3993386).

Virginia House of Delegates v. Bethune-Hill, 139 S. Ct. 1945 (2019) (transcript, 2019 WL 1244167; brief of state appellees, 2019 WL 410765; state appellees' motion to dismiss, 2019 WL 1501527; response in opposition to emergency application for stay, 2018 WL 6839783).

Virginia Uranium, Inc. v. Warren, 139 S. Ct. 1894 (2019) (transcript, 2018 WL 8581777; brief for respondents, 2018 WL 4105540; supplemental brief for respondents, 2018 WL 1961021).

City of Hays v. Vogt, 135 S. Ct. 55 (2017) (transcript, 2018 WL 1368609; reply brief for petitioner, 2018 WL 366945; brief for petitioner, 2017 WL 5495450; reply brief in support of certiorari, 2017 WL 3635416; petition for a writ of certiorari, 2017 WL 2610082).

Dolan v. United States, 560 U.S. 605 (2010) (transcript, 2010 WL 1557649; I was not involved in the briefing of this case).

Maryland v. Shatzer, 559 U.S. 98 (2010) (transcript, 2009 WL 3169420; brief for the United States as amicus curiae, 2009 WL 1069335).

United Student Aid Funds, Inc. v. Espinosa, 559 U.S. 260 (2010) (transcript, 2009 WL 4276899; brief for the United States as amicus curiae, 2009 WL 2861542).

Arizona v. Johnson, 555 U.S. 323 (2009) (transcript, 2008 WL 5151621; brief for the United States as amicus curiae, 2008 WL 4125497).

Flores-Figueroa v. United States, 556 U.S. 646 (2009) (transcript, 2009 WL 462661; brief for the United States, 2009 WL 191837).

Federal Express Corporation v. Holowecki, 552 U.S. 389 (2008) (transcript, 2007 WL 3265513; brief for the United States as amicus curiae, 2007 WL 2808461).

Briefed cases

Watson v. Virginia, No. 20-7339 (2021) (brief in opposition, https://www.supremecourt.gov/DocketPDF/20/20-7339/181342/20210610120150597_2921%20006%2010%20Brief%20in%20Opposition%20Watson%20v%20Comm.pdf).

Wolfe v. Clarke, No. 20-1056 (2021) (brief in opposition, 2021 WL 2035207) (cert. denied).

Cedar Point Nursery v. Hassid, No. 20-107, 2021 WL 2557070 (U.S. June 23, 2021) (brief of amici curiae Virginia et al., 2021 WL 679091).

Trump v. Vance, 140 S. Ct. 2412 (2020) (brief of amici curiae Virginia et al., 2020 WL 1434010).

Our Lady of Guadalupe School v. Morrissey-Berru, 140 S. Ct. 2049 (2020) (brief of amici curiae Virginia et al., 2020 WL 1478592).

United States Forest Service v. Cowpasture River Preservation Association, 140 S. Ct. 1837 (2020) (brief amicus curiae of Virginia, 2020 WL 430685).

Atlantic Richfield Company v. Christian, 140 S. Ct. 1335 (2020) (brief of amici curiae Virginia et al., 2019 WL 6524884).

Tolle v. Northam, No. 19-1283 (brief in opposition, 2020 WL 4369689) (cert. denied).

Merck Sharp & Dohme Corp. v. Albrecht, 139 S. Ct. 1668 (2019) (brief of amici curiae Virginia et al., 2018 WL 6191465).

Culbertson v. Berryhill, 139 S. Ct. 517 (2019) (petition for a writ of certiorari, 2017 WL 5714628).

Kansas v. Boettger, No. 19-1051 (brief of amici curiae Virginia et al., 2020 WL 1479883) (cert. denied).

Johnson v. Kiser, No. 19-891 (brief in opposition, 2020 WL 2083620) (cert. denied).

Passaro v. Virginia, No. 19-565 (brief in opposition, 2019 WL 6770509) (cert. denied).

Jordan v. Virginia Department of Corrections, No. 19-235 (brief in opposition, 2019 WL 5959535) (cert. denied).

Spencer v. Virginia State University, No. 19-30 (brief in opposition, 2019 WL 4235522) (cert. denied).

Epic Systems Corporation v. Lewis, 138 S. Ct. 1612 (2018) (brief for respondent, 2017 WL 3475520; brief in opposition, 2016 WL 6873250).

Jesner v. Arab Bank, PLC, 138 S. Ct. 1386 (2018) (brief of admiralty law professors as amici curiae, 2017 WL 2729478).

Montana v. Tipton, No. 18-444 (brief of amici curiae Virginia et al., 2018 WL 5978079) (cert. denied).

Patterson v. Clarke, No. 18-265 (brief in opposition, 2018 WL 6819448) (cert. denied).

Wolfe v. Virginia, No. 18-227 (brief in opposition, 2018 WL 6012696) (vacated and remanded for further consideration in light of *Class v. United States*, 138 S. Ct. 798 (2018)).

Rountree v. Clarke, No. 17-7425 (brief in opposition, copy supplied) (cert. denied).

Pioneer Centres Holding Company Stock Ownership Plan v. Alerus Financial, N.A., No. 17-667 (petition for a writ of certiorari, 2017 WL 5171490) (petition dismissed).

Glisson v. D.O., No. 17-17 (petition for a writ of certiorari, 2017 WL 2839360) (cert. denied).

Ramirez v. T&H Lemont, Incorporated, No. 16-1418 (reply brief in support of certiorari, 2017 WL 3614402; petition for a writ of certiorari, 2017 WL 2351110) (cert. denied).

Magee v. Coca-Cola Refreshments USA, Incorporated, No. 16-668 (supplemental brief for petitioner, 2017 WL 3381702; reply brief in support of certiorari, 2017 WL 491203; petition for a writ of certiorari, 2016 WL 6873260) (cert. denied).

Iowa v. Marshall, No. 16-435 (brief in opposition, 2016 WL 7406721) (cert. denied).

Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores, Inc., 575 U.S. 768 (2015) (brief for the American Jewish Committee et al. as amici curiae, 2014 WL 7794002).

Elonis v. United States, 575 U.S. 723 (2015) (reply brief for petitioner, 2014 WL 5488911).

Henderson v. United States, 575 U.S. 622 (2015) (reply brief for petitioner, 2015 WL 673667; brief for petitioner, 2014 WL 6984130; reply brief in support of certiorari, 2014 WL 4467726; petition for a writ of certiorari, 2012 WL 2394018).

Cowser-Griffin v. Griffin, No. 14-1531 (supplemental brief for petitioner, 2015 WL 4638584; reply brief in support of certiorari, 2015 WL 7758575; petition for a writ of certiorari, 2015 WL 3918905) (cert. denied).

Schultz v. Wescom, No. 14-59 (brief in opposition, 2014 WL 5767974) (cert. denied).

Bureau of Duryea, Pennsylvania v. Guarnieri, 564 U.S. 379 (2011) (reply brief for petitioners, 2011 WL 639365).

Nevada Commission on Ethics v. Carrigan, 564 U.S. 117 (2011) (reply brief for petitioner, 2011 WL 1476234; brief for petitioner, 2011 WL 661711).

Fox v. Vice, 563 U.S. 826 (2011) (brief for respondents, 2011 WL 303895).

United States v. Marcus, 560 U.S. 258 (2010) (petition for a writ of certiorari, 2009 WL 1179321).

Heydt-Benjamin v. Hedyt-Benjamin, No. 10-1303 (brief of Professors Linda D. Eldrod and Robert G. Spencer as amici curiae, 2011 WL 2002215) (cert. denied).

Barr v. United States, No. 10-794 (reply brief in support of certiorari, 2011 WL 757936) (cert. denied).

Alabama v. North Carolina, 560 U.S. 330 (2010) (brief for the United States as amicus curiae, copy supplied).

Corley v. United States, 556 U.S. 303 (2009) (brief for the United States, 2008 WL 5266415).

Pleasant Grove City v. SUMMUM, 555 U.S. 460 (2009) (brief for the United States as amicus curiae, 2008 WL 2521267).

Herring v. United States, 555 U.S. 135 (2009) (brief for the United States, 2008 WL 2847070).

Chamber of Commerce of the United States of America v. Candelaria, No. 09-115 (brief for the United States as amicus curiae, 2010 WL 2190418) (cert. denied).

Dada v. Mukasey, 554 U.S. 1 (2008) (brief for respondent, 2007 WL 4254417).

United States v. Ressam, 553 U.S. 272 (2008) (brief for the United States, 2008 WL 189554; petition for a writ of certiorari, 2007 WL 2898699).

United States v. Villanueva-Sotelo, No. 08-662 (petition for a writ of certiorari, 2008 WL 4843624) (cert. denied).

Patton v. Harris, No. 08-7683 (brief for the United States as amicus curiae, copy supplied) (cert. denied).

Cable News Network, Inc. v. CSC Holdings, Inc., No. 08-448 (brief for the United States as amicus curiae, 2009 WL 1511740) (cert. denied).

Bell Atlantic Corporation v. Twombly, 550 U.S. 544 (2007) (brief of Mastercard International Inc. and Visa U.S.A. Inc. as amici curiae, 2006 WL 901171).

PT Pertamina v. Karaka Bodas Company, L.L.C., No. 07-619 (brief for the United States as amicus curiae, 2008 WL 2185729) (cert. denied).

Goss International Corporation v. Tokyo Kikai Seisakusho, No. 07-618 (brief for the United States as amicus curiae, 2008 WL 2185728) (cert. denied).

Rumsfeld v. Forum for Academic and Institutional Rights, 547 U.S. 47 (2006) (brief of Professors William Alford et al. as amici curiae, 2005 WL 2367595).

My name also appears on the following briefs drafted by other state attorneys general offices:

California v. Texas, No. 19-840, 2021 WL 2459255 (U.S. June 17, 2021) (brief for petitioners, 2020 WL 2475940; reply brief in support of certiorari, 2020 WL 730290; petition for a writ of certiorari, 2020 WL 58603).

Little Sisters of the Poor v. California, 18-1192 (brief for state respondents in opposition, 2019 WL 2176281) (cert. denied.).

During my two stints at the Department of Justice, I also worked on a variety of other U.S. Supreme Court filings on which my name did not appear, including briefs in opposition to petitions for writs of certiorari and responses to applications for stays pending appeal.

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. *Gregory v. Northam*, Case No. CL 20-2441 (Richmond Cir. Ct. Aug. 6, 2020) (Cavedo & Marchant, J.), *petition for review granted*, Record No. 210113 (Va. S. Ct.) (Lemons, C.J. & Goodwyn, Mims, Powell, Kelsey, McCullough & Chafin, JJ.); *Taylor v. Northam*, Case No. CL20003339-00 (Richmond Cir. Ct. Oct. 27, 2020) (Marchant, J.), *petition for review granted*, Record No. 201307 (Va. S. Ct.) (Lemons, C.J. & Goodwyn, Mims, Powell, Kelsey, McCullough & Chafin, JJ.).

In June 2020, Virginia Governor Ralph S. Northam announced that a large statue of Robert E. Lee would be removed from its longstanding location on Richmond's Monument Avenue. Multiple lawsuits were filed seeking to prevent the Governor's

actions. I served as lead counsel on the team that defended the Governor's actions in the circuit court and on appeal, and I personally argued in support of motions to dismiss and in opposition to requests for preliminary injunctive relief in both cases. After a trial, the circuit court determined that the plaintiff in one of the cases (*Gregory*) lacked a private right of action. A full-day trial was held in the other case (*Taylor*) in October 2020, where I argued the motion for summary judgment, the motion to strike, and the renewed motion to strike. On October 27, 2020, the circuit court ruled in the Governor's favor, concluding that any covenants purporting to require the statue to remain up indefinitely are void as against public policy. The Supreme Court of Virginia granted a petition for review in both cases, which were argued on June 8, 2021, and remain pending.

Co-Counsel

Mark R. Herring
Jessica Merry Samuels
Office of the Virginia Attorney General
202 North Ninth Street
Richmond, VA 23219
(804) 786-7240

Opposing Counsel in *Gregory v. Northam*

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Blackburn, Conte, Schilling & Click, P.C.
300 West Main Street
Richmond, VA 23220
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Opposing Counsel in *Taylor v. Northam*

Patrick M. McSweeney
3358 John Tree Hill Road
Powhatan, VA 23139
(804) 937-0895

2. *NC Financial Solutions of Utah, LLC v. Commonwealth of Virginia ex rel. Mark R. Herring, Attorney General*, 299 Va. 452 (2021) (Lemons, C.J. & Goodwyn, Mims, Powell, Kelsey, McCullough & Chafin, JJ.).

An unlicensed internet lender made loans to thousands of Virginia consumers that charged interest rates exceeding those permitted by Virginia law. The Attorney General brought a public enforcement action, and the lender moved to dismiss the claims seeking restitution, arguing both that the Attorney General was not authorized to seek restitution under the Virginia Consumer Protection Act and that such relief was precluded by arbitration agreements signed by the lender's customers. After the Supreme Court of Virginia granted review in 2020, I led the team that briefed the case and personally presented argument on behalf of the Attorney General. In 2021, the Supreme Court of Virginia agreed with our position by a vote of 7-0.

Co-Counsel

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Opposing counsel

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Elizabeth Scott Turner
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3. *Hall v. Northam*, Case No. CL 2000632-00 (Culpeper Cir. Ct. Apr. 30, 2020) (Worrell, J.), *petition for review refused*, Record No. 200582 (Va. S. Ct. May 19, 2020) (Goodwyn, Mims & Powell, JJ.).

In 2020, the owners of several Gold's Gym franchises challenged the legality of various executive orders issued by the Governor of Virginia to combat the COVID-19 pandemic. I led the team that successfully opposed the plaintiffs' request for a temporary injunction in state trial court and then successfully defended that ruling on appeal to the Supreme Court of Virginia, overseeing the briefing at both stages and personally presenting oral argument before the state trial court. (The Supreme Court of Virginia did not hear oral argument in this case.)

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4. *Mathena v. Malvo*, Case No. 18-217 (U.S.) (writ of certiorari dismissed pursuant to Supreme Court Rule 46, Feb. 26, 2020) (Roberts, C.J. & Thomas, Ginsburg, Breyer, Alito, Sotomayor, Kagan, Gorsuch & Kavanaugh, JJ.).

This case involved the younger of the two “DC snipers.” After the court of appeals invalidated the defendant’s life-without-parole sentences on Eighth Amendment grounds in 2018, I led the team that convinced the U.S. Supreme Court to grant certiorari and then briefed the case on the merits on behalf of the petitioner. I also presented oral argument on behalf of the petitioner in 2019. After the Virginia General Assembly enacted a new law that would permit the defendant to obtain resentencing, I conducted successful negotiations with opposing counsel that led to a voluntary dismissal of the case in 2020 without a ruling on the Eighth Amendment issues.

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5. *Bethune-Hill v. Virginia State Board of Elections*, 326 F. Supp. 3d 128 (E.D. Va. 2018) (Allen, Keenan & Payne, JJ.), *appeal dismissed for lack of jurisdiction sub nom. Virginia House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945 (2019) (Roberts, C.J. & Thomas, Ginsburg, Breyer, Alito, Sotomayor, Kagan, Gorsuch & Kavanaugh, JJ.).

After a three-judge district court concluded that 11 state legislative districts were unconstitutional racial gerrymanders in 2018, the Attorney General of Virginia concluded that an appeal would not be in the best interests of the Commonwealth or its citizens. The leadership of a single house of the state legislature (which had intervened in the district court) attempted to delay the remedial phase and to appeal the district court’s decision to the Supreme Court of the United States. I led the litigation team that successfully opposed the House’s stay application before both the district court and the U.S. Supreme Court and then led the merits-stage briefing and personally presented oral argument on behalf of the Virginia State Board of Elections before the Supreme Court in 2019. The

Supreme Court agreed with our arguments that the legislative chamber lacked standing to appeal and dismissed the appeal for lack of subject-matter jurisdiction in 2019. I also participated in related proceedings regarding both a remedial plan and attorneys' fees before the district court in 2018 and 2019.

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6. *Virginia Uranium, Inc. v. Warren*, 139 S. Ct. 1894 (2019) (Roberts, C.J. & Thomas, Ginsburg, Breyer, Alito, Sotomayor, Kagan, Gorsuch & Kavanaugh, JJ.).

This case involved a preemption challenge to Virginia's longstanding moratorium on uranium mining. When I became Solicitor General of Virginia in 2018, the United States Court of Appeals for the Fourth Circuit had upheld the moratorium on a 2-1 vote, the mining company had filed a petition for a writ of certiorari, and the federal government had filed an amicus brief urging the U.S. Supreme Court to hear the case. After the Supreme Court granted review, I was the lead counsel on the merits brief and personally presented oral argument for the defendants in 2018. The Supreme Court agreed with our position in 2019, holding that federal law did not preempt Virginia's moratorium.

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7. *Corporate Executive Board Company v. Virginia Department of Taxation*, 297 Va. 57 (2019) (Lemons, C.J. & Goodwyn, Mims, McClanahan, Powell, Kelsey, & McCullough, JJ.).

In 2018, the Supreme Court of Virginia awarded an appeal to a corporation that challenged its Virginia income-tax assessment on the ground that it violated the Commerce and Due Process Clauses of the United States Constitution, as well as a state regulation. I led the team that briefed the case and personally presented argument before the Supreme Court of Virginia. In 2019, the court upheld the assessment by a vote of 7-0.

Co-Counsel

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8. *Evans v. Kuplinski*, 713 F. App'x 167 (4th Cir. 2017) (Cogburn, Duncan & Thacker, JJ.).

In 2017, I was appointed by the United States Court of Appeals for the Fourth Circuit to represent an indigent, mentally ill pretrial detainee who was challenging the dismissal of his civil rights complaint against various prison officials. I personally briefed and argued the case while a professor at the University of Virginia School of Law. The court of appeals accepted my client's argument that the case presented one of "the rare exceptional circumstances that rendered the district court's denial of [his] requests for counsel an abuse of discretion" and remanded for further proceedings.

Opposing Counsel

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9. *Federal Express Corporation v. Holowecki*, 552 U.S. 389 (2008) (Roberts, C.J. & Stevens, Scalia, Kennedy, Souter, Thomas, Ginsburg, Breyer & Alito, JJ.)

The United States participated as amicus curiae supporting a private plaintiff's ability to proceed with her suit despite the fact that a federal agency (the Equal Employment Opportunity Commission) had not treated the employee's initial filing as a charge alleging unlawful discrimination. I drafted the United States' brief, subject to the supervision of the Acting Solicitor General, and presented oral argument on behalf of the United States in 2007. The Supreme Court agreed with our argument and permitted the employee's suit to proceed.

Co-Counsel

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10. *Simons v. State*, 860 A.2d 416 (Md. Ct. Spec. App. 2004) (Davis, Eyler & Rodowsky, JJ.).

I was appointed in 2004 to represent an indigent criminal defendant in his appeal from a conviction for burglary and briefed and argued the case before the Maryland Court of

Special Appeals. The court ultimately held that, as a matter of first impression, a witness's pretrial statement to the police that the defendant was near the crime scene around the time of the crime was a "pre-trial identification" that had been improperly withheld from the defense. The court reversed the conviction and remanded for further proceedings.

Co-Counsel

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Opposing Counsel

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Ms. Keller appears to have retired; I am unable to locate contact information for her so have provided contact information for her former employer, the Office of the Maryland Attorney General.

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 the Virginia General Assembly's 2020 session, I testified several times regarding the constitutionality of various pieces of proposed legislation. Throughout my tenure as Solicitor General of Virginia, I have provided legal advice to the Virginia Governor's office and various state agencies about a wide variety of legal matters. Since January 2020, I have provided frequent advice to the Virginia Governor's office about executive orders and other responses to the COVID-19 pandemic and other matters. Throughout my tenure as Solicitor General of Virginia, I have been heavily involved in the preparation of Attorney General opinions.

While at the Department of Justice, I advised the Solicitor General about whether to authorize the filing of appeals, petitions for writs of certiorari, or amicus briefs.

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

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

I taught Civil Procedure at the University of Virginia School of Law during the fall semesters of 2006, 2010, 2011, 2012, 2013, 2014, 2015, and 2017. The course covered basic principles of federal civil litigation. I did not use a traditional syllabus, but I have attached my course policies, a course outline document, and a list of reading assignments from the most recent time I taught the course, which reflect the course's coverage each time I have taught it.

I co-taught seminars titled Supreme Court: October Term at the University of Virginia School of Law during the following semesters: Spring 2014, Fall 2014, Fall 2015, Fall 2016, and Fall 2017. The seminars covered recent cases before the Supreme Court of the United States. Syllabi supplied.

Along with a colleague, I co-taught a Seminar in Ethical Values at the University of Virginia School of Law during the 2015 to 2016, 2016 to 2017, and 2017 to 2018 academic years. The seminars covered legal and ethical issues raised by the television series *Game of Thrones*. I have attached the most recent syllabus, which reflects the coverage of the course for all three years.

I co-taught the Supreme Court Litigation Clinic at the University of Virginia School of Law during the follow semesters: Spring 2011, academic years 2014 to 2015 and 2016 to 2017, and Fall 2017. The course placed students in teams to work on cases pending before the Supreme Court of the United States at the merits stage. The course did not have a syllabus.

I taught Remedies at the University of Virginia School of Law during the spring semester of 2016. The course covered basic principles of private and public law remedies. I did not use a traditional syllabus, but I have attached my course policies and a list of reading assignments, which reflect the coverage of the course.

I co-taught Current Issues in American Public Law at the University of Münster Faculty of Law during May 2014 as part of a regular faculty exchange program with the University of Virginia School of Law. The course provided a two-week introduction to the United States legal system. Syllabus supplied.

I taught Civil Rights Litigation at the University of Virginia School of Law during the spring semesters of 2007, 2011, 2012, 2013, and 2014. The course covered various statutes and doctrines that permit individuals to sue governments and government officials for alleged violations of their rights. I have attached my most recent syllabus, which reflects the course's coverage each time I have taught it.

I taught a short course titled Office of the Solicitor General at the University of Virginia School of Law during the January terms of 2013 and 2014. The course provided a brief overview of the work and role of the Office of the Solicitor General in the United States Department of Justice. I have attached my most recent syllabus, which reflects the course's coverage both times I taught it.

I taught Federal Courts at Cornell Law School during the spring semester of 2005. The course provided an introduction to various doctrines governing the work of Article III federal courts. I did not use a traditional syllabus, but I have attached a course outline and a list of reading assignments, which reflect the coverage of the course.

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 no anticipated receipts, expected future benefits, or arrangements to be compensated in the future for any financial or business interest.

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.

If confirmed, I have no current plans, commitments, or agreements to pursue any outside employment during judicial service.

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.

If confirmed, I would recuse myself from any case in which I had previously participated as an attorney. I am unaware of any individuals, whether relatives or otherwise, who would be likely to present a conflict of interest. I would review, on a case-by-case basis, the existence of a potential conflict of interest arising from any personal or former client relationships or financial interests, and would apply generally applicable principles and rules concerning ethics and conflicts of interest in conducting such an inquiry and assessing whether a recusal is warranted.

- 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 evaluate and resolve any potential conflicts of interest by applying the rules and standards set forth in 28 U.S.C. § 455 and the Code of Conduct for United States Judges. I would also consult relevant judicial decisions and opinions by the Judicial Conference of the United States.

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.

During my times in government service, I have been prohibited from providing pro bono legal services, but I have continued to participate in non-legal community service by serving as an unpaid coach for the University of Virginia's undergraduate mock trial team and as an unpaid director of the American Mock Trial Association, the national organization that administers undergraduate trial advocacy competitions, for more than a decade. I also have participated in numerous events through the Virginia State Bar's Diversity Conference, including the Mentor-Mentee Initiative, the Oliver Hill/Samuel Tucker Pre-Law Institute, the Forum on Diversity and Inclusion in the Legal Profession, and the VSB Rule of Law Day.

While at the University of Virginia, I was appointed by the United States Court of Appeals of the Fourth Circuit to brief and argue a case on behalf of a pro se prisoner who alleged mistreatment by correctional staff. I also provided informal pro bono legal consultation to the Legal Aid Justice Center on several matters.

While at O'Melveny & Myers LLP, much of my practice was devoted to pro bono work. In particular, I was appointed by the Maryland Court of Special Appeals to brief and argue a case on behalf of an indigent criminal defendant. I also represented a number of amicus clients on a pro bono basis in various matters pending before the Supreme Court of the United States and other appellate courts.

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 March 3, 2021, Senators Mark Warner and Tim Kaine posted a joint announcement seeking applications to serve as a United States Circuit Judge for the Fourth Circuit. I submitted an application on March 5, 2021. I then interviewed with a committee appointed by the Senators on April 9, 2021, and with the Senators themselves on April 27, 2021. On May 12, 2021, I interviewed with attorneys from the White House Counsel's Office. Since that date, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On June 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.