

Michelle Friedland
560 Mission Street, 27th Floor
San Francisco, California 94105

January 6, 2014

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

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire that I previously filed in connection with my nomination on August 1, 2013, to be United States Circuit Judge for the Ninth Circuit. Incorporating the additional information below, I certify that the information contained in that document is and remains, to the best of my knowledge, true and accurate.

Q.9 – Bar Associations

On August 20, 2013, I stopped serving on the Bar Association of San Francisco's Amicus Committee.

On or about September 6, 2013, I stopped serving on the National Association of College and University Attorneys' Committee Planning Annual Conference. In October 2013, I declined to renew my membership in the National Association of College and University Attorneys.

Q.16.e – Legal Career

As noted above, on August 20, 2013, I stopped serving on the Bar Association of San Francisco's Amicus Committee.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,



Michelle Friedland

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

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Michelle Taryn Friedland

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

United States Circuit Judge for the Ninth 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: Munger, Tolles & Olson LLP
 560 Mission Street, 27th Floor
 San Francisco, California 94105

Residence: Mountain View, California

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

1972; Berkeley, California

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, Stanford Law School; J.D. (with distinction), 2000

1995 – 1996, Oxford University; no degree

1990 – 1994, Stanford University; B.S. (with honors and distinction), 1995

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

2004 – present
Munger, Tolles & Olson LLP
560 Mission Street, 27th Floor
San Francisco, California 94105
Partner (2010 – present)
Associate (2004 – 2009)

April 2012
University of Virginia School of Law
580 Massie Road
Charlottesville, Virginia 22903
Adjunct Faculty

2002 – 2004, 1999 – 2000, 1998 – 1999, September 1998 – December 1998
Stanford Law School
Crown Quadrangle
559 Nathan Abbott Way
Stanford, California 94305
Lecturer in Law (2002 – 2004)
Research Assistant for Professor Kathleen Sullivan (approximately 1999 – 2000)
Research Assistant for Professor Barbara Fried (approximately 1998 – 1999)
Research Assistant for Professor Barton Thompson (approximately September 1998 –
December 1998)

2001 – 2002
United States Supreme Court
One First Street, NE
Washington, D.C. 20543
Law Clerk for the Honorable Sandra Day O'Connor

2000 – 2001
United States Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue, NW
Washington, D.C. 20001
Law Clerk for the Honorable David Tatel

Summer 1999
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, California 94108
Summer Associate

Summer 1998
United States District Court for the Northern District of California

450 Golden Gate Avenue
San Francisco, California 94102
Judicial Extern for the Honorable Fern Smith

1996 – 1997
Stanford University, Office of Undergraduate Admission
Montag Hall
355 Galvez Street
Stanford, California 94305
Admission Counselor

Spring 1995
Janet Cox
(worked out of home office)
Project Assistant

January 1995 – March 1995, June 1994 – August 1994
Professor Peter Vitousek
Stanford University, Department of Biology
Yang and Yamazaki Environment and Energy Building, Room B61
Stanford, California 94305
Teaching Assistant (January 1995 – March 1995)
Research Assistant (June 1994 – August 1994)

Other Affiliations (uncompensated except as otherwise indicated):

2010 – present
Silicon Valley Campaign for Legal Services
31 North Second Street, Fourth Floor
San Jose, California 95113
Board Member

2007 – 2009
American Constitution Society for Law and Policy
1333 H Street, NW, 11th Floor
Washington, D.C. 20005
Executive Board Member for the Bay Area Lawyer Chapter

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 never served in the military. I was not required to register for selective service.

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

President's Pro Bono Service Award, State Bar of California (2013)

LGBT Award, American Civil Liberties Union of Southern California (2009)

Wiley W. Manuel Award for Pro Bono Legal Services, State Bar of California (2006)

Urban A. Sontheimer Award, Stanford Law School (2000)

Order of the Coif, Stanford Law School (2000)

Award for Outstanding Student Note Published in the Stanford Law Review (2000)

Burton Award for Legal Writing (2000)

Associate Editor and Article Review Board, Stanford Environmental Law Journal (1999)

Editor, Stanford Environmental Law Journal (1998)

First-Year Honor, Stanford Law School (1998)

Fulbright Scholarship (1995 – 1996)

Cook Award for Best Undergraduate Thesis in Ethics in Society Honors Program, Stanford University (1994)

Phi Beta Kappa (1993)

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

American Bar Association (2005 – 2011, 2013 – present)

Bar Association of San Francisco (2004 – present)

Co-Chair of Amicus Committee (2009 – present)

National Association of College and University Attorneys (2010 – present)

Committee Planning Annual Conference (2012 – present)

State Bar of California (2004 – 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.

California, 2004

There have been no lapses in membership.

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

Supreme Court of the United States, 2008
United States Court of Appeals for the Ninth Circuit, 2005
United States Court of Appeals for the Eleventh Circuit, 2012
United States District Court, Northern District of California, 2005
United States District Court, Central District of California, 2005
United States District Court, Eastern District of California, 2005
United States District Court, Southern District of California, 2005

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 for Law and Policy
Bay Area Lawyer Chapter, Executive Board Member (2007 – 2009)

Harper Industries, Inc. (family business) (approximately 1972 – January 2013)

Harcrest International, Inc. (family business) (sometime in 1990s – 2000)

Silicon Valley Campaign for Legal Services
Board Member (2010 – present)

Stanford Law School Reunion Committee (2010)

William A. Ingram American Inn of Court (2002 – 2004)

- 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 discriminates or previously 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.

A Wise Justice, and a Great Boss, STANFORD MAGAZINE (January/February 2006), reprinted at 58 STANFORD LAW REVIEW 1717 (2006). Copy Supplied.

You Call That Organic? – The FDA’s Misleading Food Regulations, 13 NYU ENVIRONMENTAL LAW JOURNAL 379 (2005). Copy Supplied.

Disqualification or Suppression: Due Process and the Response to Judicial Campaign Speech, 104 COLUMBIA LAW REVIEW 563 (2004). Copy Supplied.

Since before I joined Munger, Tolles & Olson LLP, members of our San Francisco office who are former Supreme Court clerks have been writing a column about the Supreme Court in the Bar Association of San Francisco’s SAN FRANCISCO ATTORNEY MAGAZINE. The group of authors has changed over time as former clerks have joined and left the firm, but I have been part of the group since I began working at the firm. My level of involvement in particular columns has varied, ranging from not seeing a column before it is submitted for publication to doing most of the drafting. Until 2011, primary responsibility for drafting the columns tended to rotate, whereas now the authors usually divide the drafting of each column. To the best of my recollection after reviewing my records, I was primarily responsible for drafting the following columns: *Supreme Court Watch: So-Called Retirement*, *Supreme Court Watch: Very Special Masters – Handling the Supreme Court’s Original Jurisdiction Cases*, *Supreme Court Watch: A New Cardinal Rule – The West Coast Insurgence of the Supreme Court’s Docket*, *Supreme Court Watch: A Court Without Cameras*, and *Supreme Court Watch:*

The Supreme Court on Dope. The practice has been to list the names of everyone in the group of authors on each column, even if one or more of us played little to no role in the drafting. Consistent with this practice, my name appears on each of the columns listed below. Several of the articles were reprinted in the Oregon State Bar's BULLETIN, or other local bar association publications, sometimes with modified titles or in edited form. In an abundance of caution, I have listed all of the columns below:

Kristin Myles, Michael Mongan & Michelle Friedland, *Supreme Court Watch: Scotus Notis*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2013). Copy supplied.

Kristin Myles, Michael Mongan, Michelle Friedland & Miriam Seifter, *Supreme Court Watch: Freedom to Lie?*, SAN FRANCISCO ATTORNEY MAGAZINE (Fall 2012). Copy supplied.

Kristin Linsley Myles, Michael Mongan, Michelle Friedland & Miriam Seifter, *Supreme Court Watch: Cameras in the Courtroom*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2012). Copy supplied.

Kristin Linsley Myles, Michelle Friedland, Aimee Feinberg, Miriam Seifter & Michael Mongan, *Supreme Court Watch: Hail to the Chief*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2012). Copy supplied.

Kristin Linsley Myles, Michelle Friedland, Aimee Feinberg, Miriam Seifter & Michael Mongan, *Supreme Court Watch: Rookie Justice*, SAN FRANCISCO ATTORNEY MAGAZINE (Fall 2011). Copy supplied.

Kristin Linsley Myles, Michelle Friedland, Miriam Seifter & Michael Mongan, *Supreme Court Watch: Establishment Clause Déjà Vu All Over Again*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2011). Copy supplied.

Kristin Linsley Myles, Michelle Friedland, Miriam Seifter & Michael Mongan, *Supreme Court Watch: So-Called Retirement*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2011). Copy supplied.

Kristin Myles, Michelle Friedland, Aimee Feinberg & Miriam Seifter, *Supreme Court Watch: Guns, Incorporated*, SAN FRANCISCO ATTORNEY MAGAZINE (Fall 2010). Copy supplied.

Kristin Myles, Michelle Friedland, Aimee Feinberg & Miriam Seifter, *Supreme Court Watch: Notable Notes*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2010). Copy supplied.

Jerry Roth, Kristin Myles, Michelle Friedland, Aimee Feinberg & David Han, *Supreme Court Watch: Vive La Difference*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2010). Copy supplied.

Jeff Bleich, Michelle Friedland, David Han & Aimee Feinberg, *Supreme Court Watch: Very Special Masters – Handling the Supreme Court’s Original Jurisdiction Cases*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter 2009). Copy supplied.

Michelle Friedland, David Han & Aimee Feinberg, *Supreme Court Watch: A Shift in Constitutional Tort Jurisprudence*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2009). Copy supplied.

Jeffrey Bleich, Aimee Feinberg, Michelle Friedland & David Han, *Supreme Court Watch: The Federal Circuit – Supreme Court Reverses a Growing Number of Cases*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2009). Copy supplied.

Jeffrey Bleich, Aimee Feinberg, Michelle Friedland & David Han, *Supreme Court Watch: A New Cardinal Rule – The West Coast Insurgence of the Supreme Court’s Docket*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter 2008). Copy supplied.

Jeffrey Bleich, Aimee Feinberg, Michelle Friedland, Daniel Bress & David Han, *Supreme Court Watch: Change of Heart – Justice Stevens Reassesses the Death Penalty*, SAN FRANCISCO ATTORNEY MAGAZINE (Fall 2008). Copy supplied.

Michelle Friedland, David Han, Jeffrey Bleich, Dan Bress & Aimee Feinberg, *Supreme Court Watch: Opinions of the Court by ... Anonymous*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2008). Copy supplied.

Jeff Bleich, Michelle Friedland, Aimee Feinberg & Dan Bress, *Supreme Court Watch: Dissenting from the Bench*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2008). Copy supplied.

Jeff Bleich, Michelle Friedland, Aimee Feinberg & Daniel Powell, *Supreme Court Watch: A Court Without Cameras*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter 2007). Copy supplied.

Jeff Bleich, Michelle Friedland, Aimee Feinberg & Daniel Powell, *Supreme Court Watch: Stealth Overrulings – Overturning Precedent Without Saying So*, SAN FRANCISCO ATTORNEY MAGAZINE (Fall 2007). Copy supplied.

Jeff Bleich, Michelle Friedland, Aimee Feinberg & Daniel Powell, *Supreme Court Watch: Punitive Damages – The Saga Continues*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2007). Copy supplied.

Jeff Bleich, Michelle Friedland, Aimee Feinberg & Daniel Powell, *Supreme Court Watch: Justice John Paul Stevens – an Independent Voice*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2007). Copy supplied.

Jeff Bleich, Michelle Friedland, Aimee Feinberg & Daniel Powell, *Supreme Court Watch: The Supremes' Lighter Moments*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter 2006). Copy supplied.

Jeff Bleich, Aimee Feinberg, Michelle Friedland & Dan Powell, *Supreme Court Watch: Life Tenure Without the Possibility of Parole*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2006). Copy supplied.

Jeff Bleich, Aimee Feinberg, Michelle Friedland & Dan Powell, *Supreme Court Watch: Advice and Consent on Supreme Court Justices*, SAN FRANCISCO ATTORNEY MAGAZINE (Spring 2006). Copy supplied.

Jeff Bleich, Michelle Friedland & Daniel Powell, *Supreme Court Watch: The New Chief*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter 2005). Copy Supplied.

Jeff Bleich, Anne M. Voigts & Michelle Friedland, *Supreme Court Watch: OT 2004 – The Beginning (Or The End) of Pragmatism*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer – Fall 2005). Copy supplied.

Jeff Bleich, Anne Voigts & Michelle Friedland, *Supreme Court Watch: Never Say Never: The Supreme Court and Jurisprudential Groundhog Days*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter – Spring 2005). Copy Supplied.

Jeff Bleich & Michelle Friedland, *Supreme Court Watch: The Supreme Court on Dope*, SAN FRANCISCO ATTORNEY MAGAZINE (Fall 2004). Copy supplied.

Not Disabled Enough: The ADA's "Major Life Activity" Definition of Disability, 52 STANFORD LAW REVIEW 171 (1999). Copy Supplied.

With Mark W. Denny, *Surviving Hydrodynamic Forces in a Wave-Swept Environment: Consequences of Morphology in the Feather Boa Kelp, Egregia Menziesii (Turner)*, 190 JOURNAL OF EXPERIMENTAL MARINE BIOLOGY AND ECOLOGY 109 (1995). 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.

I have not prepared any reports, memoranda, or policy statements on behalf of any bar association, committee, conference, or organization of which I was or am a member.

- 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.

I have not testified before or given or provided to public bodies or public officials any official statements or communications relating, in whole or in part, to matters of public policy or legal interpretation.

Along with my fellow clerks from the Supreme Court's October 2001 Term, I joined a letter to Senators Leahy and Grassley in support of Alison J. Nathan's nomination to the United States District Court for the Southern District of New York. Copy supplied.

Along with numerous members of the California legal community, I joined a letter to President Obama in support of efforts to obtain confirmation of Professor Goodwin Liu and the Honorable Edward M. Chen to the Ninth Circuit Court of Appeals and the Northern District of California, respectively. 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.

April 16, 2013: Panelist, "Oral Argument Tactics," California Attorney General's Office, San Francisco, California. Notes supplied.

February 27, 2013: Panelist, "Being a Litigator and a Parent: Bay Area Attorneys Discuss Balancing Their Legal Careers and Family Lives," Stanford Law School, Stanford, California. I have no notes, transcript, or recording. The address of

Stanford Law School is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

November 28, 2012: Panelist, “Writing Effective Amicus Briefs,” co-sponsored by the Impact Fund and the University of California-Davis California Supreme Court Clinic, San Francisco, California. Video supplied.

January 17, 2012: Panelist, “Are There Real Opportunities to Do Pro Bono Work at Law Firms? Munger, Tolles & Olson LLP Discusses Its Groundbreaking Pro Bono Work,” Stanford Law School, Stanford, California. I have no notes, transcript, or recording, but the presentation would have been substantially similar to the one on November 1, 2011, for which notes have been provided. The address of Stanford Law School is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

November 1, 2011: Panelist, “Are There Real Opportunities to Do Pro Bono Work at Law Firms? Munger, Tolles & Olson LLP Discusses Its Groundbreaking Pro Bono Work,” Berkeley Law School, Berkeley, California. Notes supplied.

October 14, 2010: Panelist, “Judicial Elections After *Republican Party of Minnesota v. White*,” National Association of Women Judges Annual Conference, San Francisco, California. Notes supplied.

February 25, 2010: Panelist, “Strategies for Success at Big Law: First-Hand Experiences of Women and People of Color,” Stanford Law School, Stanford, California. I have no notes, transcript, or recording. The address of Stanford Law School is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

November 6, 2009: Moderator, “Cap and Trade and Social Justice: Can We Have Both?” Bay Area Lawyer Chapter of the American Constitution Society, San Francisco, California. Notes supplied.

November 3, 2009: Panelist, “The Nuts and Bolts of Appeals,” Queen’s Bench Bar Association of the San Francisco Bay Area, San Francisco, California. I have no notes, transcript, or recording. The address of the Queen’s Bench Bar Association of the San Francisco Bay Area is 816 East Fourth Avenue, San Mateo, California 94401.

October 9, 2009: Speaker, “From Ethics in Society to Law Practice,” Stanford University Center for Ethics in Society, Stanford, California. I have no notes, transcript, or recording. The address of the Center for Ethics in Society is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

June 16, 2009: Moderator, panel discussion related to applying for judicial clerkships, American Constitution Society Bay Area Lawyer Chapter, San Francisco, California. I have no notes, transcript, or recording. The address of the American Constitution Society is 1333 H Street, Northwest, 11th Floor, Washington, D.C. 20005.

February 25, 2009: Panelist, "Strategies for Success at Big Law: First-Hand Experiences of Women and People of Color," Stanford Law School, Stanford, California. I have no notes, transcript, or recording. The address of Stanford Law School is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

May 9, 2003: Speaker, "Speech Restrictions on Candidates in State Judicial Elections: Protecting Judicial Impartiality or Impeding Democracy," Stanford University Center for Ethics in Society, Stanford, California. I have no notes, transcript, or recording. The address of the Center for Ethics in Society is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, California 94305.

- 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.

David G. Savage, *Supreme Court Upholds State Laws on Floating Homes*, LOS ANGELES TIMES (Jan. 15, 2013). Copy supplied. (Reprinted in multiple outlets).

Erik Cummins, *Behind the Scenes with Young Lawyers Working on the Same-Sex Marriage Cases*, SAN FRANCISCO ATTORNEY MAGAZINE (Summer 2011). Copy supplied.

Erik Cummins, *Amicus Brief Advances Bar's Mission in Same-Sex Marriage Case*, SAN FRANCISCO ATTORNEY MAGAZINE (Winter 2011). Copy supplied.

Alumni Updates, CENTER FOR ETHICS IN SOCIETY AT STANFORD (Spring 2009). Copy supplied.

Personal and Professional News from Alumni Classmates, Stanford Lawyer (Fall 2007). Copy supplied.

Randee Fenner, *Clerking at the Supreme Court*, STANFORD LAWYER (Fall 2007). Copy supplied.

Drake Bennet, *Orphans of the Court*, BOSTON GLOBE (July 24, 2005). Copy supplied.

Ben Friedland, *Above All Else: Marty Hoffinger Is an Industry Legend, Helping Launch Aboveground Pools in the 50's. Today, He Faces Some of His Toughest Challenges Yet*, POOL & SPA NEWS (June 18, 2004). Copy Supplied.

Profiling ENRLP's New Faculty: Michelle Friedland '00 (BS '94), David Victor, and Cary Coglianese, THE NATURAL RESOURCE (Fall 2003). Copy supplied.

Diane Manuel, Stanford News Service News Release: *Ethics in Society Program Encourages Moral Reflection* (Jan. 28, 1998). Copy supplied.

Scotch Plains Resident Named Fulbright Scholar, THE TIMES (April 27, 1995). Copy supplied.

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

I have not held any judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
- i. Of these, approximately what percent were:
- | | |
|-----------------------|---------------------|
| jury trials: | _____% |
| bench trials: | _____% [total 100%] |
| civil proceedings: | _____% |
| criminal proceedings: | _____% [total 100%] |
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.

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

I have not served as a judge.

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

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

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

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office. I have not held any elective office or any appointed office.

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

In 2012, I did several hours of volunteer legal research on behalf of the Obama for America campaign, the respondents in *Husted v. Obama for America*, No. 12A338, involving an application for a stay filed in the United States Supreme Court.

To the best of my recollection, in 2004, I participated as a volunteer in one day of get-out-the-vote phone banking for the Kerry-Edwards 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 Judge David Tatel, Circuit Judge for the United States Court of Appeals for the District of Columbia Circuit.

From 2001 to 2002, I served as a law clerk to Justice Sandra Day O'Connor, Associate Justice for the United States Supreme Court.

- 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.

2004 – present
Munger, Tolles & Olson LLP
560 Mission Street, 27th Floor
San Francisco, California 94105

Partner (2010 – present)
Associate (2004 – 2009)

- 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.

After completing my clerkships and two years of teaching at Stanford Law School, I began private practice in October 2004 at Munger, Tolles & Olson LLP in San Francisco. As a member of the Litigation Department, I have worked on a mix of trial and appellate matters. Most of the matters I handle are civil, and most involve business or constitutional disputes. In my initial years as an associate, I worked on business litigation matters across a range of subject areas, including white collar criminal defense, tax, patent, and copyright. While I participated in discovery and related tasks as well as on a trial team, my role typically focused on dispositive brief-writing in trial courts or on appeal. As a more senior associate and now as a partner, my practice has focused primarily on representing pharmaceutical companies in antitrust litigation; representing the University of California in constitutional litigation and class action defense; and representing primarily non-profits in appeals involving constitutional issues. The fraction of my work that is at the appellate level has increased over time, though I also have remained involved in substantial litigation at the trial court level, including an antitrust jury trial, taking and defending depositions and other discovery, and briefing and arguing many motions in state and federal courts.

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

Over the course of my career, I have developed an expertise in trial-level and appellate litigation, across a broad range of legal issues. In my initial years as an associate, I worked on cases primarily for Boeing, Northrop Grumman, Verizon Wireless, and Berkshire Hathaway. More recently, my clients have included pharmaceutical companies and the University of California. Through my pro bono work, I also have represented individual clients.

- 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.

Approximately 90% of my practice has been in litigation. I did not argue in court frequently in my first few years as an associate from 2004 to 2006. As a more senior associate and now as a partner, I typically have argued in court four or more times a year and have appeared in court many times per year. I have argued motions to dismiss, for summary judgment, to compel, to intervene, and against preliminary injunctive relief in federal district courts; I have presented demurrer, declaratory judgment, and settlement approval arguments in state trial courts; and I have presented appellate arguments in federal courts of appeals.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 10% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

- 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 civil cases to verdict, both as associate counsel.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 50% |
| 2. non-jury: | 50% |

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

I have not argued before the United States Supreme Court, but I have appeared as counsel in the following cases:

Hollingsworth v. Perry, 133 S. Ct. 2652 (2013) (amicus brief on behalf of Bay Area Lawyers for Individual Freedom, *et al.*, in support of respondent, 2013 WL 769311).

Federal Trade Commission v. Actavis, Inc., 133 S. Ct. 2223 (2013) (brief in response to petition for certiorari for respondent Solvay Pharmaceuticals, 2012 WL 5769670; merits brief for respondent Solvay Pharmaceuticals, 2013 WL 648743).

Fisher v. University of Texas at Austin, 133 S. Ct. 2411 (2013) (amicus brief on behalf of the Lawyers' Committee for Civil Rights Under Law, *et al.*, in support of respondent, 2012 WL 3527856).

Lozman v. City of Riviera Beach, 133 S. Ct. 735 (2013) (amicus brief on behalf of the Seattle Floating Homes Association and the Floating Homes Association of Sausalito in support of petitioner, 2012 WL 1773029).

Association of Christian Schools International v. Stearns, No. 09-1461 (2010) (brief in opposition to petition for certiorari, 2010 WL 3555955).

Board of Trustees of the Leland Stanford Junior University v. Roche Molecular Systems, Inc., 131 S. Ct. 2188 (2011) (amicus brief on behalf of Massachusetts Institute of Technology in support of petitioner, 2010 WL 5535743).

Palmer v. Valdez, No. 09-6429 (2010) (reply brief in support of petition for certiorari). Copy provided.

Perfect 10, Inc. v. Visa International Service Association, No. 07-1026 (2008) (amicus brief on behalf of Motion Picture Association of America, *et al.*, in support of petitioner, 2008 WL 877880).

Medellin v. Texas, 128 S. Ct. 1346 (2008) (amicus brief on behalf of the American Bar Association in support of petitioner, 2007 WL 1886208).

Sanchez-Llamas v. Oregon; Bustillo v. Johnson, 126 S. Ct. 2669 (2006) (amicus brief on behalf of the American Bar Association in support of petitioner Bustillo, 2005 WL 3597819).

Medellin v. Dretke, 125 S. Ct. 2088 (2005) (amicus brief on behalf of the American Bar Association in support of petitioner, 2005 WL 176451).

United States v. Georgia; Goodman v. Georgia, 126 S. Ct. 877 (2006) (amicus brief on behalf of the Honorable Dick Thornburgh and the National Organization on Disability in support of petitioners, 2005 WL 1826317).

Doe v. Mann, No. 05-815 (2006) (petition for certiorari, 2005 WL 3551182); *Mann v. Doe*, No. 05-951 (opposition to conditional cross-petition for certiorari, 2006 WL 897026).

I also have served as co-chair of the Bar Association of San Francisco's Amicus Committee since 2009. Typically, this is not part of my practice, as the briefs considered by this Committee are drafted by outside counsel and Committee members' names are not listed on the briefs. The Committee's role is limited to an initial screen to determine whether a case presents a question of law and then presenting amicus requests to the Bar Association's Board of Directors. The Committee's recommendations to the Board are non-binding, and decisions regarding whether to participate as an amicus are made by the Board; members of the Committee do not vote on participation. The Committee also reviews briefs joined by the Bar Association of San Francisco to ensure that they are consistent with the Bar Association's policies and positions. As listed above, however, my firm did draft an amicus brief in *Hollingsworth v. Perry* on behalf of the Bar Association and other organizations.

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.

I have listed the cases below in reverse chronological order.

1. *Federal Trade Commission v. Actavis, Inc.*, 133 S. Ct. 2223 (2013) (2012 – 2013).

We represent the respondent, Solvay Pharmaceuticals, a brand drug manufacturer, in an antitrust action brought by the Federal Trade Commission ("FTC") challenging a settlement of patent litigation between Solvay and two proposed manufacturers of generic versions of Solvay's patented drug AndroGel. The district court, following precedent from the Eleventh, Second, and Federal Circuits, held that the settlement did not violate the antitrust laws because any restraint on competition imposed by the settlement did not exceed the scope of Solvay's patent in question, and it dismissed the FTC's complaint. The Eleventh Circuit affirmed in an opinion written by Judge Carnes and joined by Judges Kravitch and Farris (sitting by designation from the Ninth Circuit). The Supreme Court granted certiorari and reversed and remanded, holding that a rule-of-reason analysis should apply. Justice Breyer authored the opinion for the Court, and

Chief Justice Roberts filed a dissent, in which Justices Scalia and Thomas joined. Justice Alito did not participate. I played a lead role in preparing the briefs to the Supreme Court on behalf of Solvay. In the months before the Supreme Court argument, I also briefed and argued an expedited appeal to the Eleventh Circuit of a district court order unsealing a confidential Solvay document that had been attached as an exhibit to the FTC's complaint. The Eleventh Circuit affirmed the district court's order allowing the exhibit to become part of the public record in the Supreme Court. Judge Marcus wrote the opinion, which Judges Black and Siler (sitting by designation from the Sixth Circuit) joined. *Federal Trade Commission v. AbbVie Products LLC*, 713 F.3d. 54 (2013).

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2. *In re Androgel Antitrust Litigation (No. II)*, 888 F. Supp. 2d 1336 (N.D. Ga. 2012) (2010 – present).

We represent the defendant, Solvay Pharmaceuticals, in class actions and individual suits brought by purchasers of the drug AndroGel, which the Judicial Panel on Multidistrict Litigation consolidated for pre-trial purposes before Judge Thrash in the United States District Court for the Northern District of Georgia. Plaintiffs argued that Solvay had engaged in sham patent litigation in violation of the antitrust laws when it brought patent infringement claims against two proposed manufacturers of generic versions of its patented drug AndroGel. After approximately two years of discovery, the district court granted summary judgment for the defendants, holding that there had been a reasonable basis for each of Solvay's claims in the patent litigation. Plaintiffs' appeal was stayed pending the decision in *Federal Trade Commission v. Actavis, Inc.* The parties recently submitted briefs to the Eleventh Circuit discussing whether the appeal should proceed in the Eleventh Circuit or whether the case should be remanded to the district court. I helped draft Solvay's summary judgment briefs and also helped with all aspects of discovery on the antitrust issues, including taking and defending depositions and briefing and arguing motions to compel. I also played a substantial role in drafting Solvay's recent brief to the Eleventh Circuit arguing that the appeal should proceed without a remand.

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3. *Safeway, Inc. v. Abbott Laboratories; Meijer, Inc. v. Abbott Laboratories; Rite Aid Corp. v. Abbott Laboratories; Smith Kline Beecham Corp. d/b/a Glaxosmithkline v. Abbott Laboratories*, 761 F. Supp. 2d 874 (N.D. Cal. 2011). *Smith Kline Beecham Corp. d/b/a Glaxosmithkline v. Abbott Laboratories*, Ninth Circuit Case Nos. 11-17357, 11-17373 (pending) (2008 – present).

Direct purchasers of Abbott Laboratories' patented drugs Norvir and Kaletra, and GlaxoSmithKline (GSK), which makes a drug that is taken with Norvir and that competes with Kaletra, filed antitrust suits alleging that Abbott's pricing practices violated the antitrust laws. Abbott argued that plaintiffs' antitrust theory was equivalent to the "price squeeze" theory the Supreme Court rejected in *Pacific Bell Telephone, Co. v. linkLine Communications, Inc.*, and, in any event, that plaintiffs had not demonstrated that Kaletra had monopoly power in any properly defined product market. The case proceeded to a three-week jury trial before Judge Wilken in the United States District Court for the Northern District of California. After the first day of trial, Abbott entered into settlements with the Direct Purchaser plaintiffs, but the trial against GSK continued. The jury ultimately found in Abbott's favor on the antitrust claims and awarded less than 1% of the damages GSK had sought on breach-of-contract claims. The parties' cross-appeals are now pending before the Ninth Circuit. I played a lead role in preparing Abbott's motions to dismiss and for summary judgment on the antitrust claims, and in drafting our motions *in limine* and jury instruction briefs for trial. I was also an active member of the trial team.

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4. *Felber v. Yudof*, 851 F. Supp. 2d 1182 (N.D. Cal. 2011) (2011 – 2012).

Two students from the University of California Berkeley (“UC”) sued the University and several of its officials, alleging that student protests on campus against Israeli checkpoint policies created a hostile environment for Jewish students in violation of their rights under Title VI of the Civil Rights Act, as well as their rights under the First Amendment and Equal Protection Clause. The case presented an issue of first impression as to a university’s obligations under Title VI in such circumstances. I briefed and argued UC’s motion to dismiss, which took the position that UC could not be required by Title VI to prohibit the protest activity because it was protected by the First Amendment; that plaintiffs’ own allegations showed that UC had responded to incidents involving threats or violence rather than protected speech; and that plaintiffs had not sufficiently alleged a violation of their constitutional rights. Judge Seeborg of the United States District Court for the Northern District of California granted the motion to dismiss, with leave to amend. After plaintiffs amended their complaint, I briefed and argued a motion to dismiss their amended complaint. While that motion was pending, Judge Seeborg ordered the parties to mediate, and the case settled in mediation.

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5. *Powell v. Regents of the University of California*, San Diego County Superior Court Case No. 37-2009-00100856-CU-BT-CTL (2009 – 2011).

After the University of California (“UC”) notified certain patients at one of its medical centers that a hacker appeared to have obtained access to a database containing information about those patients, the plaintiff filed a putative class action in San Diego County Superior Court asserting claims under California’s Confidentiality of Medical Information Act, the Privacy Clause of the California Constitution, and California Business and Professions Code section 17200. The case presented a novel question of whether nominal damages are available under California’s Confidentiality of Medical Information Act if there has been no affirmative release or disclosure by the defendant. Judge Prager sustained UC’s demurrer on the privacy and section 17200 claims and granted UC’s motion to strike the claim for nominal damages under the Confidentiality of Medical Information Act. The parties then reached a settlement. I briefed and argued UC’s demurrer and played a substantial role in briefing UC’s motion to strike and in negotiating the settlement.

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6. *Association of Christian Schools International v. Stearns*, 679 F. Supp. 2d 1083 (C.D. Cal. 2008); 678 F. Supp. 2d 980 (C.D. Cal. 2008); 362 Fed. Appx. 640, 2010 WL 107035 (9th Cir. Jan. 12, 2010) (unpublished), cert denied, 131 S. Ct. 456 (2010) (2005 – 2010).

One way California high school students may gain admission to the University of California (“UC”) is to earn sufficiently high grades, in combination with their SAT scores. In order to ensure that students who are admitted in this manner are adequately prepared for study at UC, UC reviews the curricula of high school courses and approves only those courses that are sufficiently rigorous and comprehensive for use toward admission. Plaintiff objected to the criteria UC uses to evaluate courses and brought constitutional challenges to UC’s admission

policies. UC moved for summary judgment on the plaintiffs' facial challenges, arguing that when the government provides a service that by its nature requires distinctions based on the content of speech, those distinctions are constitutional as long as they are rationally related to the government's purpose in providing the service in question. UC argued that all of its course review criteria were academically reasonable and that there were adequate alternative avenues to admission to accommodate all students' religious beliefs, such as taking standardized tests to prove subject matter knowledge instead of using one's high school grade in a particular subject. Judge Otero of the United States District Court for the Central District of California granted that motion. UC then moved for summary judgment on plaintiffs' as-applied challenges, arguing that plaintiffs lacked evidence that any of UC's course decisions were academically unreasonable or motivated by animus. The district court granted that motion as well. The Ninth Circuit affirmed in a per curiam decision by Judges Hall, Thompson, and Silverman. The Supreme Court then denied certiorari. I played a lead role in drafting the UC's briefs in the district court, Ninth Circuit, and Supreme Court; played an active role in discovery; and argued the summary judgment motion on the as-applied challenges.

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7. *Palmer v. Valdez*, 560 F.3d 965 (9th Cir. 2009) (2008-2010).

On assignment from the Ninth Circuit through the Court's pro bono program, I represented a prisoner plaintiff who had unsuccessfully represented himself in the bench trial of a section 1983 action in which he claimed that he had been subject to excessive force by prison guards. On appeal, I argued on plaintiff's behalf that the district court had imposed an unconstitutional condition on his right to a jury trial when the court required him to choose between proceeding with a jury trial without the testimony of certain key witnesses who were not present in the courtroom or waiving the right to a jury trial and proceeding with a bench trial in which those witnesses could testify by telephone. In an opinion authored by Judge Callahan and joined by Judge Siler (sitting by designation from the Sixth Circuit), the Ninth Circuit affirmed the district court's judgment in favor of defendants. Judge McKeown dissented, arguing that my client had been subject to an unconstitutional condition. The Supreme Court denied certiorari. I played the lead role in the briefing and presented the argument in the Ninth Circuit.

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8. *John Doe 1 v. Abbott Laboratories*, 571 F.3d 930 (9th Cir. 2009) (2007 – 2009).

Indirect purchasers of Abbott Laboratories' patented drugs Norvir and Kaletra filed suits against Abbott alleging that its pricing practices had violated the antitrust laws. The case presented an issue of first impression as to whether the type of "monopoly leveraging" plaintiffs alleged is anticompetitive conduct under the Sherman Act. Abbott argued that it is not, as well as that plaintiffs had failed to show antitrust injury or that Abbott had monopoly power in any relevant market. After the district court denied Abbott's motions to dismiss and for summary judgment, Abbott filed an interlocutory appeal. The Ninth Circuit reversed, in a decision written by Judge Rymer and joined by Judges Schroeder and Reinhardt. I played a leading role in drafting Abbott's Ninth Circuit briefs.

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9. *Strauss v. Horton*, 46 Cal. 4th 364 (2009) (2008 – 2009).

On May 15, 2008, the California Supreme Court held that the California Constitution guaranteed same-sex couples the right to marry. In the November 2008 election, California voters approved Proposition 8, which amended the California Constitution to define marriage as between a man and a woman. We represented several same-sex couples and nonprofit organization Equality California as Petitioners in challenging Proposition 8 in the California Supreme Court on state constitutional grounds. The California Supreme Court upheld Proposition 8 but held that existing same-sex marriages must continue to be recognized. The opinion for the majority was written by Chief Justice George. Justice Moreno filed an opinion dissenting in part. I played a substantial role in drafting Petitioners' briefs to the California Supreme Court.

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Petitioners:

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Michael Maroko
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Counsel for
Respondents:

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(916) 445-9555

Counsel for
Intervenor
Respondents:

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Kenneth Winston Starr
Office of the President
Baylor University
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(254) 710-3555

10. *OBH, Inc. v. United States of America*, 397 F. Supp. 2d 1148 (D. Neb. 2005) (2005).

OBH (f/k/a Berkshire Hathaway) filed tax suits seeking a refund of income taxes it argued had been erroneously assessed by the IRS. We represented OBH in a bench trial before Judge Strom in the United States District Court for the District of Nebraska. OBH argued that the methodology the IRS had used to “trace” funds from debt proceeds to dividend-paying stocks was arbitrary, and resulted in higher taxes than was justified under the relevant provisions of the tax code. The district court ruled in OBH’s favor on all claims. I helped prepare OBH’s trial briefs, witness examinations, and opening and closing statements.

Co-Counsel: Kelly M. Klaus
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Opposing Counsel: Gerald B. Leedom
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20044
(202) 514-2000

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

My legal activities have focused almost entirely on litigation. Occasionally, however, I have pursued legal activities that did not involve litigation. For example, I provided advice to an entertainment company considering entering new types of agreements with

artists about how to minimize the litigation risks posed by the agreements. I also have worked on internal investigations for corporations looking into alleged wrongdoing by employees. I also helped with a review of the University of California's policies for responding to civil disobedience, which led to a 2012 report by Dean Christopher Edley of the University of California, Berkeley Law School and General Counsel Charles Robinson of the University of California entitled "Response to Protests on UC Campuses."

I have performed no lobbying activities on behalf of any client or organization and have never been 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.

During April 2012, I taught a two-week intensive seminar entitled "Constitutional Issues in Higher Education" at the University of Virginia School of Law. The course explored constitutional issues presented by recent litigation involving public universities, including topics related to affirmative action, non-discrimination policies for student organizations, and campus speech codes. A copy of the syllabus is supplied.

During the fall semesters of 2002 and 2003, I taught Federal Jurisdiction at Stanford Law School. This doctrinal course focused on the scope of federal courts' jurisdiction, the development of federal common law, suits challenging official action, official immunity, sovereign immunity, and federal habeas corpus. I have been unable to locate a copy of the syllabus.

During the spring semesters of 2003 and 2004, I taught Environmental Law at Stanford Law School. The course focused on the Resource Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and the Clean Air Act. The course also covered general principles of administrative law and Article III standing doctrine. I have been unable to locate a copy of the syllabus.

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.

Munger, Tolles & Olson does not provide pension or retirement benefits. Upon withdrawal from the partnership, a partner is entitled to receive a "fair share" of firm net income for the current year, reflecting the partner's contributions to date, less amounts previously drawn. In addition, a partner withdrawing from the partnership is entitled to a

return of the partner's capital contributions. The current value of my capital contributions to the firm is reflected in the attached Net Worth Statement.

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

I do not have any plans, commitments, or agreements to pursue outside employment, with or without compensation, if confirmed.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I am not aware of any potential conflicts of interest likely to be presented by my family members. I would recuse myself, at least for some initial period, from any case being handled by Munger, Tolles & Olson. I also would recuse myself from any case on which I worked while at Munger, Tolles & Olson, as well as any case where, due to a current or past professional or personal relationship with a party or attorney involved, my impartiality might reasonably be questioned.

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

I would handle all matters involving actual or potential conflicts of interest by applying the Code of Conduct for United States Judges, as well as any other relevant ethical canons or statutory provisions.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of

professional prominence or professional workload, to find some time to participate in serving the disadvantaged.” Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have served for the past three years as a board member of the Silicon Valley Campaign for Legal Services, a non-profit organization devoted to raising funds to help provide free legal assistance to low-income persons residing in Silicon Valley.

I also have devoted a significant portion of my time in private practice to serving pro bono clients. Those activities have taken a variety of forms. For example, I have filed amicus briefs in the United States Supreme Court in pro bono matters on behalf of non-profit organizations, such as a brief on behalf of associations of floating home owners in *Lozman v. City of Riviera Beach*, a case concerning whether floating homes are vessels for purposes of maritime jurisdiction. I also have assisted in trial court and appellate litigation involving the interests of disadvantaged groups, such as the currently pending litigation seeking a preliminary injunction against enforcement of California’s SB 1172 law, which prohibits licensed mental health providers from engaging in sexual orientation change efforts on minors—work for which I recently was named a recipient of the 2013 President’s Pro Bono Service Award from the State Bar of California. I also accepted an assignment through the Ninth Circuit’s pro bono program in a case about whether a prisoner had been denied the right to a jury in a trial regarding alleged mistreatment in prison.

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 1, 2013, I received an email from a lawyer in the White House Counsel’s Office, asking if I would be interested in being considered to fill a vacancy on the Ninth Circuit, and I spoke with him on March 4, 2013. Since March 13, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 29, 2013, I met with Senator Dianne Feinstein’s judicial advisory committee in San Francisco, California. On April 24, 2013, I interviewed with attorneys from the White House Counsel’s Office and the Department of Justice in Washington, D.C. On August 1, 2013, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee

discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, Michelle Taryn Friedland, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/2/2013
(DATE)

Michelle T. Friedland
(NAME)

[Signature], see attached page
(NOTARY)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

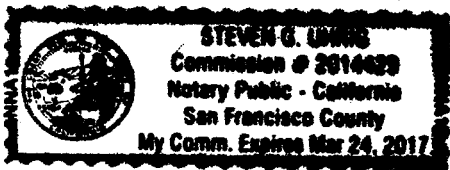
State of California

County of San Francisco }

On August 2, 2013 before me, Steven G. Whrig Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Michelle Taryn Friedland
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.
Signature: [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Affidavit

Document Date: August 2, 2013 Number of Pages: 1

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Michelle Taryn Friedland Signer's Name: _____

- | | |
|--|--|
| <input type="checkbox"/> Corporate Officer — Title(s): _____ | <input type="checkbox"/> Corporate Officer — Title(s): _____ |
| <input checked="" type="checkbox"/> Individual | <input type="checkbox"/> Individual |
| <input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General | <input type="checkbox"/> Partner — <input type="checkbox"/> Limited <input type="checkbox"/> General |
| <input type="checkbox"/> Attorney in Fact | <input type="checkbox"/> Attorney in Fact |
| <input type="checkbox"/> Trustee | <input type="checkbox"/> Trustee |
| <input type="checkbox"/> Guardian or Conservator | <input type="checkbox"/> Guardian or Conservator |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Other: _____ |

Signer Is Representing: Herself

Signer Is Representing: _____