

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Steven Charles Seeger

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

United States District Court for the Northern District of Illinois

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

Office: United States Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604

Residence: Wilmette, Illinois

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

1971; Normal, Illinois

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

1994 – 1997, University of Michigan Law School; J.D. (*magna cum laude*), 1997

1989 – 1993, Wheaton College; B.A. (*summa cum laude*), 1993

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.

2010 – present
United States Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450

Chicago, Illinois 60604
Senior Trial Counsel

1996 – 2010
Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
Partner (2003 – 2010)
Associate (1998 – 2003)
Summer Associate (1996)

1997 – 1998
United States Court of Appeals for the District of Columbia Circuit
E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue N.W.
Washington, D.C. 20001
Law Clerk to the Honorable David B. Sentelle

Summer 1997
National Wildlife Federation
Great Lakes Regional Center
213 West Liberty Street, Suite 200
Ann Arbor, Michigan 48104
Public Interest Law Initiative (PILI) Fellow

Summer 1995
Ford Motor Company
Corporate Headquarters
1 American Road
Dearborn, Michigan 48126
Summer Associate

1993 – 1994
AEON Corporation
Konparu Building, 4th Floor
2-1 Nagazumi-cho
Gifu-shi, Gifu-ken 500
Japan
English Teacher

Summer 1993
Subway
Highway 55
Medina, Minnesota 55340
Sandwich Artist

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 registered for selective service when I turned 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.

SEC Division of Enforcement Director's Award (2018)

Nominated for the Stanley Sporkin Award (a nationwide SEC award) (2017)

SEC Division of Enforcement Director's Award (2016)

SEC Division of Enforcement Director's Award (2014)

SEC Division of Enforcement Director's Award (2013)

Nominated for the Paul M. Carey Award (a nationwide SEC award) (2013)

Michigan Law School Order of the Coif (1997)

Degree from Michigan Law School conferred *magna cum laude* (1997)

Recipient, West Publishing Award (1997)

General Yee Scholar (1996)

Articles Editor, Michigan Law Review (Member, 1995 – 1997; Articles Editor, 1996 – 1997)

Degree from Wheaton College conferred *summa cum laude* (1993)

Dean's List (1989 – 1993)

Wheaton College Scholastic Honor Society

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.

None.

10. **Bar and Court Admission:**

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

Illinois, 1997

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

Supreme Court of the United States, 2004
United States Court of Appeals for the Third Circuit, 2002
United States Court of Appeals for the Seventh Circuit, 2004
United States Court of Appeals for the Tenth Circuit, 2009
United States District Court for the Northern District of Illinois, 1998
United States District Court for the Northern District of Indiana, 1998

My membership in the bar of the United States Court of Appeals for the Third Circuit lapsed because I have not had any subsequent appeals in that jurisdiction.

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.

Arbor Day Foundation (circa 2010 – present)
Member

International Wolf Center (2002 – 2015)
Member

- 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, neither 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.

Memorandum featured as the model in Bryan A. Garner, *Legal Writing in Plain English* 193 – 201 (2d ed. 2013). Copy supplied.

Note, *Restoring Rights to Rites: The Religious Motivation Test and the Religious Freedom Restoration Act*, 95 Mich. L. Rev. 1472 (1997). 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.

None.

- 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.

None.

- 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.

None.

- 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.

Roy Strom, *Predicting a Pop*, Chi. Law. Mag., June 1, 2013. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, 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 held judicial office.

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

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

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

I have not held public 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.

None.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to Honorable David B. Sentelle, U.S. Court of Appeals for the District of Columbia Circuit from 1997 to 1998.

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

I have never practiced alone.

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

Summer 1997
National Wildlife Federation
Great Lakes Regional Center
213 West Liberty Street, Suite 200
Ann Arbor, Michigan 48104
Public Interest Law Initiative (PILI) Fellow

1998 – 2010
Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
Partner (2003 – 2010)
Associate (1998 – 2003)

2010 – present
United States Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
Senior Trial Counsel

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 in alternative dispute resolution proceedings.

b. Describe:

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

I have practiced complex commercial litigation for 20 years.

At Kirkland & Ellis LLP, my practice covered a wide range of substantive areas, including contracts, torts, antitrust, fiduciary duties, bankruptcy, insurance, and various statutory claims. I practiced in state and federal courts, and worked on cases at the trial court level and on appeal.

In 2010, I joined the Enforcement Division of the SEC, and thus my practice has focused exclusively on the federal securities laws. Even then, my practice has covered a variety of different securities claims, including offering fraud, insider trading, accounting fraud, cherry-picking, misappropriation of client assets, and other violations of the Securities Act, the Exchange Act, and the Investment Advisers Act.

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

At Kirkland & Ellis LLP, my clients tended to be large commercial entities. I did not have a specialized substantive area of practice.

At the SEC, I represent an agency of the federal government in enforcement matters under the federal securities laws.

- 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.

I have always devoted my entire practice to litigation. I appear in court frequently. As a senior trial counsel at the SEC, my primary responsibility is to represent the SEC in federal court. I also have litigated a few administrative proceedings before SEC administrative law judges. But they are a relatively rare exception. Over 95% of my time at the SEC is devoted to litigating in federal court.

At Kirkland & Ellis LLP, I also appeared in court frequently. I estimate that I

spent approximately 65% of my time on cases in federal court, and the other 35% on cases in state court.

Although my work at the SEC is civil in nature, I have frequently partnered with federal prosecutors, as many of my SEC cases have criminal aspects.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 75% |
| 2. state courts of record: | 20% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 100% |
| 2. criminal proceedings: | 0% |

- 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 three cases to verdict. I served as the chief counsel in *SEC v. Berrettini* before the Honorable Robert M. Dow in the U.S. District Court for the Northern District of Illinois (jury trial). I second-chaired the trial in *SEC v. Steffes* before the Honorable Thomas M. Durkin in the U.S. District Court for the Northern District of Illinois (jury trial). I served as associate counsel in *Metavante v. Emigrant Savings Bank* before the Honorable J.P. Stadtmueller in the U.S. District Court for the Eastern District of Wisconsin (bench trial).

i. What percentage of these trials were:

- | | |
|--------------|-------|
| 1. jury: | 66.7% |
| 2. non-jury: | 33.3% |

- 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.

Brief of *Amicus Curiae* Ashbrook Center for Public Affairs and Ohio Senator Bill Harris in Support of Petitioners, *McCreary County v. American Civil Liberties Union of Kentucky*, 545 U.S. 844 (2005). Brief available at 2004 WL 2825469.

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. *SEC v. Stifel Nicolaus & Co., Inc.*, 2:11-cv-755 (E.D. Wis. filed Aug. 10, 2011).

I led the SEC's litigation in this national-priority case about a \$200 million fraud that took place on the eve of the financial crisis. The investments involved the sale of synthetic collateralized debt obligations ("CDOs"), some of the most complex, opaque, risk-laden products in the financial industry. CDOs are typically purchased by large, highly sophisticated financial firms like hedge funds and investment banks because they're the only firms that can understand them. But here, the defendants sold CDOs to some of the most vulnerable, risk-averse investors: school districts.

Defendant Stifel and its executive made a series of false statements to the School Districts about the safety of the investments. They exaggerated the safety and downplayed the risks of investing in CDOs.

When the financial crisis hit, the investments failed. The School Districts ultimately suffered a complete loss. Their out-of-pocket losses exceeded \$50 million (the bank suffered the rest of the loss).

After five years of litigation, on the eve of trial, the defendants agreed to settle for \$25 million. The settlement did not involve the standard neither-admit-nor-deny framework. Instead, the defendants agreed to factual admissions, including admissions that they made false statements to the School Districts and violated the federal securities laws. The Court incorporated the factual admissions in the final judgment.

I also served as lead counsel in a related action against the Royal Bank of Canada, another financial institution that played a role in the investments. RBC agreed to pay over \$30 million to resolve the SEC's claims.

In the end, the School Districts received a complete recovery of their losses.

Judge

Hon. Charles N. Clevert Jr., U.S. District Court for the Eastern District of Wisconsin

Defense Counsel

Counsel for Defendant Stifel Nicolaus

Jeffrey J. Kalinowski
Richard H. Kuhlman
Bryan Cave Leighton Paisner LLP
211 North Broadway, Suite 3600
St. Louis, Missouri 63102
(314) 259-2000

Counsel for Defendant David Noack

Ronald P. Kane
Kane & Fischer, Ltd.
208 South LaSalle Street
Chicago, Illinois 60604
(773) 309-4503

Counsel for Defendant Royal Bank of Canada

Jennifer L. Conn
Gibson Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
(212) 351-4000

Counsel for the School Districts

C.J. Krawczyk
Kravit Hovel & Krawczyk SC
825 North Jefferson Street
Milwaukee, Wisconsin 53202
(414) 271-7100

Co-Counsel for the SEC

Alyssa A. Qualls
U.S. Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
(312) 353-7390

2. *SEC v. Berrettini*, 1:10-cv-1614 (N.D. Ill. filed March 11, 2010).

This case involved insider-trading claims against a corporate executive and his longtime friend and colleague. The SEC alleged that the tipper, a senior executive at Philips, learned material, non-public information about three upcoming acquisitions. The tipper allegedly shared that information with the tippee. The tippee, in turn, promptly purchased stock in the three target companies, for the first time in his life. When Philips publicly announced the acquisitions, the stock prices soared, and the tippee reaped profits of approximately \$250,000.

I served as lead counsel for the SEC. During a two-week trial, I gave the opening statement and the rebuttal closing argument, and examined half of the witnesses. The jury returned a verdict in favor of the SEC on all counts.

Judge:

Hon. Robert M. Dow, Jr., U.S. District Court for the Northern District of Illinois

Defense Counsel

James L. Kopecky
Kopecky Schumacher Rosenberg PC
120 North LaSalle Street, Suite 2000
Chicago, Illinois 60602
(312) 527-3966

A. Ross Pearlson
Chiesa Shahinian & Giantomasi PC
1 Boland Drive
West Orange, New Jersey 07052
(973) 325-1500
Formerly with Sills, Cummis, Zuckerman, Radin, Tishman & Gross

Co-Counsel for the SEC

Jonathan Polish
U.S. Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
(312) 353-7390

3. *SEC v. Zada*, 2:10-cv-14498 (E.D. Mich. filed Nov. 10, 2010).

This case involved a massive Ponzi scheme that victimized an NHL Hall of Famer, a decorated Olympian, scores of firefighters, and other investors. Joseph Zada claimed to have high-level contacts in oil-producing countries in the Middle East, and convinced investors that he had a sure-fire way to make massive profits by investing in oil. He raised tens of millions of dollars from dozens of victims.

In reality, Zada made no investments in oil. Instead, he operated a Ponzi scheme. He took money from investors, and sent their money to other investors. He spent the rest on himself.

I handled this case from beginning to end. The court ultimately granted summary judgment to the SEC, entering a judgment against Zada for over \$120,000,000.

The U.S. Attorney's Office for the Southern District of Florida later indicted Zada for defrauding the investors. At trial, the jury convicted him of 15 counts of fraud. He received a sentence of 17.5 years.

Judge

Hon. Denise Page Hood, U.S. District Court for the Eastern District of Michigan

Defense Counsel

N.C. Deday LaRene
LaRene & Kriger PLC
645 Griswold Street, Suite 1717
Detroit, Michigan 48226
(313) 967-0100

Richard G. Lubin
Richard G. Lubin, PA
1217 South Flagler Drive, Suite 200
West Palm Beach, Florida 33401
(561) 655-2040

4. *SEC v. Beckman*, 0:11-cv-574 (D. Minn. filed March 7, 2011); *SEC v. Cook*, 0:09-cv-3333 (D. Minn. filed Nov. 9, 2009).

This case involved the second-largest fraud in Minnesota history, a scheme that fleeced 1,000 investors out of \$190 million. Bo Beckman was one of the ringleaders of the Currency Program, a foreign-currency trading scam orchestrated with Trevor Cook. Beckman lured members of the public into investing their money through false pretenses. He represented that their funds would be used exclusively for foreign currency trading, and that the trading would generate consistent, significant profits. He promised high returns, liquidity, safety, and segregated accounts. He convinced investors to trust him with their life savings.

In reality, the Currency Program was not a legitimate foreign-currency trading program at all. Instead, it was a Ponzi scheme. The funds of investors went to other investors, were lost in high-risk trading, or were misappropriated by Beckman and his

cohorts. Beckman played a leading role in the scheme, raising over \$47 million from dozens of investors.

The SEC filed an emergency motion for an asset freeze and a preliminary injunction, which prevented Beckman from raising additional money from investors. I interviewed the victims, drafted the complaint, and advocated for the SEC at oral argument. In the end, the SEC prevailed on its motion for summary judgment.

The U.S. Attorney's Office indicted Beckman, charging him with wire fraud and mail fraud. A jury convicted him on 22 counts. He received a 30-year sentence.

Judge

Hon. Michael J. Davis, U.S. District Court for the District of Minnesota

Defense Counsel

David L. Hashmall
Felhaber Larson
220 South 6th Street, Suite 2200
Minneapolis, Minnesota 55402
(612) 339-6321

Co-Counsel for the SEC

John E. Birkenheier
U.S. Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
(312) 353-7390

5. *SEC v. Steffes*, 1:10-cv-6266 (N.D. Ill. filed Sept. 30, 2010).

This case involved insider-trading claims against a family for allegedly exploiting inside information about an upcoming sale of a company. The SEC alleged that one of the family members was a senior executive at the Florida East Coast Railway, and learned that the company was putting itself up for sale. The insider allegedly shared that highly confidential information with members of his family. The family members then went on a spending spree, buying Florida East Coast stock and stock options. When the market learned the news, the stock price soared, and the family members gained profits of approximately \$1 million.

I second-chaired the case for the SEC. The SEC settled with two of the defendants, including the alleged tipper, for approximately \$250,000. At trial, I delivered the SEC's opening statement and rebuttal closing argument, and examined a number of witnesses. The SEC ultimately did not prevail at trial.

Defense Counsel

John C. Gekas
Saul Ewing Arnstein & Lehr LLP
161 North Clark Street, Suite 4200
Chicago, Illinois 60601
(312) 876-7100
Formerly with Gekas Law Ltd.

Chris Gekas
Gekas Law Ltd.
33 North LaSalle Street, Suite 2220
Chicago, Illinois 60602
(312) 726-4501

Joel Emery Rabb
Hesik-Prybylo Law Offices
821 Garfield Street
Oak Park, Illinois 60304
(708) 665-5630
Formerly with the Law Office of Joel Rabb

Co-Counsel for the SEC

Robert M. Moyer
U.S. Securities and Exchange Commission
175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604
(312) 353-7390

Nicholas J. Eichenseer
United States Attorney's Office
219 South Dearborn Street, 5th Floor
Chicago, Illinois 60604
(312) 353-5300
Formerly with the U.S. Securities and Exchange Commission

6. *In re Linerboard Antitrust Litig.*, C.A. Nos. 98-5055, 99-1341, MDL No. 1261
(E.D. Pa. filed March 16, 1999).

This class action involved claims that the nation's largest paper companies violated the Sherman Act by restricting the supply of linerboard, the paper used to make corrugated containers (*i.e.*, cardboard boxes). Specifically, plaintiffs alleged that the paper manufacturers took downtime at their mills to reduce the supply, and thus increase the price, of linerboard. That price increase, in turn, allegedly led to an

increase in the price of boxes. The potential liability was massive – the class period spanned several years, and annual sales in the corrugated-container industry exceeded \$30 billion.

I second-chaired the case for International Paper. I defended the depositions of 15 witnesses from International Paper, and handled many other depositions of other parties. Along the way, I assisted with two appeals, including an appeal of the class certification ruling to the Third Circuit. *See In re Linerboard Antitrust Litig.*, 305 F.3d 145 (3d Cir. 2002).

International Paper ultimately settled with the class plaintiffs, and later with the opt-out plaintiffs.

Judges

Hon. Jan E. DuBois, U.S. District Court for the Eastern District of Pennsylvania

Hon. Ruggero J. Aldisert, Hon. Julio M. Fuentes, Hon. Theodore A. McKee, U.S. Court of Appeals for the Third Circuit

Plaintiffs' Counsel

Howard Langer
Langer, Grogan & Diver PC
1717 Arch Street, Suite 4020
Philadelphia, Pennsylvania 19103
(215) 320-5660

Robert J. LaRocca
Kohn Swift & Graf, PC
1600 Market Street, Suite 2500
Philadelphia, Pennsylvania 19103
(215) 238-1700

William J. Blechman
Kenny Nachwalter, PA
1441 Brickell Avenue, Suite 1100
Miami, Florida 33131
(305) 373-1000

James A. Morsch
Butler Ruben Saltarelli & Boyd LLP
321 North Clark Street, Suite 400
Chicago, Illinois 60654
(312) 444-9660

Co-Counsel for International Paper

Steven J. Harper
Northwestern Pritzker School of Law
375 East Chicago Avenue
Chicago, Illinois 60611
(312) 927-5681
Formerly with Kirkland & Ellis LLP

Defense Counsel

Douglas J. Kurtenbach
Barack S. Echols
Kirkland & Ellis LLP
300 North LaSalle Street
Chicago, Illinois 60654
(312) 862-2000

Timothy A. Duffy
Law Office of Timothy A. Duffy, PC
290 Shadowood Lane
Northfield, Illinois 60093
(847) 530-4920
Formerly with Kirkland & Ellis LLP

Katheleen A. Ehrhart
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
(312) 360-6000
Formerly with Kirkland & Ellis LLP

R. Mark McCareins
Metals Service Center Institute
4201 Euclid Avenue
Rolling Meadows, Illinois 60008
(847) 485-3006
Formerly with Winston & Strawn LLP

Dane Drobny
Groupon, Inc.
600 West Chicago Avenue
Chicago, Illinois 60654
(312) 676-5773
Formerly with Winston & Strawn LLP

Paul H. Saint-Antoine
Drinker Biddle & Reath LLP
1 Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103
(215) 988-2700

Jennifer Clarke
The Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, Pennsylvania 19103
(267) 546-1302
Formerly with Dechert LLP

Daniel B. Huyett
Stevens & Lee
1818 Market Street, 29th Floor
Philadelphia, Pennsylvania 19103
(215) 575-0100

Matthew W. Rappleye
Saxton & Stump, LLC
280 Granite Run Drive, Suite 300
Lancaster, Pennsylvania 17601
(717) 556-1000
Formerly with Stevens & Lee

7. *Fisk Ventures, LLC v. Segal*, C.A. No. 3017-CC (Del. Ct. Ch. filed June 12, 2007).

This case involved the judicial dissolution of a deadlocked LLC. I represented H. Fisk Johnson (the CEO of SC Johnson) and his company (Fisk Ventures) in a dispute with the other 50% owner of Genitrix, a research-and-development company. Genitrix was in dire financial straits, with no prospect for future capital. The corporate governance situation was no better, with the board hopelessly deadlocked.

Fisk Ventures filed for judicial dissolution under the Delaware LLC Act in the Delaware Court of Chancery. The other 50% owner responded by filing five counter-claims against my clients and the other members of the Board. I drafted motions to dismiss the counter-claims, which Chancellor Chandler granted in full. *See Fisk Ventures, LLC v. Segal*, 2008 WL 1961156 (Del. Ct. Ch. 2008). I then filed a motion for judgment on the pleadings, which the court also granted. *See Fisk Ventures, LLC v. Segal*, 2009 WL 73957 (Del. Ct. Ch. 2009).

Two appeals to the Supreme Court of Delaware followed. The first appeal involved a pressing issue of corporate law, namely, whether Delaware law imposes fiduciary duties on the members of an LLC if the members themselves do not create such

duties by contract. I handled oral argument in both appeals, and prevailed. *See Segal v. Fisk Ventures, LLC*, 984 A.2d 124 (Del. 2009).

Judges

Hon. William P. Chandler, Delaware Court of Chancery

Hon. Myron T. Steele, Hon. Randy J. Holland, Hon. Jack B. Jacobs, Hon. Carolyn Berger, Hon. Henry D. Ridgely, Supreme Court of Delaware

Co-Counsel for Plaintiff

Jon E. Abramczyk
Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street, 16th Floor
Wilmington, Delaware 19899
(302) 658-9200

Defense Counsel

Vernon R. Proctor
Heyman Enerio Gattuso & Hirzel LLP
300 Delaware Avenue, Suite 200
Wilmington, Delaware 19801
(302) 472-7300

8. *Cohen v. Lewis*, 1:03-cv-5454 (N.D. Ill. filed April 22, 2003).

After VisionTek went out of business, the bankruptcy trustee filed suit against the former employees and suppliers of the debtor. The complaint – spanning 27 counts, and embroiling 16 defendants – basically alleged that the defendants had conspired to destroy VisionTek and create a new company in its place. I served as lead counsel for two defendants: Nvidia, the world’s leading designer of computer graphics technology, as well as one of its executives.

I authored Nvidia’s motion to dismiss, handled dozens of depositions, and deposed the trustee’s expert. On the eve of motions for summary judgment, we achieved a cents-on-the-dollar settlement.

Judge

Hon. Samuel Der-Yeghiayan, U.S. District Court for the Northern District of Illinois
Hon. Jeffrey Cole, U.S. District Court for the Northern District of Illinois

Plaintiff’s Counsel

Steven H. Gistenson
Dykema Gossett PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606
(312) 876-1700
Formerly with Schwartz, Cooper, Greenberger, and Krauss, Chtd.

Defense Counsel

Michael A. Duffy
Baker & McKenzie LLP
300 East Randolph Street, Suite 5000
Chicago, Illinois 60601
(312) 861-8000
Formerly with Kirkland & Ellis LLP

Benjamin W. Hulse
Blackwell Burke PA
431 South 7th Street, Suite 2500
Minneapolis, Minnesota 55415
(612) 343-3200
Formerly with Kirkland & Ellis LLP

John T. Shapiro
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
(312) 360-6000

Joseph E. Tighe
Alan J. Mandel Ltd.
7514 Skokie Boulevard
Skokie, Illinois 60077
(847) 329-8450
Formerly at Joseph E. Tighe, PC

9. *Chatz v. Tatum*, Bankruptcy No. 01 B 26090, Adversary No. 02-00592 (Bankr. N.D. Ill. filed May 7, 2002); *In re Nanovation Techs., Inc.*, 347 B.R. 314 (Bankr. N.D. Ill. 2006).

Nanovation Technologies was a research-and-development company in the field of fiber-optics. The company eventually failed, and the bankruptcy trustee sued the officers and directors of the company. The trustee alleged that the defendants had breached their fiduciary duties by authorizing the company to repurchase notes issued to senior management.

I served as lead counsel for David Grubb, a director appointed by Motorola. I built a record that the decision by the directors was in the best interest of the company, and in any event was protected by the business judgment rule. After years of discovery, the trustee agreed to dismiss the case for \$0 – and even paid a portion of my client’s costs.

In a related action, the directors filed suit against three insurance companies, seeking a declaratory judgment that the D&O policies covered the trustee’s lawsuit. The suit was a challenge – the notice letter to the insurers merely stated that the imminent bankruptcy filing could give rise to (unspecified) claims. The sufficiency of the notice letter largely turned on Florida law.

The bankruptcy court ultimately rejected the claim for insurance coverage. I drafted the motion for reconsideration (which was denied), and crafted our appeal briefs. On appeal to the district court, we prevailed on our claim under Florida law. *See In re Nanovation Techs., Inc.*, 372 B.R. 368, 2007 WL 1464577 (N.D. Ill. 2007). On remand, the directors reached a settlement with the insurers.

Judges

Hon. Pamela S. Hollis, U.S. Bankruptcy Court for the Northern District of Illinois
Hon. Samuel Der-Yeghiayan, U.S. District Court for the Northern District of Illinois

Plaintiff’s Counsel

Barry A. Chatz
Saul Ewing Arnstein & Lehr LLP
161 North Clark Street, Suite 4200
Chicago, Illinois 60601
(312) 876-7100

Thomas Pierce Yardley Jr.
Robbins, Salomon & Patt, Ltd.
180 North LaSalle Street, Suite 3300
Chicago, Illinois 60601
(312) 782-9000
Formerly with Saul Ewing Arnstein & Lehr LLP

Defense Counsel

Hon. John J. Tharp Jr.
United States District Court for the Northern District of Illinois
219 South Dearborn Street
Chicago, Illinois 60604
(312) 435-5573
Formerly with Mayer Brown LLP

Todd J. Ohlms
Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
(312) 360-6000

Co-Counsel for David Grubb

Wendy Netter Epstein
DePaul University College of Law
705A Lewis Center
25 East Jackson Boulevard
Chicago, Illinois 60604
(312) 362-5627
Formerly with Kirkland & Ellis LLP

Counsel for Insurers

Diane M. Baron
Clausen Miller PC
10 South LaSalle Street
Chicago, Illinois 60603
(312) 855-1010

Anne L. Blume
Cozen O'Connor
123 North Wacker Drive, Suite 1800
Chicago, Illinois 60606
(312) 382-3100

10. *Citadel Broad. Corp. v. Wilmington Trust Co.*, Index No. 602503/06 (N.Y. Sup. Ct. filed July 17, 2006).

This case involved claims about the acquisition of the ABC Radio business from The Walt Disney Company. Bondholders alleged that the transaction triggered a “fundamental change” provision in an indenture, requiring the early repurchase of \$330 million of convertible notes. The Bondholders basically argued that the deal entitled them to resell their notes to the company. The case turned on whether the deal gave The Walt Disney Company voting power or investment power within the meaning of the Williams Act.

I represented Citadel Broadcasting (the purchaser of the radio stations, and the issuer of the bonds) in the Supreme Court for the State of New York. I served as lead counsel throughout the case, including extensive discovery. I defended the deposition of Citadel’s CEO, as well as the deposition of its largest shareholder (Ted Forstmann

of Forstmann Little). I crafted the summary judgment briefs, and represented Citadel at oral argument. The parties ultimately settled before a ruling on the cross motions for summary judgment.

Judge

Hon. Herman Cahn, Supreme Court for the State of New York

Defense Counsel

Jeffrey Ross
John Orenstein
Ross & Orenstein LLC
222 South 9th Street, Suite 470
Minneapolis, Minnesota 55402
(612) 436-9805

Co-Counsel for Citadel Broadcasting

Alex Dimitrief
GE Global Operations
41 Farnsworth Street
Boston, Massachusetts 02210
(617) 443-2233
Formerly with Kirkland & Ellis LLP

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.)

I have litigated a number of other significant matters. I have not performed any lobbying activities.

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

I volunteered to help teach a mock trial class at Jones High School in Chicago in 2015. I helped the students with direct examinations, cross examinations, openings, closings, and other aspects of trial practice.

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.

As an employee of the federal government, I participate in the Federal Employees Retirement System (FERS). I understand that I will receive a retirement benefit based on my length of service and my highest three consecutive years of pay.

I do not have any other deferred income arrangements, stock, options, uncompleted contracts or other future benefits.

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.

No.

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.

My wife is a partner at Sidley Austin LLP. If confirmed, I will recuse in any case in which Sidley represents a party. I will also follow any applicable rules or guidelines if her firm is involved in any other capacity (*e.g.*, representing a third-party witness, or representing a recipient of a third-party subpoena).

For a period of time, I will recuse myself from all matters involving the SEC.

I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of a conflict, on a case-by-case basis and determine the appropriate action with the advice of the parties and their counsel, including recusal when necessary.

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

If confirmed I will review carefully and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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.

At Kirkland & Ellis LLP, I assisted with several pro bono appeals. The cases typically involved immigrants seeking asylum, or criminal defendants. At this point, I recall two cases by name: *Peoples v. United States*, 403 F.3d 844 (7th Cir. 2005); *Das v. Gonzales*, 219 F. App'x 543 (7th Cir. 2007).

I assisted with an *amicus* brief in *McCreary County, Kentucky v. American Civil Liberties Union of Kentucky*, 545 U.S. 844 (2005).

Earlier in my career at Kirkland & Ellis, I assisted with a civil-rights case (to my recollection, a youth was killed in an alleged hate crime). I also helped represent a prisoner in a case involving claims under Section 1983.

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.

In April 2017, I sent my resume to four Congressmen from Illinois, expressing my interest in serving on the United States District Court for the Northern District

of Illinois. On February 1, 2018, I submitted my application materials to the screening committee for Senator Durbin and Senator Duckworth.

On February 9, 2018, I received an email from an attorney for the Office of White House Counsel, inviting me for an interview. On February 14, 2018, I interviewed with various attorneys from the Office of White House Counsel and the Department of Justice. On February 28, 2018, I learned from an attorney for the Office of White House Counsel that the President intended to nominate me.

On February 28, 2018, I received a call from an attorney for Senator Durbin, inviting me for an interview with the screening committee for Senator Durbin and Senator Duckworth. On March 8, 2018, I interviewed with the Senators' screening committee. On March 9, 2018, I received a call from an attorney for Senator Durbin, inviting me to Washington D.C. to interview with Senator Durbin and Senator Duckworth. I interviewed with Senator Durbin and Senator Duckworth on March 20, 2018.

I have communicated regularly with the Office of Legal Policy in the preparation of my answers to this questionnaire and the completion of other related materials.

- 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.