

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Noël Wise (born Noël Streissguth)

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

United States District Judge for the Northern District of California

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.

Superior Court of California, County of Alameda
County Administration Building
1221 Oak Street
Oakland, California 94612

Residence: Alameda, California.

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

1968; Cherry Hill, New Jersey

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.

2001 – 2002, Stanford Law School; J.S.M. (Stanford Teaching Fellowship), 2002

1990 – 1993, Nova Southeastern University Law School; J.D. (*cum laude*), 1993

1987 – 1989, University of Nevada, Las Vegas; B.S., 1989

1987, University of Arizona; no degree received (summer coursework)

1985 – 1986, Pepperdine University; no degree received (undergraduate coursework)

1984 – 1985, Modesto Junior College; no degree received (undergraduate coursework)

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

2014 – present

Superior Court of California, County of Alameda

County Administration Building

1221 Oak Street

Oakland, California 94612

Supervising Judge, Civil Complex Litigation (2023 – present)

Judge Civil Division (2023)

Judge *Pro Tem*, California 2nd District Court of Appeal, Division 7 (2021 – 2022)

Judge Civil Division and Acting Supervising Judge, Civil Division (2018 – 2021)

Supervising Judge, Appellate Division (2019 – 2021)

Panel Judge, Appellate Division (2018 – 2019)

Assistant Supervising Judge, Family Law Division (2017)

Judge, Family Law Division (2014 – 2016)

2006 – 2014

Wise Gleicher

2233 Santa Clara Avenue

Alameda, California 94501

Partner and Founder

2004 – 2006

Pacific Gas and Electric Company

77 Beale Street

San Francisco, California 94105

Acting Director/Manager Renewable Power Generation (2005 – 2006)

In-House Counsel (2004 – 2006)

2002 – 2004

Stoel Rives LLP

555 Montgomery Street, Suite 1288

San Francisco, California 94111

Of Counsel

1994 – 2002

United States Department of Justice

Environment and Natural Resources Division

950 Pennsylvania Avenue, Northwest

Washington, DC 20530

Trial Attorney, Environmental Enforcement Section (1999 – 2002)

Trial Attorney, Environmental Crimes Section (1998 – 1999)
Assistant United States Attorney (1997 – 1998) (detail)
Honors Trial Attorney, Environmental Enforcement Section (1994 – 1997)

2000 – 2006
University of California, Berkeley School of Law
225 Bancroft Way
Berkeley, California 94720
Lecturer

2001 – 2002
Stanford Law School
559 Nathan Abbott Way
Stanford, California 94305
Teaching Fellow

2000 – 2001
Golden Gate University School of Law
536 Mission Street
San Francisco, California 94105
Adjunct Professor

1997 – 1998
Vermont Law School
164 Chelsea Street
South Royalton, Vermont 05068
Adjunct Professor, Semester in Washington Program

1995 – 1997
George Washington University Law School
2000 H Street, Northwest
Washington, DC 20052
Associate Professor

1993 – 1994
Justice Harry Lee Anstead
Florida Fourth District Court of Appeal
1525 Palm Beach Lakes Boulevard
West Palm Beach, Florida 33401
Judicial Law Clerk

1989 – 1990
Mohave High School
2251 Arizona 95
Bullhead City, Arizona 86442
High School English Teacher

Other affiliations (uncompensated)

2018 – present
Alameda Food Bank
P.O. Box 2167
Alameda, California 94501
Member, Board of Directors

2017 – 2024
Legal Access Alameda (formerly Volunteer Legal Services Alameda County)
548 Market Street
PMB 22692
San Francisco, California 94104
Judicial Liaison

2014 – 2024
Girls Incorporated of Alameda County
510 16th Street
Oakland, California 94612
Member, Board of Directors

2020 – 2024
Women Lawyers of Alameda County
P.O. Box 29362
Oakland, California 94604
Judicial Liaison to the Board

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

I did not serve in the military. I was not required to register for the selective service.

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

Rose Bird Memorial Award, California Women Lawyers (2024)

60th Anniversary Courageous Judge Honoree, National Judicial College (2023)

Alameda County Volunteer of the Year Award, Alameda County Office of Education (2023)

Alba Witkin Humanitarian Award, California Judges Foundation (2022)

Jurist of the Year Award, Women Lawyers of Alameda County (2015)

Judge *Pro Tem*, Alameda County (2005 – 2014)

Selected/retained for Mediation Panel by CA First District Court of Appeal (2001 – 2013)

Awarded Stanford Teaching Fellowship (2001)

United States Department of Justice

Special Achievement Award (2002)

Attorney General's Distinguished Service Award (2000)

Special Achievement Award (1997)

Admitted to Honors Program (1994)

Nova Southeastern University Law School

Graduated *cum laude* (1993)

Phi Delta Phi Honor Society (1993)

Law Review Editorial Board, Symposium Editor (1992 – 1993)

Book Award, Trial Advocacy (1992)

Law Review (1991 – 1992)

Goodwin Scholarship Recipient (1990 – 1993)

Honor Roll, University of Nevada, Las Vegas (1989)

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.

Alameda County Bar Association (2013 – 2024)

California Judges Association (2014 – present)

California State Bar Alternative Dispute Resolution Committee (2006 – 2009)

California Women Lawyers (2015 – present)

Charles Houston Bar Association (2020 – present)

International Association of Women Judges (2021 – 2023)

Judicial Council, Center for Judicial Education and Research (CJER)

Judicial Branch Access, Ethics, and Fairness Committee

Chair (2023 – present)

Member (2017 – 2023)
Qualifying Ethics Committee
Chair (2023 – present)
Member (2020 – 2021)

Legal Access Alameda (formerly Volunteer Legal Services Alameda County)
Judicial Liaison (2017 – 2024)

National Association of Women Judges (2017 – 2023)

Queen’s Bench (2013 – 2015)

Superior Court of California, County of Alameda
Alternative Dispute Resolution Committee (2017 – present)
Civil Committee (2017 – present)
Education Committee (2015 – present)
Co-chair (2019 – present)
Family Law Division Committee (2014 – 2017)
Executive Committee (2020 – 2021)

Women Lawyers of Alameda County
Judicial Liaison to the Board (2020 – 2024)

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, 1993
Florida, 1994

There have been no lapses in membership, although, because I am currently serving as a Superior Court Judge, I am not considered a licensee of the California State Bar while in office, and I have been on inactive status in Florida since 2000.

- 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, 1997
United States Court of Appeals for the Ninth Circuit, 1998
United States District Court for the Central District of California, 2009
United States District Court for the Northern District of California, 2003

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.

Alameda Association of Realtors (2003 – present)

Alameda Food Bank, Board Member (2018 – present)

Families with Children from China (2003 – 2011)

Girls Inc. of Alameda County, Board Member (2014 – 2024)

Additionally, from 2009 to 2021 I was a member of the PTAs for the public schools my children attended.

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

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

12. **Published Writings and Public Statements:**

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

Based upon my recollection, a thorough review of my files, and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are other materials that may be responsive to this request that I have been unable to recall or identify.

Think Outside the Prison, Daily Journal (Nov. 12, 2021). Copy supplied.

America's Judiciary Doesn't Look Like America, The Atlantic (Oct. 13, 2020). Copy supplied.

With Judge Monica F. Wiley, *Judicial Ethics and Independence Must Guide Judges Responses to Racial Injustice*, Daily Journal (July 31, 2020). Copy supplied.

Keep Judges Out of Politics, Daily Journal (Aug. 22, 2018). Copy supplied.

Judge: Gender Laws Are at Odds With Science, Time Magazine (Mar. 8, 2017). Copy supplied.

Vote No on Proposition 8, Letter to the Editor, Alameda Journal (Oct. 30, 2008). Copy supplied.

Book Review: Faces of Environmental Racism, 30 Ecology L.Q. 353-75 (2003). Copy supplied.

Personal Liability Promotes Responsible Conduct: Extending the Responsible Corporate Officer Doctrine to Federal Civil Environmental Enforcement Cases, 21 Stan. ENVTL. L.J. 283 (2002). Copy supplied.

An Uncommon Journey: Reflections on the Life of Mary McHenry Keith, published online at Stanford's Women's Legal History Biography Project (2002). Copy supplied.

Book Review: Enforcement at the EPA: High Stakes and Hard Choices, 4 ENVTL. LAW. 299 (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.

Based upon my recollection, a thorough review of my files, and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are other materials that may be responsive to this request that I have been unable to recall or identify.

April 18, 2024: Award recipient remarks, Women Lawyers of Alameda Spring Reception, Piedmont, California. Video supplied.

2015 – present: Graduation Speaker; Court Appointed Special Advocates (CASA) program, Hayward, California (in-person and virtual). Approximately six times since 2015 I have served as the speaker for the CASA graduation ceremony. Prior to 2020, the graduations were in-person; since then the ceremonies have been virtual. During those ceremonies I provided brief remarks regarding the importance of the CASA program to the court, community, and foster youth, and thanked CASA graduates for their public service. I do not have the exact dates of these events. I have no notes, transcripts, or recordings. The address of CASA Alameda County is 1000 San Leandro Boulevard, Suite 300, 1st Floor, San Leandro, California 94577.

2015 – present: Regular participant as a guest speaker in classrooms, including in the California judiciary's "Judges in the Classroom" program, which seeks to advance civics education in public schools. Approximately 15 times since 2015 I have served as a guest speaker (in person and via video) in elementary through high school classrooms throughout California (including Paden Elementary and Encinal High School in Alameda County), to talk about the importance of civic engagement, including question-and-answer sessions. On several occasions teachers have also brought students to visit my courtroom. I do not have the exact dates and locations of these events. I have no notes, transcripts, or recordings.

2015 – present: Guest speaker in undergraduate and law school classes. Approximately 10 times since 2015 I have served as a guest speaker at both undergraduate and law school classes (including the University of California Berkeley School of Law, the University of California Davis, and Stanford Law School) to discuss a range of topics including legal writing, public service, and

legal ethics. I do not have the exact dates and locations of these events. I have no notes, transcripts, or recordings.

2015 – present: Regular judge for mock trial and moot court competitions. Approximately 10 to 12 times since 2015 I have served as a guest judge for various high school through law school mock trial and moot court competitions (including the Alameda County Department of Education annual Philip A. Harley Memorial Mock Trial Competition for local high schools, and moot court competitions hosted by the University of California Berkeley School of Law and Golden Gate University School of Law). During those events, in addition to offering feedback to students, I discuss the importance of legal practice and civic engagement. Some of these events have been in my courtroom, in other courtrooms at the Alameda County Superior Court, in local schools, or in courtrooms in other counties. I do not have the exact dates of these events. I have no notes, transcripts, or recordings.

December 7, 2023: Panelist, State of the Courts Update, Association of Defense Counsel of Northern California and Nevada Annual Meeting, San Francisco, California. This was a panel discussion focused on administrative and procedural information for each of our courts. I have no notes, transcript, or recording. The address for the Association of Defense Counsel of Northern California and Nevada is 2520 Venture Oaks Way, Suite 150, Sacramento, California 95833.

November 15, 2023: Panelist, Inclusivity in the Courthouse, Alameda County Superior Court Community Outreach Committee, Department 1, René C. Davidson Courthouse, Oakland, California. This was a panel discussion on the path to a legal or judicial career, including a question-and-answer session for college and law school students, and local members of the bar. I have no notes, transcript, or recording. The address of the René C. Davidson Courthouse is 1221 Fallon Street, Oakland, California 94612.

September 16, 2022: Award recipient remarks, California Judges Association annual meeting, San Diego, California. I was the recipient of the Alba Witkin Humanitarian Award and made remarks regarding the importance, value, and rewards of public service. I have no notes, transcript, or recording. The address for the California Judges Association is 2520 Venture Oaks Way, Suite 150, Sacramento, California 95833.

February 14, 2022: Guest Speaker, Danville/Sycamore Valley Rotary Club Monthly Meeting (virtual). I spoke about how judges are appointed or elected in California. I have no notes, transcript, or recording. The address for the Danville/Sycamore Valley Rotary Club is 696 San Ramon Valley Boulevard, Danville, California 94526.

December 9, 2021: Panelist, CEQA Practice, Alameda County Bar Association (virtual). I spoke on a question-and-answer panel with two other judges regarding

procedures and practice related to the California Environmental Quality Act. I have no notes, transcript, or recording. The address for the Alameda County Bar Association is 548 Market Street, PMB 22692, San Francisco, California 94104-5401.

March 18, 2021: Webinar Panelist, Discovery Dispute Resolution and the Role of Informal Discovery Conferences, Alameda County Bar Association (virtual). I spoke with another judge in a moderated question-and-answer format regarding best practices for resolving discovery disputes. I have no notes, transcript, or recording. The address for the Alameda County Bar Association is 548 Market Street, PMB 22692, San Francisco, California 94104-5401.

2015, 2017, 2020, and 2021 (specific dates unknown): Panelist, Continuing Legal Education (CLE) Training, National Business Institute, Oakland, California. In each of these years I participated in moderated question-and-answer CLE judicial panels (typically three to five judges from local counties) regarding civil practice. I do not have the exact dates or locations of these events. I have no notes, transcripts, or recordings. The address for the National Business Institute is P.O. Box 3067, Eau Claire, Wisconsin 54702.

2015, 2017, and 2020 (specific dates unknown): Presenter, Volunteer Lawyer Training, Alameda County Bar Association, Oakland, California. In each of these years I provided training to local lawyers to prepare them for volunteering to assist self-represented parties in the Alameda Superior Court Family Law courtrooms. I do not have the exact dates of these events. I have no notes, transcripts, or recordings. The address for the Alameda County Bar Association is 548 Market Street, PMB 22692, San Francisco, California 94104.

October 13, 2017: Panelist, Hot Topics in Current Legal Challenges Facing LGBTQ Families, National Association of Women Judges 39th Annual Conference, Atlanta, Georgia. My best recollection is that I participated on a moderated question-and-answer panel with several people regarding the intersection between science, gender, and the law. I have no notes, transcript, or recording. The address for the National Association of Women Judges is 1001 Connecticut Avenue, Northwest, Suite 1138, Washington, DC 20036.

October 28, 2015: Award recipient remarks, Women Lawyers of Alameda County Judges' Dinner, Scott's Seafood Restaurant, Oakland, California. I made brief remarks expressing gratitude to the people who provided me with support and guidance throughout my life, including teachers, community members, colleagues, and staff. I have no notes, transcript, or recording. The address for Women Lawyers of Alameda County is P.O. Box 29362 Oakland, California 94604.

September 10, 2015: Luncheon speaker, Alameda County Bar Association, Oakland, California. The Alameda County Bar Association regularly invited new

judges to the ACBA office (then in Oakland) to meet with local members of the bar during lunch for an informal question and answer session regarding the judge's background and experience. I was the guest judge at this meeting. I have no notes, transcript, or recording. The address for the Alameda County Bar Association is 548 Market Street, PMB 22692, San Francisco, California 94104.

February 12, 2015: Speaker, Investiture of Noël Wise, Elks Lodge, Alameda, California. Remarks supplied.

2015 (specific date unknown): Presenter, State of the Family Law Bench in Alameda, Alameda County Bar Association, Family Law Section, Oakland, California. My best recollection is that several judges spoke at this annual meeting and provided a brief update regarding the status of the Family Law Division of the Alameda Superior Court. I have no notes, transcript, or recording. The address for the Alameda County Bar Association is 548 Market Street, PMB 22692, San Francisco, California 94104.

2011 (specific date unknown): Speaker, Negotiation and Mediation Strategies with Federal and State Agencies, Alameda County Bar Association, Oakland, California. My best recollection is that I was invited to speak at a continuing legal education program regarding best mediation practices and unique considerations when negotiating with governmental entities. I have no notes, transcript, or recording. The address for the Alameda County Bar Association is 548 Market Street, PMB 22692, San Francisco, California 94104.

2007 (specific date unknown): Panelist, Mediation Strategies in Complex Civil and Criminal Cases, California State Bar Environmental Law Conference, Yosemite, California. My best recollection is that I spoke on a moderated panel with several other lawyers at the annual environmental law conference. I do not recall the exact date of this conference. I have no notes, transcript, or recording. The address for California State Bar, Environmental Law Section is 845 South Figueroa Street, Los Angeles, California 90017.

2007 (specific date unknown): Panelist/Facilitator, Mediation Training for New Mediators, California Third District Court of Appeal, Sacramento, California. I conducted alternative dispute resolution training with two other lawyers to prepare attorneys to serve as volunteer mediators for the California Third District Court of Appeal. I have no notes, transcript, or recording. The address for the California Court of Appeal, Third Appellate District is 914 Capitol Mall, Sacramento, California 95814.

2004 (specific date unknown): Speaker, Trends in Civil and Criminal Federal Enforcement Actions Against Corporate Officers, Industrial Association of Contra Costa County, Concord, California. My best recollection is that I was invited to speak at an association lunch to discuss recent developments in environmental enforcement actions. I do not recall the exact location or date of

this training. I have no notes, transcript, or recording. The address for the Industrial Association of Contra Costa County is 56 Sand View Drive, Pittsburg, California 94565.

2003 (specific date unknown): Panelist, Enforcing United States Norms in International Venues Conference, University of California (UC) Law San Francisco (formerly UC Hastings), San Francisco, California. My best recollection is that I participated in a panel regarding how United States environmental law may apply in international venues. I have no notes, transcript, or recording. The address for UC Law San Francisco is 200 McAllister Street, San Francisco, California 94102.

2002 (specific date unknown): Panelist, Shaking the Foundations Annual Conference, Stanford Law School, Stanford, California. I was serving as a Teaching Fellow at Stanford Law School during this time. My best recollection is that I was invited to join a very large (perhaps a dozen people) moderated question-and-answer panel, regarding environmental law. I have no notes, transcript, or recording. The address for Stanford Law School is 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.

Based upon my recollection, a thorough review of my files, and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are other materials that may be responsive to this request that I have been unable to recall or identify.

Catherine Haley, *Interview with the Honorable Noël Wise*, The Verdict, Alameda-Contra Costa Trial Lawyers Association (Fall 2018). Copy supplied.

Alameda Food Bank, *Our Board*, <https://www.alamedafoodbank.org/our-team> (2016). Copy supplied.

Fiona Smith, *Judicial Profile: Noël Wise*, DAILY J. (Nov. 29, 2015). Copy supplied.

Inflection Point with Lauren Schiller (Sept. 17, 2015). Recording available at <https://www.inflectionpointradio.org/episodes/2015/9/15/episode-15-building-safe-communities-lmbz2>.

Maggie Sharpe, *Alameda: Attorney elevated to judgeship*, Contra Costa Times (Dec. 2014). Copy supplied.

Judicial Spotlight: Noël Wise, Alameda County Bar Association Blog (Dec. 2014). Copy supplied (reprinted in multiple outlets).

Joel A. Mintz, “*Neither the Best of Times Nor the Worst of Times*”: *EPA Enforcement During the Clinton Administration*, 35 ELR 10390 (June 2005). Copy supplied.

Joel A. Mintz, “*Treading Water*”: *A Preliminary Assessment of EPA Enforcement During the Bush II Administration*, 34 ELR 10933 (Oct. 2004). Copy supplied.

Jan Tenbruggencate, *Pflueger to Plead no Contest to Pollution*, Honolulu Advertiser (Mar. 19, 2004). 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 served as a Superior Court Judge on the Superior Court of California, County of Alameda since 2014. I was appointed to this position by Governor Jerry Brown in November 2014, and I took the oath of office in December 2014. I was elected without opposition to a successive six-year term in 2016, and again in 2022. The Superior Court of California is a court of general jurisdiction. Since December 2023, I have served as the Supervising Judge of Complex Civil matters.

For approximately three years I served (as an ancillary assignment) on the Alameda Superior Court’s Appellate Division (both as a panel judge and as the Presiding Judge). The Appellate Division of the superior court hears appeals of decisions in misdemeanor (criminal), infraction (Traffic), and limited civil cases. Finally, from December 2021 to October 2022 I sat *pro tem* for the California 2nd District Court of Appeal, Division 7.

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

I have presided over approximately 150 trials that went to verdict or judgment. The majority of those were in the Family Law Division, where there are only bench trials. In civil and complex civil matters, the trials are roughly equally split between bench and jury trials. Additionally, I presided over about a dozen trials where the parties settled before I issued a ruling or before the empaneled jury rendered a verdict.

Since my judicial appointment, I have presided over thousands of hearings, and estimate I have issued more than 10,000 written decisions that are substantive orders or final (appealable) judgments. I have also conducted approximately 500 settlement conferences. While serving on the Appellate Division, the panel on which I served issued approximately 290 decisions.

i. Of these cases, approximately what percent were:

jury trials:	15%
bench trials:	85%

ii. Of these cases, approximately what percent were:

civil proceedings:	100%
criminal proceedings:	0%

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

See attached list of citations.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Oakland Bulk & Oversized Terminal (OBOT) v. City of Oakland*, No. RG18930929 (Cal. Super.); 2023 WL 11567068 (Cal. Super. Nov. 22, 2023); 2023 WL 11567070 (Cal. Super. Dec. 22, 2023); 2024 WL 2131765 (Cal. Super. May 3, 2024); 2024 WL 2131766 (Cal. Super. May 3, 2024); 2024 WL 2745341 (Cal. Super. May 28, 2024).

This case involved a contract dispute concerning the redevelopment of an old army base located along the San Francisco Bay, in the City of Oakland (City). The City decided to use the land for a bulk commodity marine terminal (Project). The City and OBOT entered into a series of agreements for the Project, including a development agreement and ground lease. The City terminated the lease in 2018 and OBOT sued for breach of contract, more than \$100 million in damages, injunctive relief, and attorney's fees and costs. The City filed its own breach of contract action against OBOT. I presided over a bifurcated trial that lasted several months and issued a series of decisions that held (among other things) that the City breached the parties' contract, and OBOT had an additional two years and six months to perform the initial milestone under the contract. The case is ongoing.

Counsel for Plaintiff:

Barry W. Lee
Manatt, Phelps & Phillips, LLP
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
(415) 291-7400

Counsel for Defendant:

Danielle Leonard
Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
(415) 421-7151

2. *People v. Bortswick*, 2022 WL 3272302 (Cal. Ct. App. Aug. 11, 2022).

Defendant appealed the trial court's decision denying his motion for discharge from a California State hospital where he had been confined as a sexually violent predator (SVP). Defendant, who was 76 at the time of the appeal, had been convicted of five offenses under the SVP Act, beginning with two offenses in 1961, as well as offenses in 1966 and 1990, after the latter of which he was sentenced to 26 years in prison. Defendant's commitment was continued several times between 2010 and 2019 because two psychologists determined he was likely to engage in sexually violent predatory acts if released. During a 2020 bench trial the defense argued, with the support of expert testimony, that although defendant suffered from a pedophilic disorder, he was unlikely to reoffend based on his advanced age. I was sitting on assignment for the California 2nd District Court of Appeal and authored the opinion in which we affirmed the trial court's finding that defendant continued to meet the criteria for commitment and denied defendant's release from custody.

Counsel for Defendant/Appellant:

Gerald J. Miller
P.O. Box 543
Liberty Hill, TX 78642
(512) 788-4161

Counsel for Appellee:

Paul M. Roadarmel, Jr. (now listed as inactive on the California Bar website)
Steven D. Matthews
Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
(213) 269-6508

3. *People v. Murphy*, 80 Cal. App. 5th 713 (2022).

Defendant appealed after a jury found him guilty of three charges of second-degree murder. Defendant argued there was insufficient evidence to support his convictions because the prosecution failed to prove he acted with implied malice when, while under the influence of marijuana, he drove his car at nearly 90 miles per hour through a red light and collided with another vehicle, killing its

occupants. I was sitting on assignment for the California 2nd District Court of Appeal and authored the published opinion in which we concluded there was sufficient evidence to support the jury's verdict. Although there is not yet a commonly administered and standardized medical test (equivalent to the blood alcohol concentration test) that accurately determines a person's level of impairment from lipophilic, psychoactive drugs such as marijuana, there was substantial evidence that at the time of the accident the defendant was impaired from using marijuana. There was also substantial evidence that he acted with implied malice when he smoked marijuana with the intent to drive, and when he drove in a manner that demonstrated a conscious disregard for human life.

Counsel for Defendant/Appellant:

Stephen Michael Vasil
3693 Midway Drive, Suite B
San Diego, CA 92110
(619) 221-5933

Counsel for Appellee:

Theresa A. Patterson
Office of the Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
(213) 269-6004

4. *TransMart, Inc. v. San Francisco Bay Area Rapid Transit District*, No. RG17853926 (Cal. Super.), *aff'd*, 2022 WL 1301768, (Cal Ct. App. Apr. 29, 2022).

San Francisco Bay Area Rapid Transit District (BART) entered into a contract with TransMart, Inc. to develop retail, food, and delivery services at most BART stations. After many years of planning and pilot projects, BART terminated the contract. TransMart sued BART for breach of contract and more than \$100 million in alleged damages. I presided over the six-week jury trial in 2019. The jury returned a verdict in favor of BART.

Counsel for Plaintiff:

Darius Ogloza
David Friedman
Christopher Vincent
Ogloza Fortney + Friedman
255 California Street, Suite 1350
San Francisco, CA 94111
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Counsel for Defendant:

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5. *Crane v. R.R. Crane Investment Corp.*, 82 Cal. App. 5th 748 (2022).

Mr. Crane was a 50 percent owner of a family-owned business. He brought an action for involuntary dissolution of the company. To avoid corporate dissolution, his brother, who was the other 50 percent shareholder, invoked the statutory appraisal and buy-out provisions of the Corporations Code. The trial court valued Mr. Crane's shares at over \$6.1 million as of November 2017, which he received. Because more than three years elapsed from the time Mr. Crane filed his case until his shares were purchased, he contended on appeal that the trial court erred by failing to award him prejudgment interest for the intervening time. I was sitting on assignment for the California 2nd District Court of Appeal and authored the published opinion affirming the trial court decision. We concluded that the civil code section governing damages and prejudgment interest in civil cases does not apply to a buyout of shares to avoid involuntary dissolution of a corporation.

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Counsel for Appellee:

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George Stephan
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6. *People v. Moran*, No. 17-CR-024171; Appellate Division Case No. 5993 (Cal. App. Dep't Super. Ct. 2019). Copy supplied.

This was an appeal that I heard while sitting on the Alameda Superior Court's Appellate Division. This appeal primarily addressed whether the prosecutor's improper comment during closing argument regarding the defendant's failure to testify (in violation of *Griffin v. California*, 380 U.S. 609 (1965)), was prejudicial error that mandated a reversal of the defendant's conviction. We affirmed the defendant's conviction finding that the prosecutor's error was harmless beyond a reasonable doubt due to the overwhelming evidence of defendant's guilt of exhibiting a deadly weapon; reversed the trial court's issuance of a protective order; and transmitted our order to the district attorney to take corrective action to address the prosecutor's improper comment.

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Counsel for Appellee:

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7. *Great American Insurance Co. v. Mean Well Enterprises Co.*, No. RG17861027 (Cal. Super.). Order supplied.

This product liability case involved the "ChiliPAD," a water-filled mattress cover that could be used for heating or cooling. In 2014, ChiliPAD controller units allegedly caused two residential fires, the damages from which were paid by Great American Insurance Company, the insurance carrier for ChiliPAD. Great American sought indemnification from the manufacturer that supplied the controller units to their insured. I presided over a three-week jury trial that resulted in a defense verdict.

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Counsel for Respondent:

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8. *Nurie v. Nurie*, No. FF03-102572 (Cal. Super.). Decision supplied.

In 2002, the parties, both Pakistani citizens, married in the United States and had a son (Son). In 2003, Mother returned to Pakistan with Son and lived with her parents at their compound. Father held dual citizenship and traveled between Pakistan and the United States until the parties divorced in 2005. There were dramatically different accounts regarding how and why Son was removed from Mother at gunpoint in 2007 and returned to the United States. Father asserted he legally implemented United States custody orders with the assistance of United States and Pakistani authorities. Mother contended the removal was a kidnapping that resulted in an international warrant being issued for Father's arrest. Because Mother was not a United States citizen and Father was unwilling to facilitate contact between Son and Mother, Son had no contact with his mother for nearly a decade. When Mother sought to renew phone contact with Son, Father requested child support arguing that the court should impute income to Mother, Mother should be employed in Pakistan, and Mother should have the value of her housing and living expenses (provided by her parents) attributed to her for the purpose of calculating child support. Mother argued Father should pay for reunification counseling services, for her to travel to the United States to visit Son, and for her attorney's fees. I presided over a two-day trial during which Mother participated from Pakistan via Skype. I issued a statement of decision denying both parties' requests, except for Mother's request for attorney's fees.

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Counsel for Respondent/Mother:

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9. *Stovall v. Cox*, No. AF12639961 (Cal. Super.), *aff'd*, 2016 WL 1085392 (Cal. Ct. App. Mar. 21, 2016); 2017 WL 244845 (Cal. Ct. App. Jan. 20, 2017). Orders supplied.

This was a litigation-intensive family law case. The parties had a brief romantic relationship and broke up shortly after their son was born in 2011. When the case was transferred to my department in 2014, there had already been dozens of hearings and multiple trials on a range of issues including child support, custody, and the mother's move-away request. I spent a substantial amount of time over several years issuing orders with the goal of minimizing the frequency in which the parties were in court (e.g., appointed counsel for the minor; disqualified respondent's counsel (who is respondent's father, the minor's grandfather and was a witness in various events that potentially impacted custody of the minor); ordered a custody evaluation; and issued orders regarding where the minor would attend school through at least eighth grade). Father appealed three of my orders (disqualification of counsel, sanctions, and school selection), and in all three instances the First District Court of Appeal affirmed.

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Counsel for the Minor:

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10. *Bajaj v. Agarwal*, AF14737396 (lead case) and related cases AF14737393, AF14737395 and RG14737686 (Cal. Super.).

This was a child abduction and domestic violence case involving three generations of a closely-knit, wealthy family. In 1998 the grandparents insisted that their son and his wife (Mr. and Mrs. Agarwal) give their youngest daughter, E, to Mr. Agarwal's sister and her husband (Mr. and Mrs. Bajaj), who did not have children. The Agarwals reluctantly agreed. The adoption was finalized in Alameda County in 1999. For many years E did not know that her uncle and aunt were her biological parents and that her cousins were her biological siblings. When E was 16 and was having a minor conflict with her parents, Mr. Agarwal orchestrated an elaborate plan (multiple lawyers throughout California, hotels, burner phones, and a request for a restraining order in Los Angeles by E against her adoptive father based on false allegations of abuse) with the goal of E living with Mr. and Mrs. Agarwal. Ultimately, E was returned to Alameda County and Mr. and Mrs. Bajaj sought a restraining order against Mr. and Mrs. Agarwal and the grandparents. Collectively, the parties spent more than \$10 million in litigation costs. The case was not assigned to me, but in 2015 I served as a settlement judge and spent multiple days with the parties and their lawyers and facilitated a full agreement that resolved the parties' litigation in several jurisdictions.

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Oakland Bulk & Oversized Terminal (OBOT) v. City of Oakland*, No. RG18930929, 2023 WL 11567068 (Cal. Super. Nov. 22, 2023).

Counsel for Plaintiff:

Barry W. Lee
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Counsel for Defendant:

Danielle Leonard
Altshuler Berzon LLP
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San Francisco, CA 94108
(415) 421-7151

2. *Oakland Bulk & Oversized Terminal (OBOT) v. City of Oakland*, No. RG18930929, 2023 WL 11567070 (Cal. Super. Dec. 22, 2023).

Counsel for Plaintiff:

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3. *Crane v. R. R. Crane Investment Corp.* 82 Cal. App. 5th 748 (2022).

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4. *People v. Bortswick*, 2022 WL 3272302 (Cal. Ct. App. Aug. 11, 2022).

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5. *People v. Murphy*, 80 Cal. App. 5th 713 (2022).

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6. *Missinato v. Missinato*, 2022 WL 1124871 (Cal. Ct. App. Apr. 15, 2022).

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7. *Pacific Merchant Shipping v. Newsom*, No. RG20058975 (Cal. Super.), *aff'd*,
67 Cal. App. 5th 711 (Aug. 10, 2021). Decision supplied.

Counsel for Petitioner:

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8. *Nurie v. Nurie*, No. FF03-102572 (Cal. Super.). Decision previously supplied in response to Question 13c.

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Counsel for Respondent/Mother:

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9. *Oravetz v. Marino*, No. HA16832145 (Cal. Super.). Decision supplied.

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10. *Stovall v. Cox*, No. AF12639961 (Cal. Super.), *aff'd*, 2016 WL 1085392 (Cal. Ct. App. Mar. 21, 2016), 2017 WL 244845 (Cal. Ct. App. Jan. 20, 2017).
Orders previously supplied in response to Question 13c.

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

To the best of my knowledge and based upon a review of my records and publicly available legal databases, certiorari has not been requested in any of my cases.

- 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.

Save Berkeley's Neighborhoods v. Regents of University of California, No. RG18902751 (Cal. Super.), *rev'd*, 51 Cal. App. 5th 226 (2020), *rev. denied*, Docket S263673 (Cal. Sept. 9, 2020). A community group sued The Regents of University of California asserting the Regents' discretionary decision to increase student enrollment at the University of California, Berkeley constituted a "project" that required environmental review under the California Environmental Quality Act (CEQA). I sustained The Regents of the University of California demurrer without leave to amend. In issuing that order I interpreted Pub. Res. Code 21080.09(a)(2) and concluded that the Long-Range Development Plan for the University of California at Berkeley is "a physical development and land use plan," and decided that "any discrepancies between the estimated changes in enrollment levels and the actual enrollment levels in subsequent years are not themselves project or program changes that require subsequent CEQ[A] review." The Court of Appeal reversed, holding that I had misinterpreted Pub. Res. Code 21080.09 and that "The statute does not shield public universities from complying with CEQA when they make discretionary decisions to increase enrollment

levels.” The Regents requested review. The California Supreme Court denied certiorari. On remand a different trial judge in Alameda entered an order directing the Regents “to suspend any further increases in student enrollment at UC Berkeley ... until [the Regents] have demonstrated full compliance with this Judgment.” *Save Berkeley’s Neighborhoods v. Regents of University of California*, 91 Cal. App. 5th 872, 883 (2023). The state legislature then approved Senate Bill 118, which amended § 21080.09, subdivision (d) to state, “Enrollment or changes in enrollment, by themselves, do not constitute a project.” Thus, although the Court of Appeal reversed my order, the Legislature in SB 118 incorporated my conclusion into its statutory amendment.

Willis v. Superior Court of Alameda County, 2021 WL 5998574 (Cal. Ct. App. Dec. 20, 2021). Alameda County No. RG17866531. I granted a change of venue motion during the pandemic finding that that the proper venue for claims stemming from a jet ski accident at Lake Tahoe was in El Dorado County, which is the county where the accident occurred. I acknowledged, in my analysis of the relevant statute, that I could not “determine what delay might result from changing venue to El Dorado” because I lacked “comparative information regarding Alameda and El Dorado on courtroom availability, caseloads, funding, staffing, backlogs, or other relevant issues.” The Court of Appeal quoted much of my legal analysis on whether the court should consider whether a change in venue would delay the case. The Court of Appeal reversed, finding the defendant had the burden of proof on the motion and did not meet its burden of proving that transferring the case to El Dorado would cause only a minimal delay.

Stone v. Alameda Health System, 88 Cal. App. 5th 84 (2023) [on review, S279137]. Alameda County, No. RG21092734. I sustained Alameda Health System’s demurrer without leave to amend, concluding as a matter of statutory construction that a county-owned hospital is a public entity and therefore not subject to certain provisions of the Labor Code. The Court of Appeal reversed. Alameda Health System sought review and certiorari was granted. The case has been fully briefed and the California Supreme Court heard oral arguments on June 4, 2024.

Additionally, I am aware that there are four other appellate cases that purport to review one of my orders or decisions in which I was not the judge who issued the order that was appealed, and my name is therefore incorrectly referenced. Those four cases are:

Garcia-Brower v. Premier Automotive Imports of CA, LLC, 55 Cal. App. 5th 961 (2020). Judge Roesch presided over the trial and on November 28, 2018, Judge Roesch orally granted the defendant’s motion for nonsuit at the close of plaintiff’s case. On February 13, 2019, Judge Roesch entered a written order granting the motion for nonsuit, which was the subject of appeal. In the interim, the case was transferred to my department.

Reck v. FCA US LLC, 64 Cal. App. 5th 682 (2021). On July 26, 2018, the case was assigned to Judge Grillo for trial. My only role in the case was as the judge who presided over a mandatory settlement conference on August 1, 2018, during which the parties reached a full agreement on the claims, and agreed to resolve attorney's fees by motion if they could not otherwise reach an agreement. On March 13, 2019, plaintiff filed a motion for attorney's fees. On May 9, 2019, Judge Grillo issued an order granting plaintiff's motion in part. That order was the subject of the appeal.

Vought Construction Inc. v. Stock, 84 Cal. App. 5th 622 (2022). I presided over a court trial and issued a judgment on December 10, 2021. I then began serving on assignment at the California Second District Court of Appeal, and I had no further role in the case. The case was transferred to Judge Markman. The plaintiff filed a motion for costs. Judge Markman denied that motion, which was the subject of the appeal.

Benedetto v. Wisch, 2023 WL 7102020 (Cal. Ct. App. Oct. 27, 2023). In early 2021, the case was reassigned from me to Judge Whitman. I had no further role in the case. She presided over the trial and entered judgment, which was the subject of the appeal.

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

I estimate that I have issued more than 10,000 written decisions that are substantive orders or final (appealable) judgments. As a California State Superior Court judge, all my written opinions are unpublished unless a party or the court submits a matter for publication, in Westlaw or Lexis. The Alameda Superior Court does not maintain any readily accessible and searchable database of my written decisions. During the 11 months I served on the California Second District Court of Appeal, all the decisions which I authored or joined have citations to either a reporter or to Westlaw or Lexis.

- 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 have not issued any significant written opinions on federal or state constitutional issues.

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

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

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

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

California Code of Civil Procedure (CCP) § 170.6 allows for any party or attorney to an action to file a peremptory challenge against any judicial officer. No showing of actual bias need be made under CCP § 170.6. (A different section of the CCP, § 170.1, governs challenges for cause.) Recusal under CCP § 170.6 is mandatory if the proponent of the motion meets the procedural standards set forth under that section. I am unaware of the number of peremptory challenges that have been filed against me, as our court does not maintain a list of those challenges.

I am not aware of any list that our court maintains regarding standing judicial conflicts. Each time I see a case for the first time, whether it was assigned to me when the case was filed or transferred to me at a later point in the litigation, I check the court docket to determine whether I have any potential conflict with the parties or counsel of record.

Based upon my recollection, a thorough review of my files, and inquiry to our court's executive office, I believe on four occasions since 2014 I have been asked to recuse myself for cause pursuant to CCP § 170.1. It is possible there are additional occasions that I have been unable to recall or identify. In the *Alacarez* and *Wood* matters, the procedure I used to determine whether to recuse myself included reviewing the challenge (as well as the record and all supporting documentation), meeting with a legal research attorney who independently reviewed the challenge and the record to advise the court, reviewing the judicial canons, analyzing and applying the applicable law regarding recusal, and issuing a written order. I did not use that procedure in the *Taylor* matter, because, as described below, the challenge was withdrawn. I also did not use that procedure in the *Drevaleva* matter because the challenge was stricken as untimely. The four instances in which my recusal was sought are as follows:

In *Alacarez v. Altezza Condo LLC*, No. RG18-890767, a self-represented litigant filed a CCP, § 170.1 challenge against me primarily asserting that I demonstrated bias by requiring him to be under oath while testifying. It is the court's practice for all witnesses to testify under oath, irrespective of whether they are self-represented or represented by counsel. I therefore issued an order striking the challenge.

In *Taylor v. MacIntyre*, No. RG15795527, the jury trial that had been ongoing for numerous weeks was disrupted on March 19, 2020, when the Governor issued a stay-at-home order due to the COVID pandemic. I ordered that trial would resume on July 13, 2020. On July 1, 2020, all jurors and alternates informed the court they would return on that date and were prepared to continue with trial. Defendants made an oral motion for mistrial asserting various concerns regarding the direct and indirect impacts on the jurors based on the pandemic. I denied that motion. The following day defendants filed a CCP, § 170.1 challenge against me, but it was not served until July 8, 2020. Meanwhile, defendants also filed a petition for writ of mandate and request for stay at the California First District Court of Appeal. I informed the parties that the court would respond to the challenge within the ten-day time frame allotted by statute, but the trial would resume on July 13, 2020, as scheduled. On July 13, 2020, the Second District Court of Appeal denied defendants' petition. Defendants withdrew their CCP, § 170.1 challenge against me and settled the case.

In *Drevaleva v. Alameda Health System*, No. RG20-066898, I dismissed Ms. Drevaleva's case against the defendant. Ms. Drevaleva, who has been designated a vexatious litigant in California, then attempted to file a CCP, § 170.1 challenge against me, which was stricken as untimely because the case was already disposed.

In *Wood v. Maleev*, No. RG19033563, defense counsel filed a CCP, § 170.1 challenge against me after I issued an order regarding a discovery dispute that was favorable for the plaintiff. Because legal rulings are not a valid basis for a challenge for cause in California, I struck the challenge. Defendant filed a petition for a writ of mandate, which was denied by the First District Court of Appeal. The California Supreme Court also denied defendant's petition for review.

Additionally, I recused myself sua sponte in at least two matters when I was in family court. In those cases neighbors who I knew well were getting divorced and in each instance their case was assigned to my department. I also recused myself several years ago during my civil assignment when another neighbor and friend was in a contract dispute with a building contractor. I do not recall the names or case numbers for any of those matters.

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.

Aside from serving as a Superior Court judge, I have not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

Additionally, a local blog reported in January 2008 that my name was in consideration for a seat on the City of Alameda planning board. I may have filled out an interest form, but I do not have a specific recollection of doing so. To the best of my recollection, I told a local attorney that I would be willing to be considered if the City council did not otherwise have enough people to participate. I have no other recollection regarding this committee.

- 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.

To the best of my knowledge and recollection the only role I have ever played in any political campaign was for then-Vice President Al Gore's presidential campaign in 2000. I signed up to volunteer at two events where Vice President Gore was speaking. My role was to check in registered guests at the entrance desk. I believe one of those events was held at an office building in downtown San Francisco, and the other event was at a private home somewhere in or near Palo Alto. I did not have a title, and I had no other responsibilities.

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 1993 to 1994, I served as a law clerk to the Honorable Harry Lee Anstead who was then a Justice on the Florida Fourth District Court of Appeal.

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

I have not practiced law alone.

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

of your affiliation with each;

1994 – 2002

United States Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, Northwest
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Trial Attorney, Environmental Enforcement Section (1999 – 2002)

Trial Attorney, Environmental Crimes Section (1998 – 1999)

Assistant United States Attorney (1997 – 1998) (detail)

Honors Trial Attorney, Environmental Enforcement Section (1994 – 1997)

2002 – 2004

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2004 – 2006

Pacific Gas and Electric Company
77 Beale Street
San Francisco, California 94105
Acting Director/Manager Renewable Power Generation (2005 – 2006)
In-House Counsel (2004 – 2006)

2006 – 2014

Wise Gleicher
2233 Santa Clara Avenue
Alameda, California 94501
Partner and Founder

2014 – present

Superior Court of California, County of Alameda
County Administration Building
1221 Oak Street
Oakland, California 94612
Supervising Judge, Civil Complex Litigation (2023 – present)
Judge Civil Division (2023)
Judge *Pro Tem*, California 2nd District Court of Appeal, Division 7 (2021
– 2022)
Judge Civil Division and Acting Supervising Judge, Civil Division (2018
– 2021)
Supervising Judge, Appellate Division (2019 – 2021)
Panel Judge, Appellate Division (2018 – 2019)
Assistant Supervising Judge, Family Law Division (2017)
Judge, Family Law Division (2014 – 2016)

- 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 first began participating in alternative dispute resolution (ADR) as counsel representing the United States in approximately 1994. Several years later I started teaching negotiation skills and ADR at the United States Department of Justice National Advocacy Center. I received formal training as a mediator in 2001 when I began serving as a mediator for the California First District Court of Appeal. I served in that capacity for approximately a dozen years, mediating about three cases each year. Most of those cases resulted in a full or partial settlement. During that time I also participated in training new mediators for the California Third District Court of Appeal mediation program.

It has been more than a decade since I conducted those mediations, and (with one exception, noted below) I did not maintain any of the related records because they were confidential to the parties. I cannot specifically recall the facts of any of the mediations that I conducted as a lawyer. Generally, I recall that the Third District both referred me cases that were within my subject area (e.g., land use, environmental law, contract disputes, etc.), as well as many that were outside my typical areas of practice at that time (e.g., landlord/tenant, insurance, personal injury, and probate). I recall that my mediations often included multiple parties with diverse interests (e.g., developers, non-governmental organizations, municipalities and/or government agencies).

In my files I located a summary of one mediation that I used for teaching purposes. The case was *Kraemer v. Aguilar* (Case No. A116744), which was on appeal from numerous related underlying legal actions. In 1998 the defendants leased commercial property in Fremont from the plaintiff (the property owner). Defendants began operating a restaurant and nightclub at the property. In March 2006 the City of Fremont filed a complaint for injunctive relief against both the property owner and the defendants primarily asserting that from 2004 to 2006 the location had become a public nuisance, and that city was incurring unnecessary costs and undue risk at the property. The Fremont police regularly responded to calls at the property for fights that occurred in the parking lot and inside the club, excessive noise, gunshots, robbery, etc. In June 2006 the plaintiff filed an unlawful detainer action against the defendants for nuisance. In December 2006 the plaintiff filed a second unlawful detainer action against the defendant for non-payment of rent. Issues related to all those matters were on appeal. The mediation resulted in a confidential settlement agreement that resolved all the outstanding legal issues with the parties.

b. Describe:

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

The nature of my law practice prior to becoming a judge varied significantly over the years. After graduating from law school in 1993, I served as a law clerk to Justice Anstead on the Florida Fourth District Court of Appeal.

In 1994, I entered the United States Department of Justice through the Honors Program, where I worked until 2002. During my service I had four different roles.

From 1994 to 1997, I worked as a Trial Attorney at the Environmental Enforcement Section in Washington, DC. I had first-chair responsibilities for all aspects of nationally significant civil environmental cases (including Clean Air Act, Comprehensive Environmental Response, Compensation and Liability Act, Clean Water Act, National Environmental Policy Act and the Resource Conservation and Recovery Act and parallel state laws) from inception through trial or settlement. I prepared and argued motions in federal district courts, conducted discovery, planned and implemented trial and settlement strategies, and engaged in ADR. I worked cooperatively with federal and state agencies throughout the United States and developed relationships with management and staff at those organizations including numerous state attorney generals' offices, state environmental protection agencies, and state and regional air resources and water boards. In addition, I participated in recruiting, hiring, training, and supervising new attorneys and law clerks, and served on the DOJ Honors Attorney hiring panel.

From 1997 to 1998, I served as an Assistant United States Attorney when then-Attorney General Reno sent me to the United States Attorney's Office for the Southern District of California, as part of a temporary staff exchange. While serving as an AUSA, I prepared all aspects of criminal cases, including narcotics and human trafficking, from inception through jury trial or plea. I drafted and argued motions in the United States District Court for the Southern District of California; researched and wrote motions, trial briefs and sentencing memoranda; investigated cases and sought indictments from the federal grand jury; planned and implemented trial strategies; and supervised new AUSAs during their first jury trials. I also worked on three appeals before the Ninth Circuit.

In 1998, I returned to Washington, DC and began working at the Environmental Crimes Section at DOJ, where I served until 1999. During

that time I prepared all aspects of criminal cases from indictment or information through jury trial or plea. My duties included researching, writing, and arguing motions in federal district courts throughout the United States and investigating cases and presenting witnesses and evidence to federal grand juries. I worked closely with numerous federal law enforcement agencies, including the FBI and the criminal investigative unit of EPA. While at the Environmental Crimes Section I received the Attorney General's Distinguished Service Award in recognition of service provided in the investigation, litigation and successful plea negotiations in a precedent setting case concerning the illegal storage and transportation of hazardous materials on passenger aircraft.

From 1999 to 2002, I worked at the DOJ Environmental Enforcement Section field office located in San Francisco, California. My duties were similar to those that I had from 1994 to 1997. However, I primarily focused on large, complex cases that had stalled in settlement. While at the Environmental Enforcement Section I facilitated a settlement of approximately \$660 million in one of the largest privately funded environmental clean-up cases in DOJ history at that time.

From 2002 to 2004, I was Of Counsel at Stoel Rives. I advised corporate clients in a variety of practice areas including civil and criminal environmental law, land-use, energy, complex litigation, investigations, and grand jury inquiries, and also litigated and settled civil and criminal cases in federal and state courts. The majority of my time was spent negotiating and drafting complex contracts (e.g., transactional, finance, and waste-handling) and civil and criminal settlement agreements primarily related to: environmental enforcement actions; land-use; air, water quality and storm water permits and violations; hazardous material storage, handling and reporting; and supplemental environmental or other penalty mitigation projects. I worked collaboratively and successfully with federal and state agencies, cities and citizen groups including U.S. DOJ, EPA, the California Department of Toxic Substances Control, State and Regional Air Resources and Water Boards, and non-governmental organizations. A smaller portion of my practice included providing private mediation services for individuals, corporations, and governmental entities. Finally, I presented at various symposia on compliance, litigation, environmental, and ADR issues.

From 2004 to 2006, I worked at PG&E as both in-house counsel and as the Acting Director/Manager of Renewable Power Generation. As in-house counsel I advised internal PG&E clients and corporate directors on policy and compliance on a range of legal issues including energy, environmental law, safety, contracts, land-use, and general litigation. I managed cases in state and federal courts, at the Federal Energy

Regulatory Commission, and the California Public Utilities Commission. I negotiated complex contracts, agreements, and settlements with other utilities, private companies, citizen groups, cities, federal and state governmental entities, and non-governmental organizations. I also hired and supervised outside counsel. As the Acting Director/Manager of Renewable Power Generation, I predominately managed hydroelectric power generation resources and projects. I also hired, managed, and evaluated technical and project management employees and forecast and managed project budgets.

From 2006 until I was appointed as a judge in 2014, I worked as a partner of Wise Gleicher, which I co-founded. I primarily counseled and represented municipal, utility, and corporate clients regarding legal, strategy and policy issues focused on: environmental law (California Environmental Quality Act, Clean Air Act, Clean Water Act, National Environmental Policy Act, hazardous waste statutes, etc.) and safety; energy; land-use; general litigation; compliance with federal and state regulations; project licensing and permitting; and management and clean-up of contaminated sites. I also negotiated and drafted complex settlement agreements and commercial contracts. I worked with staff and management at federal and state regulatory and enforcement agencies including the United States Environmental Protection Agency, United States Department of Justice, State and Regional Air Resources and Water Boards, California Department of Fish and Wildlife, as well as citizen groups, cities, Native American tribes, and non-governmental organizations. I assisted clients with managing, developing, and licensing renewable and traditional energy projects, including compliance with applicable federal and state environmental laws. I also managed litigation in state and federal courts and other administrative venues (Federal Energy Regulatory Commission and the California Public Utilities Commission), including litigation strategy, drafting, and editing briefs and making court appearances.

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

As a Trial Lawyer and Assistant United States Attorney for the United States Department of Justice from 1994 to 2002, my client was the United States, and my areas of specialization were criminal law and environmental law (both civil and criminal).

As Of Counsel at Stoel Rives from 2002 to 2004, my typical clients were manufacturing companies, farming and lumber companies, winemaking companies, developers, and public entities. My areas of specialization were land use, environmental law and compliance, contracts, zoning, and real estate.

As in-house counsel, and as the Acting Director/Manager of Renewable Power Generation at PG&E from 2004 to 2006, my client was PG&E. My areas of specialization were renewable energy, environmental law and compliance, contracts, zoning, land use, and corporate law.

As a partner at Wise Gleicher from 2006 to 2014, my typical clients were public entities and corporations. My areas of specialization were renewable energy, environmental law and compliance, contracts, zoning, land use, real estate, and corporate law.

- 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.

Prior to becoming a Superior Court Judge, I was an experienced litigator. During the years I served at the United States Department of Justice (1994 – 2002), my practice was 100 percent litigation. Specifically, at the Environmental Enforcement Section, 100 percent of my practice was civil litigation, and I appeared in federal courts around the country approximately twice a month. During the time I served as an Assistant United States Attorney and as a Trial Lawyer in the Environmental Crimes Section, 100 percent of my practice was criminal litigation, and I appeared in federal court regularly, often daily at the United States District Court for the Southern District of California.

While working as Of Counsel at Stoel Rives from 2002 to 2004, approximately 30 percent of my practice was civil litigation, and I appeared in court approximately twice a month.

As in-house counsel and the Acting Director/Manager of Renewable Power Generation at PG&E, approximately 10 percent of my practice was litigation, and I appeared in court or at other hearings (e.g., the Public Utilities Commission, and the Federal Energy Regulatory Commission) approximately once a month.

As a partner at Wise Gleicher, approximately 30 percent of my practice was devoted to litigation, and I occasionally appeared in court or at other administrative hearings.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 95% |
| 2. state courts of record: | 2% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 3% |

- ii. Indicate the percentage of your practice in:

- | | |
|-----------------------|-----|
| 1. civil proceedings: | 80% |
|-----------------------|-----|

2. criminal proceedings: 20%

- 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.

As a lawyer I estimate that I tried approximately 12 to 15 cases to verdict or judgment. My best recollection is that three of the cases were civil non-jury cases and the rest were criminal jury trials. In one of the civil cases I had co-counsel and each of us had a roughly equal role. In two of the criminal cases I was training a new Assistant United States Attorney. In all the other cases I was the sole counsel.

- i. What percentage of these trials were:
- | | |
|--------------|-----|
| 1. jury: | 80% |
| 2. non-jury: | 20% |

- 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 did not practice before the Supreme Court of the United States.

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

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

1. *Drum-Spaulding Project*, Federal Energy Regulatory Commission Project No. 2310-173

I represented PG&E in the relicensing of its Drum-Spaulding Project with the Federal Energy Regulatory Commission (FERC). The project is in Northern California and includes 29 reservoirs; dozens of rivers and water conduits; 12 powerhouses with an

installed capacity of 191.5 megawatts; and appurtenant facilities and structures, including recreation facilities. The project is hydraulically interconnected with a smaller project (the Yuba Bear Hydroelectric Project) that is owned and operated by Nevada Irrigation District (NID) and provides consumptive and irrigation water as well as peaking power to thousands of customers. During the relicensing process FERC described the combined PG&E Drum-Spaulding and NID Yuba Bear projects as the most physically and operationally complex hydroelectric projects in the United States. From 2007 to 2014, I worked with PG&E and approximately 100 other relicensing participants and stakeholders (including federal and state agencies, non-governmental organizations, Native American tribes, cities, and individual community members) to reach agreement on PG&E's licensing process and terms (e.g., scope of studies, cultural resource identification, stream flows, environmental measures, recreation facilities, etc.). During that time I participated in more than 100 settlement meetings among the relicensing participants, appeared at FERC hearings, and assisted in filing more than 35,000 pages of supporting materials with FERC, including the April 2011 final license application that incorporated hundreds of terms, including stream flows that were agreed upon by the relicensing participants.

Dates of Representation:

2007 – 2014

Judge:

Federal Energy Regulatory Commission

Co-Counsel:

John Whittaker
Winston & Stawn LLP
1700 K Street, Northwest
Washington, DC 20006
(202) 282-5766

Counsel for Other Parties:

The distribution list for the project included approximately 275 individuals and entities. Most of those contacts did not actively participate in the settlement negotiations but had an interest in monitoring the project filings. Of the approximately 25 participants who actively participated in the daily/weekly settlement negotiations, nearly all those individuals were technical (and not legal) staff or management from the various federal and state agencies and non-governmental organizations.

The only lawyer I can recall who periodically participated in negotiations for the Final License Amendment was Jeffrey Meith, who represented NID. Mr. Meith's contact information is:

Jeffrey Meith (now listed as inactive on the California State Bar website)
Minasian Law Offices
P.O. Box 1679

Oroville, CA 95965
(530) 533-2885

2. *KB Gardena Building LLC v. Whittaker Corp. et al.*, 5:08-CV-00600-RWG-PJW
(C.D. Cal.)

I represented American Racing Equipment, LLC in this Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cost recovery and contribution case. The plaintiffs were the owners of a large industrial warehouse built in 1972 in Gardena, California. In approximately 2005, the plaintiffs discovered that soil and groundwater at the property were contaminated with volatile organic compounds including PCE, vinyl chloride, and heavy metals including copper, lead, zinc, cadmium, and chromium. The plaintiffs filed an action in federal court and sued six defendants for the costs to remediate the property and groundwater, an effort that was estimated to cost between \$10 and \$20 million. American Racing (an entity formed in 2008) was sued for contribution as the alleged successor in interest to a wheel manufacturer that leased a portion of the property for about two years beginning in 1975. I participated in all aspects of this case, including drafting pleadings, discovery, and settling this case on behalf of American Racing after prevailing on a partial summary judgment motion that I researched, wrote, and argued in 2011. The remaining parties settled the case in 2013.

Dates of Representation:

2009 – 2012

Judge:

Judge Robert W. Gettleman

Co-Counsel:

David A. Giannotti
Early Sullivan Wright Gizer & McRae LLP
6420 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048
(310) 962-6107

Counsel for Plaintiffs:

Barry J. MacNaughton
Kimberly D. Lewis
Ervin Cohen & Jessup LLP
9401 Wilshire Boulevard, 12th Floor
Beverly Hills, CA 90212
(310) 281-6342

Counsel for Other Defendants:

Defendant Whittaker Corporation:

Michael E. Gallagher

Edlin Gallagher Huie & Blum
515 S. Flower Street, Suite 1020
Los Angeles, CA 90071
(213) 412-2666

Defendant Brasscraft Manufacturing Company:
Elizabeth M. Weaver
Norton Rose Fulbright
555 South Flower Street, 41st Floor
Los Angeles, CA 90071
(213) 892-9290

Amber S. Finch
Reed Smith
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071
(213) 457-8000

Defendant Van Bastelaar:
Bernhard E. Bihr
Veatch Carlson
1055 Wilshire Boulevard, Floor 11
Los Angeles, CA 90017
(213) 381-2861

Defendants the Senters:
Karol H. Ingber
Ingber & Associates
30101 Agoura Court, Suite 119
Agoura Hills, CA 91301
(818) 483-9595

Defendants Black, Kaplan and KB Management Company:
David Wood
Wood Smith Henning & Berman LLP
10960 Wilshire Boulevard, 18th Floor
Los Angeles, CA 90024
(310) 481-7601

Defendant Hale:
Robert L. Handler
Blank Rome LLP
2029 Century Park East, 6th Floor
Los Angeles, CA 90067
(424) 239-3477

Todd M. Lander
Rosen Saba LLP
2301 Rosecrans Avenue, Suite 3180
El Segundo, CA 90245
(310) 282-1727

3. *United States v. Chevron Environmental Management Company, et al.*, 01-11-162-RSWL (C.D. Cal.)

Operating Industries, Inc. (OII) is a 190-acre landfill located in Monterey Park, California, intersected by the Pomona Freeway. During the years the landfill operated, 1948 to 1984, nearly 4,000 companies used it to dump approximately 300 million gallons of hazardous commercial, residential, and industrial waste that contaminated the air, groundwater, and soil, posed a fire risk, and threatened the health of nearby residents. The OII landfill stopped operating after the State of California placed it on the California Hazardous Waste Priority List. EPA placed the site on Superfund's National Priorities List in May 1986. Beginning in 1989, EPA started working with OII's largest waste contributors to develop a remediation strategy. Seven interim consent decrees were entered over the next decade. I represented the United States, and my task was to work with the parties to develop the final settlement and remediation agreement. That consent decree was approved by the court in 2002 and included numerous components (monitoring landfill liquids, groundwater cleanup, operating and maintaining environmental control systems, payment for past and future oversight costs, etc.). According to EPA, as of 2002, this was the largest privately funded Superfund remediation settlement in the country, valued at more than \$600 million.

Dates of Representation:

2000 – 2002

Judge:

Judge Ronald S.W. Lew (deceased)

Co-Counsel:

Aurthur Haubenstock (formerly at U.S. EPA)
U.S. Department of Energy
1000 Independence Avenue, Southwest, Suite 4F-033
Washington, DC 20585

Counsel for Defendants:

Although there were more than a hundred lawyers, both in-house and outside counsel, who represented the more than 200 defendants that were included in the consent decree, the defendants negotiated the consent decree through a steering committee. That committee was represented by:

David A. Giannotti
Early Sullivan Wright Gizer & McRae LLP

6420 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048
(310) 962-6107

4. *United States v. AMR Corp., et al.*, 1:99-CR-00902-SH-1 (S.D. Fla.)

AMR Corporation, the holding company for American Airlines, pleaded guilty to illegally storing hazardous waste at the Miami International Airport. AMR admitted that in 1995 its employees extinguished a fire caused by a chemical spill, then for more than three years illegally stored the remaining 100 pounds of the chemical at the airport. AMR also admitted its violation of the Resource Conservation and Recovery Act was part of a 5-year pattern of conduct. AMR agreed to pay a fine of \$6 million and an additional \$2 million as community service, which AMR paid to the Miami-Dade County Fire Department's hazardous materials response unit. The plea, which was entered in the Federal District Court for the Southern District of Florida, was the first time a major air carrier pleaded guilty and accepted responsibility in a hazardous-waste case. At the time, the case was the largest criminal penalty related to hazardous materials in the history of U.S. aviation. I represented the United States and participated in all aspects of this case from the investigation through the plea negotiations. Attorney General Janet Reno awarded each of the people on our legal team the Attorney General's Distinguished Service Award for our efforts on this case.

Dates of Representation:

1998 – 1999

Judge:

Judge Shelby Highsmith (deceased)

Co-Counsel:

Eloisa D. Fernandez
United States Attorney's Office
Southern District of Florida
99 Northeast 4th Street, Floor 7
Miami, FL 33132
(305) 961-9025

Jennifer A. Whitfield
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Crimes Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
(202) 514-2000

Counsel for Defendants:

Dan K. Webb

Winston & Strawn LLP
35 West Wacker Drive
Chicago, IL 60601
(312) 558-5600

Rebekah J. Poston
Squire Patton Boggs
200 South Biscayne Boulevard, Suite 4700
Miami, FL 33131
(305) 577-7022

Individual corporate officers were represented by separate counsel during the grand jury proceedings, but I do not recall the names of those attorneys and I was unable to locate records with their contact information.

5. *United States v. Pearl Shipping Corporation et al.*, CR-98-00384 MHP (N.D. Cal. 1998).

On September 24, 1998, the tanker ship Command spilled a small amount of oil into the San Francisco Bay while taking on fuel. The spill was caused by a crack in the ship's outer hull plating. The Command made temporary repairs and departed San Francisco Bay on September 26, 1998. The next morning, a 10-mile by 2-mile oil slick was discovered south of the entrance to San Francisco Bay beginning roughly between the Golden Gate Bridge and the Farallon Islands. I represented the United States, and I worked with a team, including individuals from the United States Coast Guard, the National Oceanic and Atmospheric Administration, and the Federal Bureau of Investigation, to investigate the cause of the spill, which was estimated to have exceeded 3,000 gallons of oil and killed more than 1,500 birds and other wildlife. The Coast Guard Marine Safety Lab matched the spilled oil to the T/S Command. Over a series of days, we had an around-the-clock investigation involving multiple countries including Guatemala, Panama, Mexico, Liberia, Greece, and the United States. Ultimately, the Coast Guard boarded the vessel at sea off the coast of Panama and the captain and crew were returned to the United States. I participated in the indictment and the plea, in which (among other things) the shipping company agreed to pay more than \$5 million in criminal fines, restitution, and civil damages. The agreement also included a comprehensive preventative program for all ships owned by Pearl Shipping. The captain was placed on restriction and was prevented from doing any business in the United States for three years.

Dates of Representation:
1998

Judge:
Judge Marilyn Patel (retired)

Co-Counsel:

Robert S. Mueller III (formerly the United States Attorney for the Northern District of California)
Wilmer Hale
2100 Pennsylvania Avenue, Northwest
Washington, DC 20037
(202) 663-6364

Herbert Johnson (deceased)

Counsel for Defendants:

John Hogan (deceased)

6. *United States v. Borja-Espinosa*, 156 F.3d 1239 (9th Cir. 1998).

I represented the United States in this appeal as an Assistant United States Attorney in the Southern District of California. I was responsible for the appeal, but I was not the prosecutor who handled the underlying case. The appellant, Mr. Borja-Espinosa, appealed from the 121-month sentence imposed by the district court after he pleaded guilty to distributing and conspiring to distribute methamphetamine in violation of 21 U.S.C. § 841(a) (1) and 18 U.S.C. § 2. During two meetings between Mr. Borja-Espinosa and a confidential informant (CI), Mr. Borja-Espinosa gave the CI two free samples of methamphetamine and told the CI he could obtain eight pounds of methamphetamine that he would sell at between \$8,800 and \$9,300 per pound. On the date of the sale, the CI and an undercover Drug Enforcement Agent arrived at Mr. Borja-Espinosa's home. When the undercover agent gave the signal, federal agents raided the house, arrested Mr. Borja-Espinosa and three other defendants, and seized approximately eight pounds of methamphetamine. Mr. Borja-Espinosa pleaded guilty to both charges. The Probation Department's presentence report stated Mr. Borja-Espinosa's criminal history included two DUIs, one probation revocation, and a prior drug charge involving methamphetamine, to which Mr. Borja-Espinosa pleaded guilty. Mr. Borja-Espinosa was then sentenced to 121 months' imprisonment. Mr. Borja-Espinosa appealed his sentence asserting, among other things, that the court erred when it denied his request for a downward departure based on an entrapment claim and improperly denied his request for testimony from the CI to support his entrapment claim. I wrote the appellate brief on behalf of the United States, arguing that the district court properly exercised its discretion when it refused to grant Mr. Borja-Espinosa's downward departure after he failed to meet his burden of proving entrapment, the court properly exercised its discretion when it concluded an evidentiary hearing was not warranted, and the sentence imposed by the district court was fair and should not be disturbed on appeal. The Ninth Circuit affirmed Mr. Borja-Espinosa's conviction without oral argument.

Dates of Representation:

1998

Judges:

Chief Judge Procter Hug, Judge Mary Schroeder, and Judge Alex Kozinski

Counsel:

I did not have co-counsel for the appeal, and the Ninth Circuit decision does not indicate who wrote the brief on behalf of Mr. Borja-Espinosa.

7. *Criminal – Jury Trial/Conviction in Drug Trafficking Case*, No. Unknown, (S.D. Cal. 1997).

I represented the United States as an Assistant United States Attorney in this case, which involved the prosecution of a defendant for drug trafficking after federal agents conducted a vehicle search at the United States/Mexico border and found a large quantity of cocaine in an altered compartment of the defendant's gas tank. The defendant had an extensive criminal history (including rape of a minor and armed robbery). He was in his fifties when he was arrested in this case and had been released from prison less than three months prior to his indictment. I handled all aspects of this case from indictment through the jury trial. The jury returned a guilty verdict on all counts. My best recollection is the defendant was sentenced to more than 15 years in prison.

Dates of Representation:

1997 – 1998

Judge:

Judge Leland Nielsen (deceased)

Counsel:

I did not have co-counsel. I do not remember the name of the person who represented the defendant; however, I recall that he was not a member of the Federal Defender's office but was a criminal defense lawyer on the panel list.

8. *Criminal – Plea Negotiations in Drug Trafficking Case*, No. Unknown, (S.D. Cal. 1997).

I represented the United States as an Assistant United States Attorney in the post-indictment phase of this case. United States Drug Enforcement Administration (DEA) agents arrested a group of men at a warehouse at night. The men were unloading a moving truck filled with "bricks" of marijuana wrapped in coffee that had been transported across the border. Among the men arrested were a father and his 19-year-old son. The father had legally lived and worked in the United States for more than 20 years but was not a citizen. The son was born in the United States, had no criminal record, and was a sophomore in college in San Diego. The father worked at the warehouse during the day and was responsible for allowing the group of men in the night of the arrests. I appeared at the preliminary hearings and negotiated the pleas for all the defendants, including the father and the son. The father pled to a felony that included jail time followed by deportation to Mexico. The son pled to a misdemeanor that included jail time.

Dates of Representation:

1997 – 1998

Judge:

I do not recall which federal judge at the United States District Court for the Southern District of California accepted the pleas.

Counsel:

I did not have co-counsel and I do not remember the name of the Federal Defender who represented either the father or son.

9. *United States v. Montrose Chemical Corp. of California, et al.*, CV 90-3122 (C.D. Cal. 1990).

The United States and the State of California sued for violations under CERCLA, and sought to recover damages for losses to natural resources in the San Pedro Channel and the area surrounding the Palo Verdes Peninsula, the Los Angeles-Long Beach Harbors, the waters off Santa Catalina Island, and the Channel Islands resulting from DDT discharges from the Montrose Chemical Plant and PCB discharges from the Westinghouse Plant, both located in the Los Angeles basin. I represented the United States and participated in discovery, researched and wrote various briefs, and attended oral arguments. The case was resolved through a series of stipulated consent decrees that required the defendants to conduct remediation and monitoring work both on land and offshore.

Dates of Representation:

1994 – 1995

Judge:

Judge A. Andrew Hauk (deceased)

Co-Counsel:

Gerald F. George (formerly at DOJ)
51 Ashbury Terrace
San Francisco, CA 94117
(415) 373-7940

Helen Kang (formerly at DOJ)
Golden Gate University School of Law
536 Mission Street
San Francisco, CA 94105
(415) 442-6693

Adam M. Kushner (formerly at DOJ)
Hogan Lovells

555 13th Street, Northwest
Washington, DC 20004
(202) 637-5724

Steven O'Rourke
U.S. Department of Justice, Environmental Enforcement Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
(202) 514-2701

Counsel for Defendants:
Karl S. Lytz (deceased)

Peter Simshauser (now listed as inactive on the California State Bar)

10. *United States v. The North American Group Ltd., et al.*, CV-191-CH (W.D.N.C. 1997).

Defendants Hartsell and Eidson were convicted of Clean Water Act violations for owning and operating a sham recycling operation for waste oil and other hazardous materials, which they dumped into the local wastewater treatment system, on the ground, or otherwise illegally stored at two facilities in Charlotte, North Carolina. Following the criminal case, I worked to recover the costs to remediate the property and groundwater contamination. I drafted pleadings and facilitated two settlement agreements with approximately 250 parties that contributed hazardous materials to the facility, including The North American Group.

Dates of Representation:
1994 – 1997

Judge:
Judge Robert D. Potter (deceased)

Counsel:
My recollection is that at least 100 of the defendants in the case were large companies that were represented at the initial settlement meeting by both outside and in-house counsel. Because the consent decree is no longer available, I do not have the names or current contact information for those attorneys. However, EPA Regional Counsel assigned to the case was:

Peter Raack
U.S. EPA
William Jefferson Clinton Building
1200 Pennsylvania Avenue, Northwest
Mail Code 2249A
Washington, DC 20460

(202) 564-4075

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.)

The most significant legal activity I have pursued, that did not involve litigation, is teaching numerous law school and legal education courses, including teaching at the DOJ National Advocacy Center (NAC) in Columbia, South Carolina, which provides continuing education and skill development for Trial Attorneys and AUSAs from around the country. At NAC I taught a variety of classes including Civil and Criminal Trial Advocacy, Alternative Dispute Resolution, and Criminal Investigations. Since my judicial appointment I have developed and taught judicial education courses to judges throughout California.

While in private practice I counseled clients on environmental and corporate compliance, drafted contracts, explored options and legal strategies to avoid litigation, participated in project feasibility studies, and met with stakeholders and government agencies to resolve potential disputes, and develop negotiated agreements. For example, from 2002 to 2004, I represented Pacific Lumber in the development of a Timber Harvest Plan. In addition, from 2005 to 2007 I represented PG&E in its development of the Trans Bay Cable Project, a 53-mile DC transmission line under the San Francisco Bay between the cities of Pittsburg and San Francisco. The purpose of the project was to interconnect PG&E's transmission line in Pittsburg with the Potrero Substation, and therefore improve both reliability and expand core electric infrastructure in the Bay Area.

Since I was appointed as a judge in 2014, I have participated in many activities to advance the law, improve the judiciary, and support the legal community. For example, in 2023, I was appointed by the Judicial Council to chair the California Qualifying Ethics Committee. Every three years this committee develops and teaches the statewide, in-person ethics course to all judges and justices in California. I also served as a member of the committee from 2017 to 2023.

In 2023 I was appointed by the Judicial Council to serve as a mentor for judges who have been admonished or face disciplinary charges for ethical issues related to demeanor issues.

In 2022 I was also appointed by then-Chief Justice Cantil-Sakauye as chair of the California Center for Judicial Education and Research (CJER) Judicial Branch Access, Ethics, and Fairness (JBAEF) Curriculum Committee. That committee develops policy to improve access to California courts and judicial ethics educational content for bench officers. I served as a member of that committee from 2017 to 2022.

Since 2014 I have served on numerous committees for the Alameda County Superior Court, including the Executive Committee, the Alternative Dispute Resolution Committee, the Civil Committee, the Family Law Committee, the Community Outreach Committee, and as co-chair of the Judicial Education committee, which facilitates 8 to 10 annual judicial educational programs for our bench (e.g., training/user manuals for warrant, probable cause, and emergency protective order duty). I manage our court's mentor program to assist new judges in transitioning to the bench and serve as a mentor judge. In 2017, I chaired our court's Family Violence Council, including facilitating the annual conference on Domestic Violence Cases in Alameda County.

Since 2015 I have also participated in a judicial initiative to improve civic engagement in California's public schools, including speaking in public schools and hosting students in the courtroom. Each year I also serve as a judge for moot court and mock trial events, serve as a guest speaker in undergraduate and law school classes, and serve as the graduation speaker and administer of the oath for the Court Appointed Special Advocates, who represent foster youth in Alameda County.

I have never performed lobbying activities or registered as a lobbyist.

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

Between 2000 and 2006, each academic year I taught Professional Responsibility at least one semester, and periodically both semesters as a lecturer at the University of California Berkeley School of Law. This course focused on professional ethics, which I taught predominately through a lecture format, with student presentations each week. In addition, one semester I also taught Environmental Justice, an upper-division seminar group in which I facilitated class discussions and assisted law students to produce advanced academic writing suitable for publication. I used a syllabus for each of those courses, but I no longer have copies of those documents.

In the Fall 2001 semester and Spring 2002 semester, I taught Legal Methods at Stanford Law School while I was serving as a Teaching Fellow. I do not recall whether I used a traditional syllabus for that course, and I do not have copies of my teaching materials.

I co-taught a seminar titled Hazardous Substances at Golden Gate University during one semester of the 2000 to 2001 academic year. We taught the class using case studies, lectures, and small group discussions. During the other semester, I taught Professional Responsibility, which was a large lecture course focused on professional ethics. I do not recall which course I taught first. I do not recall whether we used a traditional syllabus for the Hazardous Substances course, and I no longer have copies of those course documents. I used a syllabus for the Professional Responsibility course, but I no longer have a copy of that document.

Vermont Law School had a Semester in Washington program. During the time law students were working as externs in Washington, DC they were required to take a seminar in Professional Ethics. I taught that course during the 1997 to 1998 academic year. Although my primary office for the United States Department of Justice was in Washington, DC, in 1997 I was temporarily assigned to the United States Attorney's Office in the Southern District of California. As a result, when I flew home approximately once every three weeks, I taught a long session of the course in Washington, DC, using small group discussions, primarily focused on the students' extern experiences. I do not recall whether I used a traditional syllabus for that course, and I do not have copies of my teaching materials.

I taught a course titled Legal Writing Seminar at The George Washington University Law School during the following semesters: Fall 1995, Spring 1996, Fall 1996, and Spring 1997. This course fulfilled each student's first year legal research and writing requirement, and I taught the course through lecture, small group discussion, and weekly writing projects. I do not recall whether I used a traditional syllabus for that course, and I do not have copies of my teaching materials.

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

None.

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

None.

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

A conflict of interest could arise from any matter arising from a case I handled as a Superior Court judge, or based on any personal relationships I have. I will evaluate any real or potential conflict, or relationship that could give rise to the appearance of such a conflict, on a case-by-case basis.

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

If confirmed, I would address any actual or potential conflicts of interest by applying the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any other relevant laws, canons, rules, practices, and guidelines.

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.

The importance of community service is a deeply instilled family value that I learned from my parents who spent decades in public education. In the legal profession, serving disadvantaged populations is also part of our ethical obligations. After moving to California in 1999, I devoted nine years on a pro bono basis as a judge *pro tem* with the Superior Court of Alameda County, and 12 years of service as a mediator with the California Court of Appeal, First Appellate District in which all of the mediator's preparation time and the first four hours of mediation were performed pro bono. On average I estimate I spent 10 to 15 hours per month on these pro bono activities. After I was appointed to the bench in 2014, I became a judicial liaison to the board of Legal Access Alameda (formerly Volunteer Legal Services Corporation), the pro bono arm of the Alameda County Bar Association.

I have also worked with women judge refugees from Afghanistan. In 2021, approximately 300 female Afghan judges fled Afghanistan with their families following the United States' withdrawal from Afghanistan. With the assistance of the International Association of Women Judges, nearly all those families were evacuated and sent to an interim camp (most in Abu Dhabi) and eventually resettled around the world. About 30 families are in the United States, five in Alameda County. For the last two years I have been working with the National Association of Women Judges, and friends in my

community to assist those families with food and basic living supplies, English language development, transportation to appointments, enrolling in education and work development classes, and developing connections in the legal community. I estimate that I spend about 10 to 12 hours each month on this volunteer work.

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 January 10, 2021, I submitted my application for the United States District Court for the Northern District of California to then-Senator Dianne Feinstein. When Senator Alex Padilla was sworn in to replace then-Senator Kamala Harris, I also submitted my application materials to his office. In late January 2021, my application was reviewed by Senator Feinstein's Judicial Advisory committee for the Northern District of California. In March 2021, I was interviewed by Senator Feinstein's Judicial Appointments Chair. In March 2023, I was interviewed by Senator Padilla's Judicial Commission for the Northern District of California. On December 19, 2023, I was interviewed by Senator Laphonza Butler's Chief Counsel. On April 19, 2024, I was interviewed by Senator Butler. On April 22, 2024, an attorney from the White House Counsel's Office advised me that I was being considered for an opening on the Northern District of California. On April 23, 2024, I interviewed with attorneys from the White House Counsel's Office. Since May 1, 2024, I have been in contact with officials from the Office of Legal Policy at the United States Department of Justice. On June 12, 2024, the President announced his intent to nominate me.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.