

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Orelia Eleta Merchant

Orelia Merchant Camara (informally)

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

United States District Judge for the Eastern District of New York

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

Office:

New York State Attorney General's Office
28 Liberty Street, 23rd Floor
New York, New York 10005

Home:

Brooklyn, New York

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

1971, Bronx, New York

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.

1995 – 1998, Tulane University Law School; J.D., 1998

1993 – 1995, College of William and Mary; M.A., 1995

1988 – 1992, Dillard University; B.S., 1992

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 job description.

2019 – present
New York State Attorney General's Office
28 Liberty Street
New York, New York 10005
Chief Deputy Attorney General for State Counsel

2002 – 2019
U.S. Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Executive Assistant United States Attorney (2016 – 2019)
Assistant United States Attorney - Civil Division (2002 – 2016)

1998 – 2000; 2001 – 2002
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Assistant Regional Counsel

2000 – 2001
U.S. Attorney's Office for the Eastern District of Louisiana
501 Magazine Street
New Orleans, Louisiana 70130
Special Assistant United States Attorney

Spring 1997; 1997 – 1998
Carter and Cates Law Firm
110 Poydras Street, Suite 1230
New Orleans, Louisiana 70163
Law Clerk

Summer 1997; Summer 1996
Phelps Dunbar LLP
365 Canal Street Suite 2000
New Orleans, Louisiana 70130
Summer Associate

Summer 1996
Atlantic Richfield Company (ARCO)
444 South Flowers Street
Los Angeles, California 90011
Law Clerk

1993 – 1995
Virginia Institute of Marine Science
Route 1208 Greate Road
Gloucester Point, Virginia 23062
Graduate Assistant

1992 – 1993
Environmental Industrial Research Associates – Chemfix
161 James Drive West, Suite 100
St. Rose, Louisiana 70087
Environmental Chemist I

7. **Military Service and Draft Service**: 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.

Recipient of U.S. Department of Justice, Executive Office for United States Attorneys
Director's Award for Superior Performance as an Assistant United States Attorney –
Civil (2016)

Commendations for Outstanding Work on Employment Law Matters, United States
Probation Department, Eastern District of New York (2002, 2010, 2011, 2015)

Community Service Award, U.S. Attorney's Office, Eastern District of New York (2013)

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

American Bar Association

EDNY Litigation Advisory Committee

Federal Bar Council

Metropolitan Black Bar Association

National Black Prosecutors Association

New York State Bar Association

New York County Lawyers Association

Second Circuit Judicial Conference Program and Planning Committee

United States Magistrate Judge Merit Selection Panel for the Eastern District of New York

10. **Bar and Court Admissions:**

- 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.

Louisiana, 1999*
District of Columbia, 2018
New York, 2018

*From September 2001 to May 2002, I was administratively ineligible to practice in Louisiana for nonpayment of dues/assessment. During this time, I did not practice in Louisiana. I had moved to Illinois, and then to New York. As soon as I paid the dues/assessment in May 2002, I immediately became eligible, and have remained eligible to practice in Louisiana since that time.

- 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.

United States Court of Appeals, Second Circuit, 2003
United States Court of Appeals, Fifth Circuit, 2000*
United States District Court, Eastern District of Louisiana, 2000*
United States District Court, Eastern District of New York, 2019
United States District Court, Southern District of New York, 2019
United States Court of International Trade, 2021

*I did not renew these admissions after I left the U.S. Attorney's Office for the Eastern District of Louisiana.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 10 or 11 to which you belong, or to which you have belonged, or in which you have significantly participated, 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.

Delta Sigma Theta Sorority Inc. (National Organization), Life Member (1989 – present)

Additionally, I have served as a Parent Volunteer Admissions Ambassador (2019 – present) and Middle School Parent Association, 7th Grade Parent Representative (2021 – 2022) at my children’s school; Parent and Teacher Association Executive Vice-President (2018-2021) and Lower School Vice-President (2016-2018) at my children’s former school; and as a Volunteer Girls Softball Assistant Coach (2019 – 2020). I can provide additional details to the Committee upon request.

- 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, or religion or national origin either through formal membership requirements or the practical implementation or membership policies. If so, describe any action you have taken to change these policies and practices.

Delta Sigma Theta Sorority, Inc. is a national service organization that limits its membership to women. To the best of my knowledge, none of the other 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. Please supply four (4) copies of all published material to the Committee.

“Shellfish Culture Area Designation Protocol Development” (1995),
Dissertations, Theses, and Masters Projects, William & Mary Scholarworks,
Paper 1539617684. 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, please 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 of transcripts or tape 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 tape recording of your remarks, please 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, please furnish a copy of any outline or notes from which you spoke.

The following reflects my best effort to identify the speeches, talks, and remarks that I have delivered based on a review of my records and publicly available information.

January 16, 2022: Faculty Member, Ethics for Government Lawyers, Practising Law Institute, New York, New York. Notes supplied.

January 27, 2021: Faculty Member, Ethics for Government Lawyers, Practising Law Institute, New York, New York. Notes supplied.

October 26, 2020: Panelist, Navigating Graduate School and Career Paths, William and Mary, School of Marine Science, Gloucester Point, Virginia. The panel discussed career paths after graduate school. I have no notes, transcript, or recording. The address for the William and Marry School of Marine Science is Route 1208 Greate Road, Gloucester Point, Virginia 23062.

January 31, 2020: Faculty Member, Ethics for Government Lawyers, Practising Law Institute, New York, New York. The faculty discussed the application of professional conduct rules to government lawyers. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 6th Avenue, New York, New York 10036.

February 28, 2019: Faculty Member, Ethics for Government Lawyers, Practising Law Institute, New York, New York. The faculty discussed the application of

professional conduct rules to government lawyers. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 6th Avenue, New York, New York 10036.

October 5, 2018: Panelist, Alumnae Panel Discussion, Castilleja School, Palo Alto, California. I spoke to junior and senior high school students about navigating non-traditional career paths and life after high school sponsored by Castilleja School. I have no notes, transcript, or recording but press coverage is supplied. The address of Castilleja School is 1310 Bryant Street, Palo Alto, California 94301.

March 1, 2018: Faculty Member, Ethics for Government Lawyers, Practising Law Institute, New York, New York. The faculty discussed the application of professional conduct rules to government lawyers. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 6th Avenue, New York, New York 10036.

March 22, 2017: Panelist, How to Become an Assistant United States Attorney, New York City Bar Association Committee for Minorities in the Courts, New York, New York. I participated in a panel discussion about pathways to becoming an Assistant United States Attorney. I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

March 4, 2017: Guest Speaker, Power Brunch Series, Association of Black Women Attorneys (“ABWA”), New York, New York. I participated in a round table discussion with ABWA members about navigating career paths. I have no notes, transcript, or recording. The address of ABWA is 1001 Avenue of the Americas, 11th Floor, New York, New York 10018.

July 19, 2016: Panelist, Pathways to—and Reward of—Becoming an Assistant United States Attorney: Perspectives from Diverse Assistant U.S. Attorneys, Federal Bar Council Public Service Committee and the United States Attorney’s Office for the Eastern and Southern District of New York, New York, New York. The panel discussed paths to service as assistant U.S. attorneys. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, New York, New York 10038.

April 26, 2016: Panelist, How to Become an Assistant United States Attorney, Panelist, How to Become an Assistant United States Attorney, New York City Bar Association Committee for Minorities in the Courts, New York, New York. I participated in a panel discussion on the structure of the office, the qualifications sought for the position of Assistant United States Attorney and the basics of applying, and I shared information regarding my professional trajectory. I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

January 22, 2015: Panelist, How to Become an Assistant United States Attorney, Panelist, How to Become an Assistant United States Attorney, New York City Bar Association Committee for Minorities in the Courts, New York, New York. I participated in a panel discussion on the structure of the office, the qualifications sought for the position of Assistant United States Attorney and the basics of applying, and I shared information regarding my professional trajectory. I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

April 21, 2014: Panelist, Everything You Wanted to Know About Becoming an AUSA, New York City Bar Association Committee for Minorities in the Courts, New York, New York. I participated in a panel discussion on the structure of the office, the qualifications sought for the position of Assistant United States Attorney and the basics of applying, and I shared information regarding my professional trajectory. I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

Specific date unknown: Guest Speaker, Careers in Law, New York Needs You (nonprofit mentoring program for first generation college students), New York, New York. I spoke to first generation college students about careers in law. I have no notes, transcript, or recording. The address of New York Needs You is 589 8th Avenue, Floor 5, New York, New York 10018.

- 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.

CBS Evening News – Eye on America (Louisiana Lawsuit), “Law Students Take on Goliath” (Oct. 19, 1998). I am unable to locate a recording or transcript of this interview. Summary supplied.

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

I have not held judicial office.

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

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

jury trials: _____ %
bench trials: _____ % [total 100%]

ii. Of these cases, approximately what percent were:

civil proceedings: _____%

criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed an/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues together with the citation to appellate court rulings on such opinions. If any opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sate by designation on a federal court of appeals, including a brief summary of any opinions you authored whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to

an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

None.

- 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, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

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

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

I have never served as a clerk to a judge.

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

I have never practiced law alone.

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

1998 – 2000; 2001 – 2002
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604
Assistant Regional Counsel

2000 – 2001
U.S. Attorney's Office for the Eastern District of Louisiana
501 Magazine Street
New Orleans, Louisiana 70130
Special Assistant United States Attorney

2002 – 2019
U.S. Attorney's Office for the Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Assistant United States Attorney (2002 – 2016)
Executive Assistant United States Attorney (2016 – 2019)

2019 – present
New York State Attorney General's Office
28 Liberty Street
New York, New York 10005
Chief Deputy Attorney General for State Counsel

b. Describe:

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

Since 2019, I have served as Chief Deputy Attorney General for State Counsel ("State Counsel"), a member of the New York State Attorney General's executive leadership team. As State Counsel, I head the Division of State Counsel, which consists of seven bureaus statewide, including Civil Recoveries, Claims, Litigation, Real Property, and Sex Offender Management Bureaus, that handle litigation involving the state, including its agencies and officials. In this role, I oversee more than 8,000 active cases, and manage 450 employees, including 250 attorneys, in prosecution and defense of actions and complex cases in state and federal

court on behalf of executive branch officials, the legislature, and state agencies, officials and employees; defense of the state against actions in the Court of Claims involving malpractice, contract disputes and property condemnation; recovery of money owed to the state through affirmative litigation; and legal assistance provided to state agencies in connection with the acquisition and disposition of public land.

From 2002 to 2019, I served in the U.S. Attorney's Office for the Eastern District of New York, most recently serving as an Executive Assistant United States Attorney ("EAUSA"). From 2016 to 2019, in my position as EAUSA, I provided counsel to the United States Attorney and division supervisors on Office policy, procedures, personnel matters, and significant and sensitive legal, workplace, and case related issues. I represented the Office in high-level meetings in some of its most significant cases and investigations, including settlement discussion and negotiations related to complex residential mortgage-backed securities fraud investigations, involvement in national initiatives, and asset forfeiture related international repatriation ceremony programs. I also provided management direction and oversight of the Civil Division in representing the interests of the United States in nearly 1,000 active cases and matters, and the Office's Administrative Division, including management of the financial, human and information technology resources for approximately 350 permanent employees and approximately 50 contract employees.

From 2002 to 2016, during my tenure as an Assistant United States Attorney in the Civil Division, I managed a diverse, demanding, and complex caseload, handling a wide range of affirmative and defensive matters. I prosecuted asset forfeiture, environmental, health care fraud, and mortgage fraud cases, and defended employment discrimination, medical malpractice, bankruptcy, immigration, personal injury, social security, prisoner litigation, constitutional challenges, and federal program litigation cases. As lead counsel in all stages of trial practice, on these cases, I drafted pleadings and conducted pre-trial discovery, including drafting and responding to discovery requests and preparing and defending parties, Fed. R. Civ. P. 30(b)(6) witnesses, third parties and expert witnesses. In addition, I regularly argued discovery and dispositive motions before the United States District Court for the Eastern District of New York and represented the United States in the United States Court of Appeals for the Second Circuit.

From 1998 to 2000 and 2001 to 2002, I served as an Assistant Regional Counsel for the United States Environmental Protection Agency Region 5 ("USEPA"), counseling various programs, litigating environmental enforcement actions, and negotiating settlements in CERCLA, RCRA, CAA, CWA, FIFRA, and TSCA matters.

From 2000 to 2001, while employed by the USEPA, I was detailed to the United States Attorney's Office for the Eastern District of Louisiana as a Special Assistant United States Attorney ("SAUSA"), where I was assigned to both the Civil and Criminal Divisions. As a SAUSA, I was responsible for the investigation and prosecution of general crimes, violent and drug crimes, criminal environmental cases, and defending the government in tort and employment discrimination actions. I represented the United States in matters before the United States District Court for the Eastern District of Louisiana, including arraignments, pre-trial conferences, detention, revocation, and sentencing hearings, and trials. I also prepared witness and experts and presented their testimony in court. In addition to assisting with criminal trials, I was co-counsel on three employment discrimination jury trials.

- ii. your typical clients and the areas, if any, in which you have specialized.

I have represented the United States, its agencies, officers, and employees, and New York state, its agencies, officers and employees in wide range of civil practice areas.

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

The majority of my over 23 years of practice has been in litigation.

Since 2019, as Chief Deputy Attorney General for State Counsel, I occasionally attend court proceedings in state and federal court in a supervisory capacity to observe attorneys and provide guidance.

From 2016 to 2019, as an Executive Assistant United States Attorney, I occasionally attended court proceedings in a supervisory capacity to observe attorneys.

From 2002 to 2016, as an Assistant United States Attorney, and from 2000 to 2001, as a Special Assistant United States Attorney, I appeared in federal district court frequently, often several times a week. During these time periods, I also occasionally appeared in federal appellate court.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 95%
 - 2. state courts of record: 4%
 - 3. other courts: 1%
 - 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: 95%
 - 2. criminal proceedings: 5%

- d. State the number of cases in court of record you tried to verdict or judgment (rather than settled), indicated whether you were sole counsel, chief counsel, or associate counsel.

I have tried at least eight trials to verdict or judgment. Four of those trials were federal civil matters where I was chief counsel, and one was a criminal health care fraud forfeiture matter, where I was associate counsel, tried in the United States District Court for the Eastern District of New York. Three of those trials were civil employment discrimination jury trials, where I was associate counsel, tried in the United States District Court for the Eastern District of Louisiana. I have also assisted with criminal jury trials as associate counsel in the United States District Court for the Eastern District of Louisiana. Additionally, I have argued several cases before the United States Court of Appeals for the Second Circuit.

- i. What percentage of these trials were:
 - 1. Jury: 40%
 - 2. Non-Jury: 60%

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

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

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled. 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 who you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also, state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each other parties.
1. *In Re Hurricane Sandy Cases*, Case No. 14-MC-41 (E.D.N.Y.) (Brown, M.J., Pollak, M.J., Reyes, M.J.)

From June 2014 to December 2015, I represented FEMA at numerous hearings and hundreds of court conferences in more than 1,300 cases arising out of Hurricane Sandy that were filed against FEMA's private insurance carriers that are funded by FEMA. In these cases, FEMA's handling of the Hurricane Sandy property damage flood insurance-based claims under the National Flood Insurance Program was often in the national spotlight. I coordinated with FEMA, the private insurance carriers funded by FEMA, and the court to address a host of issues that arose in the claims handling processing and that resulted in the denial of potentially meritorious claims, and was instrumental in achieving favorable results for homeowners. I also managed and counseled AUSAs in resolving approximately 125 of these cases litigated by the Office, and issues that arose in navigating discovery, mediation and settlement orders issued by the three-judge magistrate panel.

Plaintiff's Liaison Counsel:
John S. Mostyn (deceased)

Javier Delgado, Esq.
Merlin Law Group
100 Park Avenue
New York, NY 10017
(516) 515-6025

2. *United States ex rel. Bozzelli v. PHH Corporation*, Case No. CV-13-3084 (E.D.N.Y. Bianco, J.) (Brown, M.J.)

From 2013 to 2016, I worked with agency partners, a multi-district team, and related workgroup to investigate the relator's qui tam allegations that PHH Corporation violated the False Claims Act by knowingly originating and underwriting mortgage loans insured by the U.S. Department of Housing and Urban Development's Federal Housing Administration (FHA), guaranteed by the United States Department of Veteran Affairs (VA), and purchased by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) that did not meet applicable originating, underwriting, and quality control requirements. In 2017, the case settled for approximately \$74 million.

Relator's Counsel:
Michael J. Lingle, Esq.
Thomas Solomon LLP
693 East Avenue
Rochester, NY 14607
(585) 272-0574

3. *Tripp v. United States*, Case No. CV-12-5777 (E.D.N.Y.) (Johnson, J.) (Pohorelsky, M.J.)

From 2012 to 2015, I represented the United States in this personal injury and wrongful death action arising out of a motor vehicle accident with a governmental vehicle operated by a Secret Service Agent. This was a significant high-exposure wrongful death and zone of danger action involving a Secret Service agent who struck a young mother of five children. The decedent's youngest daughter witnessed the accident. I handled pretrial matters, including court conferences and discovery, which included deposing decedent's minor children. I successfully dealt with challenges presented both by the video recording of the accident that captured the decedent being struck by the Agent's car as well as his signed sworn admission that he was driving above the speed limit at the time of the accident. I negotiated settlement after the close of pretrial discovery.

Plaintiff's Counsel:
Steven I. Fried, Esq.
Law Office of Steven I. Fried, P.C.
18 East 41st Street – Suite 806
New York, NY 10017
(212) 964-5777

4. *Plaza v. United States*, Case No. CV-00-735 (SLT) (E.D.N.Y. Mar. 30, 2007)

From 2004 to 2007, I represented the United States in this tort action alleging negligence of an FBI agent in a motor vehicle accident involving a pedestrian. I handled direct and cross examinations of fact and expert witnesses, summation, and prepared and filed pre-trial and post-trial submissions. The two-day bench trial resulted in a decision favorable to the United States.

Plaintiff's Counsel:
Steven Wildstein, Esq.
Steven Wildstein, P.C.
99 Cutter Mill Road
Great Neck, NY 11021
(516) 466-1790

Co-Counsel:
Kathleen Mahoney, Esq.
U.S. Attorney's Office
Eastern District of New York
271 Cadman Plaza East
Brooklyn, NY 11201
(718) 254-6026

5. *Andretta v. Napolitano*, 922 F. Supp. 2d 411 (E.D.N.Y. 2013) (Kuntz, J.) (Orenstein, M.J.)

From 2009 to 2013, I represented the United States Department of Homeland Security in this employment discrimination action. Plaintiff alleged age discrimination when he was

not selected for a position as a Supervisory Customs and Border Patrol Agent. I handled pretrial matters, including court appearances and discovery, and prepared and filed defendant's motion for summary judgment. The court granted defendant's motion for summary judgment.

Plaintiff's Counsel:

Louis D. Stober, Jr., Esq.
Law Offices of Louis D. Stober, Jr., L.L.C.
350 Old Country Road
Garden City, NY 11530
(516) 742-6546

6. *Hadman v. Sebelius*, No. 09-CV-4414 (ARR) (LB), 2011 WL 4736972 (E.D.N.Y. Oct. 6, 2011)

From 2009 to 2011, I represented the United States Secretary of the Department of Health and Human Services in this employment discrimination action. Plaintiff alleged discrimination based on race and national origin. I handled pretrial matters, including court appearances and discovery. After completion of pre-trial discovery, I filed defendant's motion for summary judgment, which the court granted.

Plaintiff's Counsel:

Albert Adam Breud, II, Esq.
Jonathan Edward Kirchner, Esq.
Law Officer of Albert Adam Breud, P.L.L.C.
356 Veterans Memorial Highway, Suite 3
Commack, NY 11725
(631) 543-3030

7. *Testaverde v. United States*, No. 05-CV-2462 (ARR), 2009 WL 1456533 (E.D.N.Y. May 26, 2009)

From 2008 to 2009, I represented the United States in this complex medical malpractice and wrongful death action alleging failure to diagnose and treat a rare bone cancer. This case was assigned to me for trial after the close of discovery. I drafted a motion to reopen discovery to depose an expert, which was granted, and prepared fact and expert witnesses for trial. I handled trial presentation, including direct and cross examinations of fact and expert medical witnesses, and prepared and filed pre-trial and post-trial submissions. The three-day bench trial in April 2009 went to decision and resulted in a judgment favorable to the United States.

Plaintiff's Counsel:

Jason Marc Rubin, Esq.
Wingate, Russotti, & Shapiro LLP
420 Lexington Avenue, Suite 2750
New York, NY 10170

(212) 986-7353

Co-Counsel:
Charles Kelly, Esq.
U.S. Attorney's Office
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722
(631) 715-7866

8. *United States v. BCF Oil Refining Inc.*, Case No. 05-CV-0562 (E.D.N.Y.) (Sifton, J.)
(Pollak, M.J.)

From 2003 to 2007, I represented the United States in this CERCLA cost recovery action seeking \$3.5 million against the corporation, the site, and an individual. The complaint sought reimbursement for the United States' expenditure of \$3.5 million in Superfund monies to remove and dispose of hazardous substances found at the site. I prepared and filed the complaint in this action, and successfully defended against defendants' motion to dismiss the complaint and for summary judgment. The court granted the United States' motion for partial final judgment against the corporation and the site. After settlement between the government and the individual defendant, the court entered a final consent judgment.

Defendants' Counsel:
Julian Friedman, Esq.
Stillman & Friedman PC (now Ballard Spahr Stillman & Friedman, LLP)
New York, NY
(646) 346-8019

9. *United States v. Frank*, 05-CR-0040 (E.D.N.Y.) (Gleeson, J.)

From 2003 to 2006, I represented the United States, with co-counsel, in the investigation and prosecution of health care fraud and forfeiture charges against defendant dentist who defrauded the Medicaid program. After defendant's conviction, the court entered a forfeiture money judgment in the amount of approximately \$5.1 million against the defendant.

Co-Counsel:
Peter Katz, Esq.
Formerly of USAO-EDNY
YK Law
New York, NY
(212) 933-9323

Michael Ramos, Esq.
Formerly of USAO-EDNY

Nardello & Co.
New York, NY
(212) 537-5300

Opposing Counsel:
Steven R. Kartangener, Esq.
225 Broadway, Suite 2700
New York, NY 10007
(212) 732-9600

10. *United States v. Pineda-Giraldo et al.*, Case No. 04-CR-0039 (E.D.N.Y.) (Glasser, J.)
(Go, M.J.)

From 2003 to 2004, I represented the United States, with co-counsel, in the prosecution of nine alleged members of a New York-Colombia money laundering ring for conspiring to launder more than \$6 million in drug money by sending it to Colombia, South America. For two years, I worked on the investigation with federal agents. I prepared grand jury presentation and post-indictment restraining motions. I worked on this matter through 2004, when the indictments were unsealed and warrants for arrest and post-indictment restraining orders were issued.

Co-Counsel:
Suzanne McDermott, Esq. (formerly USAO-EDNY)
Bardin Hill Investment Partners LP
299 Park Avenue, 24th Floor
New York, NY 10022
(212) 303-9400

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. Please list any client(s) or organizations(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I have litigated and/or supervised or advised on hundreds of significant matters in addition to the ones detailed above.

As Chief Deputy Attorney General for State Council, I supervise and manage approximately 450 employees, including 250 attorneys, in prosecution and defense of actions and complex cases in state and federal court on behalf of executive branch officials, the legislature, and state agencies, officials and employees; defense of the state against actions in the Court of Claims involving malpractice, contract disputes and property condemnation; recovery of money owed to the state through affirmative litigation; and legal assistance provided to state agencies in connection with the

acquisition and disposition of public land. I routinely review papers and provide mentorship of attorneys. As an EAUSA, I provided management direction and oversight of the Civil Division, and mentorship of attorneys.

From 2014 to 2015, I also served as EDNY's FEMA Litigation Coordinator. During this time, in addition to maintaining an active caseload, as FEMA Litigation Coordinator, I managed the Office's FEMA litigation practice. I represented FEMA in hundreds of court conferences and counseled FEMA in its handling of over 1,300 cases arising out of Hurricane Sandy that were filed against private insurance carriers that were funded by FEMA. I also managed and counseled AUSAs in resolving 125 of these cases litigated by the Office and issues that arose in navigating discovery, mediation and settlement orders.

As an AUSA, I also represented the EDNY Chief of Probation and the Probation Department in several highly sensitive employment law matters before the U.S. District Court for the Eastern District of New York and before the New York State Unemployment Insurance Appeal Board.

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

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

None.

20. **Deferred Income/Future Benefits:** List any 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 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).

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed I would strictly follow the Code of Conduct for United States Judges, and all other applicable rules and ethical canons regarding recusal. Where appropriate, I would recuse myself from matters involving cases I handled, supervised, or was consulted on at the New York Attorney General's Office and U.S. Attorney's Office for the Eastern District of New York in a manner consistent with the Code of Conduct for United States Judges and any other relevant statutory provisions, ethical canons, and rules.

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

I would evaluate and resolve any potential conflicts of interest by applying the rules and standard in 28 U.S.C. §455, the Code of Conduct for United States Judges, published advisory opinions, and relevant judicial decisions and opinions. I would also consult with other judges and seek guidance as appropriate in evaluating issues of conflict.

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 servicing the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Since graduating from law school, I have devoted my legal career to public service. While I have not represented any individual client or entity on a pro bono basis, I have engaged and continue to engage in other pro bono activities.

In 2016, I established a mentoring partnership program between the USAO-EDNY and Mott Hall Bridges Academy, a public junior-high school in the Brownsville

neighborhood of Brooklyn. As a result of the partnership, the USAO-EDNY hosted approximately 40 seventh graders from Mott Hall Bridges Academy for a one-day internship during the summer.

I also developed a partnership between the USAO-EDNY and the New York City Ladders for Leaders program, which is a competitive summer internship program that provides vetting, training and matchmaking with local, high-achieving high school and college students. Through this partnership, the USAO-EDNY offered two summer internships to two minority students with interests in the legal profession.

As Chair of the USAO-EDNY's Diversity Committee, I fostered partnerships and mentoring programs with bar organizations, community groups, and local schools. For example, among the many events I facilitated, I spearheaded a successful diversity event co-sponsored by the Office of Public Service Committee of the Federal Bar Council in an effort to increase the number of diverse candidates in the Office's applicant pool. In addition, I represented the USAO-EDNY on panels and events sponsored by the New York City Bar Council, the National Black Prosecutors Association, the Association for Black Women Attorney's and the South Asian Bar Association of New York.

I have consistently looked for opportunities to facilitate professional development and advancement of attorneys, law interns and students. For almost a decade, I served as the Chair of the USAO-EDNY's Civil Division Summer Law Internship Program Committee, providing mentorship to scores of interns from diverse backgrounds. I have served as a mentor to numerous law students and junior attorneys.

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). In 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 the Federal Bureau of Investigation personnel concerning your nomination.

On approximately February 4, 2021, I submitted a judicial questionnaire to Senator Schumer's Judicial Screening Committee. On March 31, 2021, I interviewed with the Committee. On December 20, 2021, I interviewed with Senator Schumer. On June 13, 2022, I interviewed with attorneys from the White House Counsel's Office. Since June 15, 2022, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 6, 2022, my nomination was submitted to the Senate.

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

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

No.