

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Andrew George Schopler

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

United States District Judge for the Southern 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.

United States District Court for the Southern District of California  
Edward J. Schwartz United States Courthouse  
221 West Broadway, Suite 5160  
San Diego, California 92101

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

1971; Chapel Hill, North Carolina

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

1994 – 1997, Harvard Law School; J.D. (*cum laude*), 1997

1990 – 1994, Dartmouth College; B.A. (*summa cum laude*), 1994

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.

2016 – present

United States District Court for the Southern District of California  
Edward J. Schwartz United States Courthouse  
221 West Broadway, Suite 5160

San Diego, California 92101  
United States Magistrate Judge

2014 – present  
United States Army, California Army National Guard  
9800 Goethe Road  
Sacramento, California 95821  
Major

2004 – 2016  
United States Attorney's Office for the Southern District of California  
880 Front Street, Room 6293  
San Diego, California 92101  
Deputy Chief, Major Frauds and Special Prosecutions Section (2014 – 2016)  
Assistant United States Attorney (2004 – 2016)

1998 – 2004  
Rudolf Maher Widenhouse & Fialko  
(defunct)  
Of Counsel (2004)  
Associate (1998 – 2003)

Summer 1998  
Public Defender's Office for District 15B  
115 East King Street  
Hillsborough, North Carolina 27278  
Assistant Public Defender

1997 – 1998  
Andrew G. Schopler, Attorney at Law  
633 Shady Lawn Road  
Chapel Hill, North Carolina 27514  
Attorney at Law

Summer 1996  
Kennedy Covington Lobdell & Hickman, LLP  
(defunct)  
Summer Associate

Summer 1996  
Paul, Hastings, Janofsky & Walker LLP  
555 South Flower Street, 25th Floor  
Los Angeles, California 90071  
Summer Associate

1995 – 1996

Harvard Law School  
1563 Massachusetts Avenue, Areeda 228  
Cambridge, Massachusetts 02138  
Research Assistant to Professor Randall Kennedy

Summer 1995  
United States Attorney's Office for the Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201  
Summer Intern (unpaid)

Summer 1994  
Andy Schopler, Private Tutor  
420 East 70th Street, Unit 6-E  
New York, New York 10021  
Private Tutor

June 1994  
Fund for Public Interest Research  
611 Broadway, Suite 907-J  
New York, New York 10012  
Environmental Campaign Staffer

Other Affiliations (uncompensated):

2017 – present  
Federal Magistrate Judges Association  
P.O. Box 249  
Stanardsville, Virginia 22973  
Ninth Circuit Director, Board of Directors (2021 – present)

2016 – present  
Association of Business Trial Lawyers, San Diego  
8030 La Mesa Boulevard, Unit 127  
La Mesa, California 91942  
Board Member, Board of Governors (2018 – present)  
Board Member, Judicial Advisory Board (2016 – 2017)

2005 – present  
Federal Bar Association, San Diego Chapter  
P.O. Box 124825  
San Diego, California 92112  
Secretary (2016)

2012 – 2016  
Lawyer Representative Committee, Southern District of California

(There is no physical address for this organization.)  
Co-Chair (2014 – 2016)

2011 – 2016  
Superior Court of California, County of San Diego  
1100 Union Street  
San Diego, California 92101  
Judge Pro Tem (Temporary Judge)

2007 – 2016  
National Association of Assistant United States Attorneys  
700 12th Street, Northwest  
Suite 700, PMB 95968  
Washington, DC 20005  
Delegate, Southern District of California (2012 – 2016)

2003 – 2004  
Orange County Democratic Party of North Carolina  
209 Lloyd Street, Suite 310  
Carrboro, North Carolina 27510  
Precinct Chair

Approximately 2000 – 2004  
Dispute Settlement Center  
302 West Weaver Street  
Carrboro, North Carolina 27510  
Mediator

Approximately 2002 – 2003  
Orange County Chapter of the American Civil Liberties Union of North Carolina  
(No address. This local chapter is defunct.)  
Board Member

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.

2014 – present  
United States Army, California Army National Guard  
Major  
Serial number 1502255041  
I am still serving; I have not been discharged.

I have registered for selective service.

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

United States Army, California Army National Guard (2014 – present)

Bronze Star

Meritorious Service Medal

Army Commendation Medal

Army Achievement Medal

Army Reserve Components Achievement Medal (with Bronze Oak Leaf Cluster)

National Defense Service Medal

Afghanistan Campaign Ribbon (with Bronze Star Device)

Global War on Terrorism Service Medal

Armed Forces Reserve Medal (with M Device)

Army Service Ribbon

Non-Article 5 North Atlantic Treaty Organization Medal

Parachutist Badge

California State Service Ribbon

Community Service and Volunteer Work

Congressional Certificate of Recognition and Letter of Commendation for  
Afghanistan-evacuation efforts (2021)

Army Certificate of Achievement for off-duty volunteer work (2015)

United States Attorney's Office

Director's Award for Superior Performance as an Assistant United States  
Attorney – Criminal Division, conferred by the Executive Office of United States  
Attorneys (2016)

Outstanding Prosecutor Award, Southwest Border High-Intensity Drug  
Trafficking Area (2011 – 2012)

Harvard Law School

Graduated *cum laude* (1997)

Irving R. Kaufman Public Interest Fellowship (1997)

*Harvard Journal on Legislation*, Volume 34, Articles Editor (1997)

Best Brief Award, First-Year Moot Court Competition (1995)

Dartmouth College

Graduated *summa cum laude* (1994)

Phi Beta Kappa (1994)

Jones History Prize for best thesis on United States history (1994)

High Honors in History major (1994)

Charles Howe Woodbury Law Scholarship (1994)

Presidential Scholar (1994)

Rufus Choate Scholar (three academic years, 1991 – 1994)

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

Association of Business Trial Lawyers, San Diego  
Board Member, Board of Governors (2018 – present)  
Board Member, Judicial Advisory Board (2016 – 2017)

Dan Pollitt Criminal Defense Bar, Judicial District 15B, North Carolina

Federal Bar Association, San Diego Chapter  
Secretary (2016)  
Public Relations Committee (2015 – 2016)

Federal Magistrate Judges Association  
Ninth Circuit Director, Board of Directors (2021 – present)  
International Committee, Co-Chair (2021 – present)  
Liaison to the Federal Bar Association (2020 – present)  
Rules Committee (2020 – present)  
Diversity Committee (2019 – present)

Hon. William B. Enright Inn of Court, Master (2016 – present)

Lawyers Club of San Diego, Bench-Bar Committee (2019 – present)

Lawyer Representative Committee, Southern District of California, Co-Chair (2014 – 2016)

National Association of Assistant United States Attorneys, Delegate, Southern District of California (2012 – 2016)

National Association of Criminal Defense Lawyers

Ninth Circuit Lawyer Representatives Coordinating Committee

San Diego County Bar Association, Appellate Court Committee (2011 – 2013)

United States District Court for the Southern District of California  
Pro Bono Panel Committee (2019 – present)  
Community Outreach Program (2016 – present)  
50th Anniversary Committee (2015 – 2016)

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.

North Carolina, 1997  
District of Columbia, 2004  
California, 2005

There have been no lapses in membership. In 2004, I joined the D.C. Bar in an inactive status, and in 2017 I switched from inactive to judicial status. In 2005, after I joined the California Bar, I switched my North Carolina Bar membership from active to inactive status.

- 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, 2000  
United States Court of Appeals for the Fourth Circuit, 2000  
United States Court of Appeals for the Ninth Circuit, 2004  
United States District Court for the Southern District of California, 2004  
United States District Court for the Eastern District of North Carolina, 1999  
United States District Court for the Middle District of North Carolina, 1999  
United States District Court for the Western District of North Carolina, 1999

Due to my appointment as a United States Magistrate Judge, the United States Court of Appeals for the Ninth Circuit converted my admission to judge status, and the United States District Court for the Southern District of California converted my admission to inactive status. 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.

Benchmarks: Newsletter for Veterans in the Third Branch of the U.S.  
Government, Editorial Board (2019 – 2021)

Honorable David H. Bartick Award for Civility and Professionalism, Nominating Committee (2020)

Ninth Circuit Civics Contest, Southern District of California, Essay-Judging Team (2020 – 2021)

Operation North Star (2021 – present)

San Diego Track Club (2014; 2019 – present)

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

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

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

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

With William V. Gallo, *Veterans Court in the SDCA: A Step in the Right Direction*, MAGISTRATE JUDGES EXEC. BD. NEWSLETTER (U.S. Cts., Ninth Judicial Cir., San Francisco, Cal.), Winter 2022, at 6. Copy supplied.

With Ruth Bermudez Montenegro, *FMJA Accepting Diversity Award Nominations*, FMJA BULL. (Fed. Magistrate Judges Ass’n, Stanardsville, Va.), Mar. 2020, at 15. Copy supplied.

*The Crack Cocaine/Powder Cocaine Sentencing Disparity: A Brief History*, CAL. ST. BAR CRIM. LAW J., Spring/Summer 2012, at 13. Copy supplied.

*The Crack Cocaine/Powder Cocaine Sentencing Disparity: A Brief History*, FED. BAR ASS’N NEWSLETTER (Fed. Bar Ass’n, San Diego Chapter, San Diego, Cal.), Spring 2012, at 5. Copy supplied.

I edited the following publications, as part of an Editorial Board.

BENCHMARKS: NEWSLETTER FOR VETERANS IN THE THIRD BRANCH OF THE U.S.



GOV'T, Nov. 11, 2021. Copy supplied.

BENCHMARKS: NEWSLETTER FOR VETERANS IN THE THIRD BRANCH OF THE U.S. GOV'T, Nov. 11, 2020. Copy supplied.

BENCHMARKS: NEWSLETTER FOR VETERANS IN THE THIRD BRANCH OF THE U.S. GOV'T, Nov. 11, 2019. 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.

Memorandum from Co-Chairs, International Committee, Federal Magistrate Judges Association, to Board of Directors, Federal Magistrate Judges Association (Feb. 25, 2022). Copy supplied.

The following Federal Magistrate Judges Association Bulletins identify me as a member of the Board of Directors. I did not have a role in drafting, reviewing, or approving any of these bulletins.

FMJA BULL. (Fed. Magistrate Judges Ass'n, Stanardsville, Va.), June 2022. Copy supplied.

FMJA BULL. (Fed. Magistrate Judges Ass'n, Stanardsville, Va.), Mar. 2022. Copy supplied.

FMJA BULL. (Fed. Magistrate Judges Ass'n, Stanardsville, Va.), Dec. 2021. Copy supplied.

FMJA BULL. (Fed. Magistrate Judges Ass'n, Stanardsville, Va.), Sept. 2021. Copy supplied.

- 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.

Letter from the Honorable Kristen L. Mix, President, Federal Magistrate Judges Association, to five Members of the U.S. House of Representatives (the Honorable Nancy Pelosi, Speaker; the Honorable Steny Hoyer, Majority Leader; the Honorable Kevin McCarthy, Minority Leader; the Honorable Jerrold Nadler, Chair, Judiciary Committee; and the Honorable Jim Jordan, Ranking Member, Judiciary Committee) (June 14, 2022). While my name is listed in the letterhead

as a member of the FMJA's Board of Directors, I had no role in drafting, reviewing, or approving this letter. Copy supplied.

Letter from the Honorable Kristen L. Mix, President, Federal Magistrate Judges Association, to the Honorable Priscilla Owen, Chief Judge, U.S. Court of Appeals for the Fifth Circuit (Feb. 2022). While my name is listed in the letterhead as a member of the FMJA's Board of Directors, I had no role in drafting, reviewing, or approving this letter. Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

March 3, 2022: Mock Trial Judge, San Diego County High School Mock Trial Competition, San Diego County High School Mock Trial Committee, San Diego, California. I judged this countywide high school mock trial competition. I have no notes, transcript, or recording. The address of the Mock Trial Committee is 1100 Union Street, San Diego, California 92101.

February 17, 2022: Panel Speaker, "How to Deal with 'Bad Facts' in Your Case," Hon. William B. Enright Inn of Court, virtual presentation. Video supplied.

December 21, 2021: Presiding Judge, Drive-Through Naturalization Ceremony at Cabrillo National Monument, United States District Court for the Southern District of California, San Diego, California. As the presiding judge, I spoke on the honors and responsibilities of becoming a United States citizen and administered the Oath of Allegiance. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

December 20, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

December 17, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

December 16, 2021: Speaker, Retirement Ceremony for Assistant United States Attorney Timothy D. Coughlin, United States Attorney's Office for the Southern District of California, San Diego, California. Notes supplied.

December 3, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

November 23, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

November 5, 2021: Mock Trial Judge, ABTL's Eighth Annual Local Law School Mock Trial Tournament, Association of Business Trial Lawyers, San Diego, California. I judged this law school mock trial competition. I have no notes, transcript, or recording. The address of the ABTL San Diego is 8030 La Mesa Boulevard, Unit 127, La Mesa, California 91942.

September 9, 2021: Speaker, Signing of Memorandum of Cooperation between the Federal Magistrate Judges Association and Regional Dialogue, virtual ceremony. I made brief introductory comments regarding my own legal background and my gratitude that the FMJA and Regional Dialogue would be working together to promote the rule of law. I have no notes, transcript, or recording, but press coverage is supplied. The address of the FMJA is P.O. Box 249, Stanardsville, Virginia 22973, and the address of Regional Dialogue is Kalce 5j, Logatec 1370, Slovenia.

May 28, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. In addition to administering the Attorney's Oath, I spoke briefly about the Bar applicant's background as well as the honors and responsibilities of the legal profession. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

March 26, 2021: Speaker, "Lunch with Judge Andrew Schopler," Military Veterans Legal Society at California Western School of Law, virtual event. I answered questions about military service in the legal profession and about my legal and military careers. I have no notes, transcript, or recording. The address of the Military Veterans Legal Society at California Western School of Law is 225 Cedar Street, San Diego, California 92101.

March 24, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

February 10, 2021: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

January 29, 2021: Panel Speaker, Judge Pro Tem Panel, Lawyers Club of San Diego, virtual event. I was on a three-person panel discussing volunteer work as a judge pro tem. I have no notes, transcript, or recording. The address of the Lawyers Club of San Diego is 402 West Broadway, Suite 1260, San Diego, California 92101.

January 26, 2021: Mock Trial Judge, San Diego County High School Mock Trial Competition, San Diego County High School Mock Trial Committee, San Diego, California. I judged this countywide high school mock trial competition. I have no notes, transcript, or recording. The address of the Mock Trial Committee is 1100 Union Street, San Diego, California 92101.

December 14, 2020: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. In addition to administering the Attorney's Oath, I spoke briefly about the Bar applicant's background as well as the honors and responsibilities of the legal profession. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

July 2, 2020: Keynote Speaker, Naturalization Ceremony at the USS Midway Museum, United States District Court for the Southern District of California, San Diego, California. Video supplied.

February 19, 2020: Mock Trial Judge, San Diego County High School Mock Trial Competition, San Diego County High School Mock Trial Committee, San Diego, California. I judged this countywide high school mock trial competition. I have no notes, transcript, or recording. The address of the Mock Trial Committee is 1100 Union Street, San Diego, California 92101.

January 9, 2020: Speaker, Retirement Ceremony for Assistant United States Attorney Sherri W. Hobson, United States Attorney's Office for the Southern District of California, San Diego, California. I have no notes, transcript, or recording, but press coverage is supplied. The address of the United States Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

December 2, 2019: Presiding Judge, Attorney Swearing-In Ceremonies, United States District Court for the Southern District of California, San Diego, California. Audio supplied.

October 8, 2019: Judge, Direct and Cross Examination Workshop, 2019 Trial Program, San Diego Inn of Court, San Diego, California. I presided as judge over mock trial examinations and provided feedback. I have no notes, transcript, or recording. The address of the San Diego Inn of Court is 4747 North First Street, Suite 140, Fresno, California 93726.

September 7, 2019: Panel Speaker, "Perspectives from the Other Side of the

Bench,” 2019 California Army National Guard JAG Corps Training, Camp San Luis Obispo, California. I was on a panel of three judges, discussing the best ways for attorneys to persuade jurists through oral and written advocacy. I have no notes, transcript, or recording. The address of the California Army National Guard is 9800 Goethe Road, Sacramento, California 95827.

September 6, 2019: Panel Speaker, “Deployment Panel: First hand experiences from JAGs who have recently deployed to Kosovo and Afghanistan,” 2019 California Army National Guard JAG Corps Training, Camp San Luis Obispo, California. I was on a panel of judge advocates who had recently deployed to Kosovo or Afghanistan, discussing the role of judge advocates in a deployed or combat environment. I have no notes, transcript, or recording. The address of the California Army National Guard is 9800 Goethe Road, Sacramento, California 95827.

July 18, 2019: Panel Speaker, 2019 Program for Summer Externs and Law Clerks, United States District Court for the Southern District of California, San Diego, California. Two other judges and I spoke about our legal careers and our paths to the bench. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

May 1, 2019: Mock Trial Judge, Community Outreach Program, United States District Court for the Southern District of California, San Diego, California. I judged a mock trial for fifth graders from Pacific Elementary School. I have no notes, transcript, or recording. The address of the Court’s Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

April 17, 2019: Keynote Speaker, Naturalization Ceremony at Golden Hall, United States District Court for the Southern District of California, San Diego, California. Remarks supplied.

February 13, 2019: Mock Trial Judge, San Diego County High School Mock Trial Competition, San Diego County High School Mock Trial Committee, San Diego, California. I judged this countywide high school mock trial competition. I have no notes, transcript, or recording. The address of the Mock Trial Committee is 1100 Union Street, San Diego, California 92101.

May 2, 2018: Speaker, Cub Scout Den 3, San Diego, California. I spoke in my courtroom to a group of Cub Scouts and their parents about the role of judges in our system of government. I have no notes, transcript, or recording. I do not have the address for the particular den, but the address of the San Diego-Imperial Council for the Boy Scouts of America is 1207 Upas Street, San Diego, California 92103.

March 28, 2018: Guest Lecturer, “The First Amendment: A Review of Recent United States Supreme Court Decisions,” Alliant International University, San

Diego, California. Notes supplied.

March 14, 2018: Mock Trial Judge, Open Doors to the Court, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was a judge for a mock trial for 12th graders. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

February 22, 2018: Mock Trial Judge, San Diego County High School Mock Trial Competition, San Diego County High School Mock Trial Committee, San Diego, California. I judged this countywide high school mock trial competition. I have no notes, transcript, or recording. The address of the Mock Trial Committee is 1100 Union Street, San Diego, California 92101.

February 15, 2018: Mock Trial Judge, Kids to Courts Program, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I judged a mock trial for César Chavez Elementary School students. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

December 8, 2017: Presiding Judge, Attorney Swearing-In Ceremony, United States District Court for the Southern District of California, San Diego, California. In addition to administering the Attorney's Oath, I spoke briefly about the Bar applicant's background as well as the honors and responsibilities of the legal profession. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

December 8, 2017: Speaker, San Diego State University Mock Trial, San Diego, California. I spoke in my chambers with San Diego State University's undergraduate mock trial team, but I do not recall the content of my remarks. I have no notes, transcript, or recording. The address of SDSU Mock Trial is 5500 Campanile Mall, San Diego, California 92182.

November 12, 2017: Moot Court Judge, National Criminal Procedure Moot Court Tournament, University of San Diego School of Law, San Diego, California. I judged the semifinal round of this national criminal procedure moot court competition. I have no notes, transcript, or recording. The address of the USD School of Law is 5998 Alcalá Park, San Diego, California 92110.

November 9, 2017: Mock Trial Judge, Kids to Courts Program, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was a judge for a mock trial for fifth graders. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California

92101.

September 21, 2017: Panel Presenter, “Hero or Goat: Bring Out the Best in Your Witness,” Hon. William B. Enright Inn of Court, San Diego, California. I was part of a group that presented a seminar on witness preparation. I have no notes, transcript, or recording. The address of the Enright Inn of Court is 8825 Twin Trails Drive, San Diego, California 92129.

September 15, 2017: Speaker, Constitution Day, La Jolla High School, La Jolla, California. Notes supplied.

September 7, 2017: Panel Speaker, Case Management Conferences, Judith N. Keep Federal Civil Practice Seminar, San Diego, California. I was on a two-judge panel discussing case management conferences in federal court. I have no notes, transcript, or recording. The Keep Seminar was presented by the United States District Court for the Southern District of California and the San Diego Chapter of the Federal Bar Association. The address of the District Court is 333 West Broadway, San Diego, California 92101, and the address of the Federal Bar Association’s San Diego Chapter is P.O. Box 124825, San Diego, California 92112.

June 14, 2017: Panel Speaker, “Federal Civil Litigation: Recent Trends in Best Practices as Seen from the Bench,” Federal Bar Association, San Diego Chapter, San Diego, California. I was on a four-judge panel discussing best practices in federal civil litigation and practical advocacy. I have no notes, transcript, or recording. The address of the FBA’s San Diego Chapter is P.O. Box 124825, San Diego, California 92112.

June 8, 2017: Panel Speaker, Judges Panel, San Diego Intellectual Property Law Association, San Diego, California. I was on a three-judge panel discussing and answering audience questions about intellectual property cases in the federal courts. I have no notes, transcript, or recording. The address of SDIPLA is P.O. Box 8983, Rancho Santa Fe, California 92067.

April 28, 2017: Speaker, San Diego State University’s Criminal Justice Student Association, San Diego, California. I do not recall the content of my remarks. I have no notes, transcript, or recording. The address of the Criminal Justice Student Association is 5500 Campanile Mall, San Diego, California 92182.

April 27, 2017: Mock Trial Judge, Kids to Courts Program, United States District Court for the Southern District of California’s Community Outreach Program, San Diego, California. I was a judge for a mock trial for fifth graders. I have no notes, transcript, or recording. The address of the Court’s Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

April 13, 2017: Judge Advisor, San Diego Inn of Court Evidence Workshop, San

Diego, California. Notes supplied.

April 12, 2017: Speaker, Brown Bag Lunch with Magistrate Judge Andrew Schopler, Federal Bar Association, San Diego Chapter, San Diego, California. Notes supplied.

April 7, 2017: Speaker, California Western School of Law's A.I.M. for Law Program, San Diego, California. I spoke about the legal profession with college students who were considering law school. I have no notes, transcript, or recording. The A.I.M. for Law Program has been discontinued.

February 15, 2017: Keynote Speaker, Naturalization Ceremony at Golden Hall, United States District Court for the Southern District of California, San Diego, California. Remarks supplied.

December 5, 2016: Speaker, Investiture Ceremony of Magistrate Judge Andrew G. Schopler, San Diego, California. Video supplied.

September 30, 2016: Speaker, Swearing-In Ceremony of Magistrate Judge Andrew G. Schopler, United States District Court for the Southern District of California, San Diego, California. Transcript supplied.

April 20, 2016: Speaker, "Welcome" and "Concluding Remarks," 2016 Judicial Conference for the United States District Court for the Southern District of California, San Diego, California. I offered welcoming and concluding remarks at our District's judicial conference. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

April 19, 2016: Speaker, Pre-Conference Dinner, 2016 Judicial Conference for the United States District Court for the Southern District of California, San Diego, California. I offered welcoming and concluding remarks, as well as introducing various dinner speakers. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

July 14, 2015: Speaker, United States District Court for the Southern District of California's District Dinner, San Diego, California. I offered welcoming and concluding remarks at our District's annual dinner meeting in conjunction with the Ninth Circuit Judicial Conference. I have no notes, transcript, or recording. The address of the District Court is 333 West Broadway, San Diego, California 92101.

April 30, 2015: Mock Trial Prosecutor, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was a prosecutor for a mock trial for Silver Gate Elementary School students. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego,



California 92101.

June 26, 2014: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

May 21, 2014: Panel Speaker, "Public Corruption Statutes and Prosecutions," Public Corruption Investigations Training Program, Inspector General Criminal Investigator Academy, San Diego, California. I spoke on a panel about public-corruption prosecutions. I have no notes, transcript, or recording. The Inspector General Criminal Investigator Academy's address is 384 Marana Circle, Glynco, Georgia 31524.

March 7, 2014: Mock Trial Prosecutor, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was a prosecutor for a mock trial for Miramar Ranch Elementary School students. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

February 6, 2014: Panel Speaker, Federal Jobs Panel, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was on a panel of federal employees who spoke to students from Great Oaks High School about our federal jobs. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

January 29, 2014: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

October 17, 2013: Presenter and Speaker, "How to Present Your Case," Criminal Trial Advocacy Seminar, San Diego Chapter of the Federal Bar Association, San Diego, California. I played the prosecutor's role in a mock-trial presentation and later spoke on a panel discussing direct examinations. I have no notes, transcript, or recording. The address of the FBA's San Diego Chapter is P.O. Box 124825, San Diego, California 92112.

June 6, 2013: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office

is 880 Front Street, Room 6293, San Diego, California 92101.

May 31, 2013: Mock Trial Prosecutor, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was a prosecutor for a mock trial for King-Chavez Community High School students. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

October 4, 2012: Co-Instructor, "Grand Jury Secrecy," United States Bureau of Alcohol, Tobacco, Firearms, and Explosives, San Diego, California. The PowerPoint we used for this presentation is law-enforcement sensitive and thus is not provided. The address of ATF's San Diego Field Office is 9449 Balboa Avenue, Suite 200, San Diego, California 92123.

September 14, 2012: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

May 30, 2012: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

March 21, 2012: Mock Trial Prosecutor, Open Doors Program, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was a prosecutor for a mock trial for Montgomery High School students. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

February 1, 2012: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

January 26, 2012: Instructor, "Recurring Issues in Narcotics Trials," Basic Narcotics Seminar, National Advocacy Center, Columbia, South Carolina. The substance of this seminar is law-enforcement sensitive. I have no notes, transcript, or recording. The address of the NAC is 1620 Pendleton Street, Columbia, South Carolina 29201.

November 30, 2011: Panel Speaker, Federal Jobs Panel, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was on a panel of federal employees who spoke about our federal jobs with approximately 25 high-school students from King-Chavez Community High School who were committed to attending college. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

June 30, 2011: Co-Presenter, "Trial Testimony Training," Drug Enforcement Administration Southwest Laboratory, Vista, California. I was one of two presenters who conducted direct and cross-examinations of new DEA chemists in a mock-trial setting. I have no notes, transcript, or recording. The DEA Southwest Laboratory's address is 2815 Scott Street, Vista, California 92081.

May 5, 2011: Panel Speaker, Federal Jobs Panel, United States District Court for the Southern District of California's Community Outreach Program, San Diego, California. I was on a panel of federal employees who spoke about our federal jobs with senior citizens involved in San Diego State University's continuing-education program. I have no notes, transcript, or recording. The address of the Court's Community Outreach Program is 333 West Broadway, Suite 420, San Diego, California 92101.

May 26, 2010: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

May 12, 2010: Panel Speaker and Instructor, "Criminal Discovery Issues Pertaining to Agents," San Diego All Agents Conference, Federal Bureau of Investigation, San Diego, California. The PowerPoint we used for this presentation is law-enforcement sensitive and thus is not provided. The address of the FBI's San Diego Field Office is 10385 Vista Sorrento Parkway, San Diego, California 92121.

November 11, 2009: Speaker, Heart Rhythm Institute/University of Oklahoma Health Science Center Benefit Luncheon, Oklahoma City, Oklahoma. Notes and press coverage supplied.

October 27, 2009: Speaker, "Protecting Your C.I.: The Informant's Privilege," United States Immigration and Customs Enforcement's Marine Task Force, San Diego, California. The PowerPoint I used for this presentation is law-enforcement sensitive and thus is not provided. The address of ICE's San Diego Field Office is 880 Front Street, Room 2242, San Diego, California 92101.

October 1, 2009: Speaker, "Protecting Your C.I.: The Informant's Privilege,"

United States Immigration and Customs Enforcement's Operation Alliance, Chula Vista, California. The PowerPoint I used for this presentation is law-enforcement sensitive and thus is not provided. The address of ICE's San Diego Field Office is 880 Front Street, Room 2242, San Diego, California 92101.

June 3, 2009: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

June 10, 2008: Speaker, "Criminal Defense vs. Prosecution," Brown Bag Lunch Program, United States Attorney's Office, San Diego, California. I spoke to law clerks at the Office about my career in both prosecution and criminal defense. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

- 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.

Louisa Porter, *Someone You Should Know: FMJA 9th Circuit Director – Andrew Schopler*, FMJA BULL. (Fed. Magistrate Judges Ass'n, Stanardsville, Va.), Mar. 2022, at 4. Copy supplied.

Samantha Stoma, *Honored Service: Global War on Terrorism*, BENCHMARKS: NEWSLETTER FOR VETERANS IN THE THIRD BRANCH OF THE U.S. GOV'T, Nov. 11, 2019, at 1. Copy supplied.

Mark Conover, *Q&A with U.S. Magistrate Judge Andrew G. Schopler*, FED. BAR ASS'N NEWSLETTER (Fed. Bar Ass'n, San Diego Chapter, San Diego, Cal.), Mar. 2017. Copy supplied.

Elizabeth Shestak, *Harper Dedicated to Work, Friends*, NEWS & OBSERVER (Raleigh, N.C.), Dec. 15, 2014. Copy supplied.

Elizabeth Shestak, *Curtis Harper: Expert Toxicologist, Active Community Member, Supportive Friend*, NEWS & OBSERVER (Raleigh, N.C.), Dec. 14, 2014. Copy supplied.

Greg Botelho, *Feds: International Gambling Ring Known as 'Macho Sports' Busted*, CNN, June 20, 2013. Copy supplied.

Pauline Repard, *FBI Raids Target Gambling Ring*, SAN DIEGO UNION-TRIB., June 20, 2013, at NC-1. Copy supplied.

Steven Luke, Sarah Grieco, and Dave Summers, *FBI Sweeps Homes in SoCal in Bust on "Violent" International Sports Gambling Ring*, NBC7 San Diego TV, June 19, 2013 (updated June 20, 2013), available at <https://www.nbcsandiego.com/news/local/fbi-sweeps-homes-in-socal/1971546>.

Bob Ponting, *FBI Busts Alleged Sports Gambling Ring*, FOX 5 San Diego, June 19, 2013. Copy supplied.

Pauline Repard, *Man Pleads Guilty to Growing Marijuana*, SAN DIEGO UNION-TRIB., Oct. 27, 2010, at B2. Copy supplied.

Sarah Gordon and Teri Figueroa, *VISTA: Pot Shop Owner James Stacy Pleads Guilty to Felony Drug Charge*, NORTH COUNTY TIMES (Escondido, Cal.), Oct. 26, 2010, at 1. Copy supplied.

Silvio J. Panta, *17 Years for Convicted Alien Smuggler*, IMPERIAL VALLEY PRESS (El Centro, Cal.), May 22, 2008. Copy supplied.

John Stevenson, *Wife Killer Disputes Punishment*, HERALD-SUN (Durham, N.C.), May 8, 2004, at B2. Copy supplied.

John Stevenson, *Judge Accepts Apology for Killer's Outburst*, HERALD-SUN (Durham, N.C.), May 7, 2004, at C5. Copy supplied.

Oren Dorell, *Sides Devise Tactics for New Trial in Drowning*, NEWS & OBSERVER (Raleigh, N.C.), Feb. 7, 2002. 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.

From 2011 to 2016, I served as a volunteer Judge Pro Tem in Small Claims Court, Superior Court of California for the County of San Diego. This was an appointed position, conducted on a part-time, volunteer basis. Under California Code of Civil Procedure §§ 116.220, 116.221, the small claims court generally has jurisdiction over civil actions brought by businesses or entities for up to \$5,000 or by individuals for up to \$10,000.

Since 2016, I have served as a United States Magistrate Judge of the United States District Court for the Southern District of California. This is an appointed position. Under 18 U.S.C. § 3231, the district court has jurisdiction over federal criminal prosecutions. Also, as set forth in 28 U.S.C. §§ 1330 to 1369, the district court has jurisdiction over civil suits arising under the Constitution or federal laws, certain cases between citizens of different states, actions against foreign states, and bankruptcy appeals. Magistrate judges' authority is further circumscribed by 18 U.S.C. § 3401 and 28 U.S.C. § 636. With the

consent of the parties, a magistrate judge may preside over all aspects of a civil case, including trial. Otherwise, magistrate judges oversee civil pretrial proceedings, including facilitating settlement negotiations, resolving discovery disputes, ruling on non-dispositive motions, and issuing reports and recommendations to the district judge on dispositive matters. In criminal proceedings, magistrate judges preside over all aspects of misdemeanor and petty-offense cases, except that they require consent to handle trial and sentencing for class A misdemeanors. For all felony and misdemeanor criminal cases, magistrate judges may issue search warrants, arrest warrants, and summonses; authorize criminal complaints; and conduct initial appearances, bail hearings, detention hearings, preliminary examinations, and extradition proceedings.

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

As a United States Magistrate Judge, I have presided over five misdemeanor criminal trials. As a volunteer Judge Pro Tem in Small Claims Court, I presided over dozens of civil bench trials. In addition to trials, I have presided over thousands of cases that went to verdict, were resolved through entry of judgment, settled, or were dismissed. The statistics below cover only the cases that went to trial.

i. Of these cases, approximately what percent were:

jury trials:	0%
bench trials:	100%

ii. Of these cases, approximately what percent were:

civil proceedings:	90%
criminal proceedings:	10%

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

See attached list of opinions.

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. *Persian Gulf, Inc. v. BP W. Coast Prods.*, No. 15-cv-1749-TWR-AGS, 2020 WL 7427057 (S.D. Cal. Dec. 17, 2020); *Persian Gulf, Inc. v. BP W. Coast Prods.*, No. 15-cv-1749-DMS-AGS, 2020 WL 1028483 (S.D. Cal. Mar. 2, 2020); *Bartlett v. BP W. Coast Prods.*, No. 18-cv-1374-JO-AGS (S.D. Cal.)

In this ongoing antitrust case, plaintiffs allege that defendants engaged in price-fixing in the California oil industry. I have held at least 15 motion hearings on pretrial disputes, while ruling on motions to compel, for sanctions, to strike testimony, and to claw back documents. Summary judgment motions are pending before the district judge.

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2. *United States v. Oregel-Orozco*, No. 19-mj-24594-AGS, 2020 WL 5596163  
(S.D. Cal. Sept. 18, 2020)

Mr. Oregel-Orozco was charged with attempted improper entry by an alien. He moved for an order barring immigration officials from arresting him in court at the end of his criminal trial. I denied the motion, finding that the court was not empowered in a criminal case to grant what amounted to a civil injunction. Mr. Oregel-Orozco ultimately pleaded guilty, and I sentenced him to time served (50 days).

Counsel for Plaintiff

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Counsel for Defendant

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Federal Defenders of San Diego, Inc.  
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3. *DeRuyver v. Omni La Costa Resort & Spa, LLC*, No. 17-cv-0516-H-AGS, 2020 WL 220088 (S.D. Cal. Jan. 15, 2020)

In this negligence case, a nine-month-old baby was scalded by hot coffee at defendant's resort, suffering third-degree burns. The infant's family sued the resort, alleging that a waiter negligently placed a coffee pot within the baby's reach. In a trial before the district judge, the jury found for plaintiffs. After the parties reached a post-trial settlement, the case was dismissed with prejudice. During the litigation, I handled various case-management matters, facilitated a settlement conference, and issued a report and recommendation to approve the post-trial minor's compromise, which was adopted in full by the district judge.

Counsel for Plaintiff

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4. *McNally v. Riis*, No. 18-cv-1150-CAB-AGS (S.D. Cal.)

Mr. McNally brought this civil-rights lawsuit against a San Diego Police detective for allegedly using excessive force on him during an unlawful arrest. During the incident, which was captured on security video, Mr. McNally alleged that the detective pepper-sprayed him and threw him to the ground face-first, breaking his teeth and injuring his head and jaw. During the case, I resolved discovery disputes, ruled on various motions, and handled two settlement conferences. After a trial before the district judge, a jury returned a verdict for plaintiff. The case was later dismissed with prejudice after the parties reached a post-trial settlement.

Counsel for Plaintiff

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5. *Doan v. Berryhill*, No. 16-cv-0841-BAS-AGS, 2017 WL 3337150 (S.D. Cal. Aug. 4, 2017), *R & R adopted*, No. 16-cv-00841-BAS-AGS, 2017 WL 4325344 (S.D. Cal. Sept. 29, 2017)

In a Social Security disability hearing, five medical experts supported the claimant's disability claim, while one expert did not. When claimant Mr. Doan cross-examined that lone adverse expert, the Administrative Law Judge cut off the questioning after one response. Mr. Doan appealed to the District Court. In my

report and recommendation, I concluded that restricting Mr. Doan's cross-examination of a key witness to such a "meager inquiry" violated due process and was reversible error. The district judge adopted my recommendation in its entirety.

Counsel for Plaintiff

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6. *Garcia v. Ormat Techs., Inc.*, No. 16-cv-1892-AGS, 2017 U.S. Dist. LEXIS 72414 (S.D. Cal. May 10, 2017)

In this wrongful-death case, the decedent, Mr. Garcia, worked at defendant's geothermal plant. That plant used a 23-inch diameter pipe to deposit highly flammable chemicals deep underground. Defendant's employees allegedly removed a protective lid from this pipe's ground-level opening, without roping off the area or erecting warning signs. Mr. Garcia fell through this hole, became stuck midway down the pipe, and eventually succumbed to chemical burns and asphyxiation. His family sued defendant for wrongful death and premises-liability negligence, among other claims.

During discovery, defendant moved to claw back an incident report that contained certain admissions, asserting the document was privileged. After I overruled that motion, concluding that no privilege applied, the case settled. The parties then consented for me to handle the whole case, and I approved the settlement and minors' compromise.

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7. *Cardenas v. Stackley*, No. 17-cv-0490-L-AGS (S.D. Cal.)

In this civil-rights suit, a civilian U.S. Navy mechanic alleged that Navy employees discriminated against and harassed him due to his race and Mexican-American ancestry and then retaliated against him for complaining about this mistreatment. I ruled on various pretrial and discovery motions as well as conducting the settlement conference. After the parties accepted my settlement proposal, the case was dismissed with prejudice.

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8. *Quidel Corp. v. Siemens Med. Sols. USA, Inc.*, No. 16-cv-3059-BAS-AGS (S.D. Cal.), *aff'd*, No. 20-55933, 2021 WL 4622504 (9th Cir. Oct. 7, 2021)

The parties to this Lanham Act false-advertising case were all health-care manufacturers that sell medical diagnostic tools, especially for diagnosing Graves' disease. In particular, they developed biochemical procedures, called "assays," that determine the presence or amount of substances linked to markers for that disease. Plaintiff Quidel Corporation alleged that defendants falsely marketed their product as a "TSI only" assay—that is, an assay that only detects Thyroid-Stimulating Immunoglobins—when in fact Quidel's assay was the only

commercially available “TSI only” assay. During the litigation, I resolved multiple discovery disputes and held three settlement conferences. The district judge ultimately granted summary judgment for defendants, which was affirmed on appeal.

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9. *Baker v. SeaWorld Entertainment, Inc.*, No. 14-cv-2129-MMA-AGS (S.D. Cal.)

In this class action, plaintiff shareholders alleged that SeaWorld deceived the investing public when it claimed that the documentary film *Blackfish* had no effect on park attendance. That film delves into the controversy over captive whales, focusing on a SeaWorld orca allegedly involved in the deaths of two SeaWorld trainers. In addition to handling two settlement conferences, I disposed of numerous pretrial disputes, including holding multiple hearings and ruling on motions to compel discovery, to preclude evidence, and to find waiver. The parties ultimately agreed to settle the case on a classwide basis.

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10. *Keating v. Jastremski*, No. 15-cv-0057-L-AGS (S.D. Cal.)

In this case, an investment firm alleged that several of its brokers stole trade secrets when they left the company. During pretrial proceedings, I resolved multiple discovery disputes, held two evidentiary hearings, ruled on many motions to compel and for sanctions, and conducted four settlement conferences. Later, the district judge granted a motion for terminating sanctions against three parties due to intentional destruction of evidence. The remaining parties then reached a settlement, and the case was voluntarily dismissed.

Counsel for Plaintiff/Counter-Defendant

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Counsel for Defendant/Counter-Plaintiff

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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. *Vuz v. DCSS III, Inc.*, No. 20-cv-0246-GPC-AGS, 2022 WL 542883 (S.D. Cal. Feb. 23, 2022)

Counsel for Plaintiff

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Counsel for Defendant

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2. *Persian Gulf, Inc. v. BP W. Coast Prods.*, No. 15-cv-1749-TWR-AGS, 2020 WL 7427057 (S.D. Cal. Dec. 17, 2020)

Counsel for Plaintiff

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3. *United States v. Oregel-Orozco*, No. 19-mj-24594-AGS, 2020 WL 5596163  
(S.D. Cal. Sept. 18, 2020)

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4. *Goodlett v. Delgado*, No. 19-cv-1922-AJB-AGS, 2020 WL 4500623 (S.D. Cal. Aug. 5, 2020), *R & R adopted*, No. 19-cv-1922-AJB-AGS, slip op. (S.D. Cal. Sept. 11, 2020)

Counsel for Plaintiff

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Counsel for Defendant

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5. *Blanco v. Robertson*, No. 18-cv-1909-CAB-AGS, 2019 WL 2341347 (S.D. Cal. May 31, 2019), *R & R adopted*, No. 18-cv-1909-CAB-AGS, 2019 WL 2537826 (S.D. Cal. June 20, 2019)

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None (plaintiff was pro se)

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6. *Foley v. Kaldenbach*, No. 15-cv-1627-CAB-AGS, 2018 WL 325027 (S.D. Cal. Jan. 8, 2018), *R & R adopted*, No. 15-cv-1627-CAB-AGS, slip op. (S.D. Cal. Sept. 20, 2018)

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None (plaintiff was pro se)

Counsel for Defendant

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7. *Hoffman v. Berryhill*, No. 16-cv-1976-JM-AGS, 2017 WL 3641881 (S.D. Cal. Aug. 24, 2017), *R & R adopted*, No. 16-cv-1976 JM(AGS), 2017 WL 4844545 (S.D. Cal. Sept. 14, 2017)

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8. *Berry v. Berryhill*, No. 16-cv-1700-MMA-AGS, 2017 WL 3600415 (S.D. Cal. Aug. 18, 2017), *R & R adopted*, No. 16-cv-1700-MMA (AGS), 2017 WL 4844688 (S.D. Cal. Sept. 7, 2017)

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9. *Wick v. Berryhill*, No. 16-cv-1987-JM-AGS, 2017 WL 3437577 (S.D. Cal. Aug. 10, 2017), *R & R adopted*, No. 16-cv-1987-JM-AGS, slip op. (S.D. Cal. Sept. 22, 2017)

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10. *Doan v. Berryhill*, No. 16-cv-0841-BAS-AGS, 2017 WL 3337150 (S.D. Cal. Aug. 4, 2017), *R & R adopted*, No. 16-cv-00841-BAS-AGS, 2017 WL 4325344 (S.D. Cal. Sept. 29, 2017)

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

After a diligent search of my files and electronic databases, I have not found any cases in which certiorari was requested or granted.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have searched my files and electronic databases regarding the opinions that I have written in cases assigned to me. In the Ninth Circuit Court of Appeals, I found no decisions of mine that were reversed and no decisions that were affirmed with significant criticism of my rulings. In the District Court, I found three Reports and Recommendations of mine that a district judge declined to adopt and seven that a district judge modified or partially declined to adopt.

A district judge declined to adopt my rulings in the following three cases.

*Robinson v. City of San Diego*, No. 18-cv-1918-AJB-AGS, 2019 WL 4736218 (S.D. Cal. Sept. 27, 2019), *R & R rejected*, No. 18-cv-1918-AJB-AGS, slip op. (S.D. Cal. Dec. 20, 2019). I recommended that this case be dismissed for failure to prosecute when plaintiff's counsel failed to participate in the case for months after being warned of the possibility of severe sanctions for such misconduct. Specifically, plaintiff's counsel missed two in-person court appearances, one telephonic status conference with the court, and the parties' Rule 26(f) conference. In addition, plaintiff's counsel missed multiple court-ordered deadlines and obligations, including failing to produce initial disclosures, failing to contribute to the joint discovery plan, failing to submit an Early Neutral Evaluation statement, failing to respond to discovery requests, failing to respond to the defense's motion to compel discovery responses, failing to contact the court as ordered regarding a settlement proposal, failing to set up a joint telephonic conference with the court as ordered, and failing to respond to defense phone calls and emails about discovery requests. In a summary order, the district judge declined to dismiss the case, without analysis. Order supplied.

*Cortes v. Nat'l Cmty. Renaissance*, No. 16-cv-1834-CAB-AGS, 2018 U.S. Dist. LEXIS 23645 (S.D. Cal. Feb. 13, 2018), *R & R rejected*, No. 3:16-CV-1834-CAB-(MDD), 2018 U.S. Dist. LEXIS 31893 (S.D. Cal. Feb. 27, 2018). I recommended that the settlement of a minor's claim be approved as being in the minor's best interests, which none of the parties objected to. The district judge initially declined to accept that recommendation because the judge wanted additional information on the disposition of each minor's funds and attorney fees.

I mediated the parties' drafting of an addendum to their settlement agreement to provide that information. Thereafter, the district judge approved the settlement.

*Guzman v. Spearman*, No. 16-cv-2659-MMA-AGS, 2017 WL 11554191 (S.D. Cal. July 13, 2017), *R & R rejected*, No. 16-cv-2659-MMA (AGS), 2017 WL 11554116 (S.D. Cal. July 14, 2017). During an initial review of a habeas petition from a state prisoner, I noted that he had requested, as "Ground Six" in his petition, to join in "co-appellants'" arguments but failed to identify any of them. I *sua sponte* recommended dismissing that ground because such argument-by-joinder is not permitted in section 2254 habeas corpus proceedings. The district judge concluded that the dismissal of Ground Six was premature because respondent had not yet responded to the habeas petition, and the judge preferred not to adjudicate the claims on a "piecemeal" basis. The petitioner later amended his petition and dropped that ground.

A district judge modified or partially declined to adopt my rulings in the following seven cases.

*Moody v. Cal. Dep't of Corr. & Rehab.*, No. 18-cv-1110-WQH-AGS, 2021 WL 5864069 (S.D. Cal. Dec. 10, 2021), *R & R adopted in part, rejected in part*, No. 18cv1110-WQH-AGS, 2022 WL 336845 (S.D. Cal. Feb. 3, 2022). In a prisoner civil-rights lawsuit, one of the prisoner plaintiffs died due to unrelated causes. California has a statute that extinguishes certain categories of damages—"pain, suffering, or disfigurement"—when a decedent's heir or estate substitutes in. Decedent's son argued that this statute should not apply because it was inconsistent with the purposes of federal civil-rights statutes. Relying primarily on Supreme Court precedent, I concluded that the statute applied in this case and thus barred those damages. The district judge, relying on the same precedent, agreed with that result. But the judge also addressed an additional issue that was raised only perfunctorily in the briefing before me: whether that same statute required the dismissal of similar damages for decedent's remaining state claims. Deciding it did, the district judge modified my recommendation accordingly.

*Mahboob v. Educ. Credit Mgmt. Corp.*, No. 15-cv-0628-TWR-AGS, 2021 WL 791853 (S.D. Cal. Mar. 1, 2021), *R & R adopted in part, rejected in part*, No. 15-CV-628-TWR (AGS), 2021 WL 7448531 (S.D. Cal. Mar. 31, 2021). In this putative class action, plaintiffs alleged that a call center did not warn them they were being recorded, in violation of California law. The recordings of those calls, however, were deleted in 2016. After reviewing the evidence, I concluded that the deletion was due to a failure to appropriately enforce a litigation hold, rather than a willful act of evidence destruction. So I recommended that defendant be sanctioned for failing to preserve that evidence, but that all such penalties should be in line with Federal Rule of Civil Procedure 37(e)(1)'s lesser sanctions for inadvertent but prejudicial spoliation. In particular, I recommended a monetary sanction and that defendant not be permitted to use any call recordings in its defense, since it did not retain the critical call recordings. The district judge

agreed with my analysis and monetary sanction, but deferred ruling on the evidentiary sanction at that time. The judge instead decided to address the propriety of an evidentiary sanction in the context of the then-pending motion for class certification. Yet the district judge ultimately dismissed the case without addressing the merits of class certification and thus never revisited the evidentiary sanction.

*Denman v. Saul*, No. 19-cv-2441-MMA-AGS, 2020 WL 3549200 (S.D. Cal. June 11, 2020), *R & R adopted in part, rejected in part*, No. 19-cv-2441-MMA-AGS, 2020 WL 3542390 (S.D. Cal. June 30, 2020). In this Social Security appeal, plaintiff failed to file an opening brief by the court-ordered deadline and then failed to respond to two orders to show cause. I recommended that the case be dismissed with prejudice for failure to prosecute. The district judge wrote that my recommendation was “thorough and well-reasoned” and fully adopted my analysis for dismissal, but in a footnote elected to dismiss without prejudice. To date, plaintiff has not attempted to reopen the case.

*Moody v. Cal. Dep’t of Corr. & Rehab.*, No. 18-cv-1110-WQH-AGS, 2019 WL 2717216 (S.D. Cal. June 28, 2019), *R & R adopted in part, rejected in part*, No. 18cv1110-WQH-AGS, 2019 WL 4187617 (S.D. Cal. Sept. 3, 2019). I recommended granting a motion to dismiss seven different categories of plaintiffs’ claims in a prison-based civil-rights lawsuit. The district judge adopted my reasoning as to those categories. I also recommended denying defendants’ motion to dismiss two claims under the Americans with Disabilities Act and Rehabilitation Act. Relying on Ninth Circuit precedent, I concluded that the use of excessive force on a known disabled inmate states a claim under those statutes as interfering with the inmate’s reasonable accommodations. The district judge, however, reasoned that those claims required allegations showing that the force was used because of the inmates’ disabilities. Since those allegations were absent, the district judge dismissed the ADA and RA claims, too.

*Clark v. Berryhill*, No. 16-CV-2854-BEN-AGS, 2018 WL 620144 (S.D. Cal. Jan. 29, 2018), *R & R adopted in part, rejected in part*, No. 3:16-cv-02854-BEN-AGS, 2018 WL 948489 (S.D. Cal. Feb. 20, 2018). In this appeal of a Social Security disability decision, I concluded that the Administrative Law Judge erred by using the wrong standard to disregard a treating physician’s opinion. But I determined that any such error was harmless as there were four doctors who disagreed with the inappropriately rejected doctor’s opinion as well as a history of examinations that were in tension with that rejected doctor’s conclusions. The district judge adopted all my reasoning except as to harmlessness. The district judge concluded the error was prejudicial because the rejected doctor’s proposed restrictions, if adopted, would require a disability finding.

*Textron Fin. Corp. v. Gallegos*, No. 3:15-cv-1678-LAB-AGS, 2017 WL 4402170 (S.D. Cal. Oct. 4, 2017), *R & R adopted*, No. 15-cv-1678-LAB (AGS), 2017 WL 10669664 (S.D. Cal. Oct. 20, 2017), *and R & R adopted as modified*, No. 15-cv-

1678-LAB (AGS), 2018 WL 550476 (S.D. Cal. Jan. 25, 2018). In a judgment enforcement action, there was evidence that a judgment debtor repeatedly hid personal assets in his business entities to frustrate the creditor's ability to collect on its judgment. I recommended an assignment order in the judgment creditor's favor, so that assets passing through those entities had to be assigned to the creditor. The district judge agreed and adopted that order. The creditor later filed a motion for contempt against the debtor claiming he had violated the assignment order. As part of the contempt request, the creditor asked that the debtor turn over the stock certificates to several of those entities and that the court appoint a receiver to run the entities. I concluded that, although the debtor's transfers appeared problematic, he had not violated the assignment order. So, I recommended denying the request for a stock turnover order or a receiver. The district judge agreed with my analysis, except he concluded that the stock turnover was appropriate regardless of the contempt finding. So modified, he adopted the report and recommendation.

*Blanchard v. Cty. of San Diego*, No. 16-cv-1783-BAS-AGS, 2017 WL 3393667 (S.D. Cal. Aug. 8, 2017), *R & R adopted in part, rejected in part*, No. 16-cv-01783-BAS(JLB), 2017 WL 4003770 (S.D. Cal. Sept. 11, 2017). In a case involving medical care at the San Diego jail, I drafted a combined recommendation as to four motions to dismiss and one motion to strike covering a range of defendants and claims. The district judge adopted my recommendation in full, except the judge found that the private medical-treatment provider at the jail should be treated identically to the County itself for purposes of municipal liability. Because I found that the allegations were sufficient to state a claim against the County, the district judge concluded that they were similarly sufficient to state a claim against the private company the County hired. So modified, the district judge adopted the rest of my recommendation over five separate sets of objections.

- 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.

All my opinions and orders are automatically posted with our Court's Case Management/Electronic Case Files (CM/ECF) system. As a magistrate judge, most of my decisions are unpublished opinions, although some may be available on Westlaw or Lexis. To the extent that I have issued decisions that are not posted by Westlaw or Lexis, they are maintained in the Court's CM/ECF system.

- 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 written any significant 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.

The District Court employs an automatic recusal system. Each judge provides a "conflicts list" to the Clerk of Court, listing the names of people and entities who cannot appear before that judge due to close personal, family, or financial relationships. The system will not assign a case to a judge if any of the parties appear on that judge's conflicts list. In addition, my staff screens each new case against my conflicts list, with orders to alert me immediately of any conflict. Finally, for any potential conflict issues that arise before me, I adhere to the Code of Conduct for United States Judges; 28 U.S.C. § 455; and all applicable policies and procedures of the United States Courts.

I have not been asked to recuse myself due to an asserted conflict of interest.

I recused myself on my own motion in the following four cases.

I recused myself from *Najib v. Johnson*, 22-cv-0807-AJB-DEB, and *Shamsi v. Johnson*, 22-cv-0788-TWR-WVG. In both cases, the complaint was brought on behalf of an Afghan national who alleges that he previously worked on behalf of the U.S. government and now needs court-ordered action on his Special Immigrant Visa application, so he can leave Afghanistan where he faces ongoing threats. For over a year, I have volunteered in a non-legal capacity with Afghanistan evacuation-related efforts for U.S. citizens as well as at-risk Afghans who previously worked on behalf of the U.S. government. I recused to avoid any possibility of a perceived conflict of interest.

I recused myself from *Reloj v. Government Employees Insurance Company, Inc. d/b/a Geico*, 21-cv-1751-L-MSB, after a party disclosed that a company whose stock I own had an interest in the action. Two months after the complaint was filed, the defendant filed notice that Berkshire Hathaway, Inc., had a financial interest in the lawsuit. I recused from the case on my own motion because I own shares in Berkshire Hathaway.

I recused myself from *United States v. Rivas*, 18-cr-0287-CAB, after recognizing the defendant as someone I prosecuted when I was a federal prosecutor. At the defendant's initial appearance, I did not recognize him, possibly because of the crowded nature of many initial appearances and possibly because he was charged under a slightly different name. The next time he appeared before me in person, at his arraignment, I recognized him as someone I prosecuted a decade earlier and recused myself.

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

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

I have never held public office, except as a judicial officer.

- 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.

Precinct Chair (unpaid), Orange County Democratic Party of North Carolina. Around late 2003 and early 2004, I served very briefly as a Precinct Chair for the voting precinct that covered my neighborhood. I attended some meetings, but stepped aside a short time after my appointment, as I was applying to the United States Attorney's Office.

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

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

I did not serve as a clerk to a judge.

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

1997 – 1998

Andrew G. Schopler, Attorney at Law  
633 Shady Lawn Road  
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- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each;

Summer 1998

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115 East King Street  
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Assistant Public Defender

1998 – 2004

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Associate (1998 – 2003)  
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2004 – 2016

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2014 – present

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Major

2016 – present

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United States Magistrate Judge

- 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.

From roughly 2000 to 2004, I volunteered as a mediator at the Dispute Settlement Center in Carrboro, North Carolina. I handled only a handful of cases, typically involving low-value disputes with unrepresented parties. I did not keep detailed records of these volunteer mediations.

b. Describe:

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

I began my legal career in 1997 as a sole practitioner in Chapel Hill, North Carolina. I primarily associated with other attorneys on various civil and criminal-defense matters, including a civil-rights lawsuit and post-conviction proceedings in two death-penalty cases.

In 1998, I accepted a three-month contract in North Carolina as an Assistant Public Defender at the Public Defender's Office covering Orange and Chatham Counties. I represented indigent adults charged with misdemeanors and low-level felonies as well as young people charged in juvenile court.

In September 1998, after my term contract with the Public Defender's Office ended, I joined the Chapel Hill law firm of Rudolf & Maher, P.A. (which became Rudolf Maher Widenhouse & Fialko, P.A., the next year), as an associate. My practice focused on criminal defense and complex civil litigation. In criminal cases, I represented retained and court-appointed clients at trial and on appeal. The charges ran the gamut from fraud to first-degree murder. I was eventually named to North Carolina's Capital Roster, a statewide panel of attorneys eligible for appointment in death-penalty cases. On the civil side, I defended a business litigation case and represented plaintiffs in various actions, including claims of civil-rights violations, environmental torts, and securities fraud.

In 2004, I moved to San Diego, California, to join the United States Attorney's Office, serving as an Assistant United States Attorney there until 2016. In that role, I handled trials and appeals in a variety of federal criminal cases. At first, I worked in the General Crimes Section, prosecuting drug-trafficking, alien-smuggling and other immigration-related crimes, firearms offenses, violent crime, and fraud. In 2008, I moved to the Criminal Enterprise/Narcotics Enforcement Section, investigating and prosecuting drug cartels, violent street and motorcycle gangs, and drug-trafficking rings. In 2012, I joined the Major Frauds and Special Prosecutions Section, and within two years became the Deputy Chief of that section. My work there focused on prosecuting white-collar

crime, public corruption, financial frauds, organized crime, racketeering, and other complex crimes.

Also in 2014, while I was still at the United States Attorney's Office, I received my commission in the United States Army, California Army National Guard, and began serving as a judge advocate. My part-time work as a judge advocate focuses on fiscal, ethical, administrative, operational, and military-justice issues.

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

In private practice, both as a sole practitioner and at Rudolf Maher Widenhouse & Fialko, my typical clients were individuals and occasionally businesses involved in criminal or civil litigation. A significant percentage of my work was on behalf of indigent clients. At the Public Defender's Office, I exclusively represented indigent persons. As an Assistant United States Attorney and a judge advocate, I represented the United States.

- 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.

Before my appointment as a United States Magistrate Judge, my practice was almost 100 percent dedicated to litigation. As an Assistant Public Defender in 1998 and an Assistant United States Attorney from 2004 to 2016, I appeared in court on a daily to weekly basis. At Rudolf Maher Widenhouse & Fialko from 1998 to 2004, I appeared in court daily for some lengthy trials and otherwise several times per month. As a sole practitioner from 1997 to 1998, I appeared in court on a monthly basis.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 70%
- 2. state courts of record: 30%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 10%
- 2. criminal proceedings: 90%

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

I tried approximately 55 cases to verdict, judgment, or final decision. Of those, I tried seven cases as associate counsel, nine as chief counsel (or co-chief counsel), and approximately 39 as sole counsel. Additionally, I handled ten oral arguments before appellate courts, including six before the U.S. Court of Appeals for the Ninth Circuit and four before the North Carolina Court of Appeals.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 43% |
| 2. non-jury: | 57% |

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

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

*Miller v. North Carolina*, 532 U.S. 1040 (2001) (petition for a writ of certiorari) (cert. denied). Copy supplied.

I also assisted with reviewing and suggesting factual edits for the United States' brief in opposition to the petition for a writ of certiorari in *Reyes-Bosque v. United States*, 562 U.S. 1141 (2011) (cert. denied), but my name was not listed on the brief. Copy supplied.

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.

- United States v. Azano Matsura*, No. 14-cr-0388-MMA (S.D. Cal.) (Anello, J.)

In this campaign-finance-fraud prosecution, Mr. Azano was convicted of illegally funneling more than \$500,000 into San Diego's mayoral and federal elections. As co-lead

counsel for the United States, I handled opening statement; numerous witness examinations, such as cross-examining the sitting San Diego District Attorney; and extensive pretrial litigation, including opposing the defense's motions to suppress wiretap and search-warrant evidence. All four individual defendants were eventually convicted. After a six-week trial, the jury convicted Mr. Azano and two codefendants (Mr. Singh and Mr. Hester) of a campaign-finance conspiracy, as well as convicting Mr. Azano and Mr. Singh of other campaign-finance and records-falsification crimes. The jury hung on a lone weapon-possession count against Mr. Azano. A fourth codefendant's case resulted in a hung jury on some counts and acquittal on others, and that codefendant later pleaded guilty to several misdemeanor counts and was sentenced to four months in custody.

After I became a magistrate judge, Mr. Azano was convicted of the gun-possession charge in a retrial; Mr. Hester negotiated a plea agreement under which the felony charge against him was dismissed in return for his guilty plea to a misdemeanor charge and a recommended probationary sentence; and the prosecution moved to dismiss the defunct organizational defendant ElectionMall, Inc., from the case without trial. On appeal, the Ninth Circuit affirmed Mr. Azano's conviction of 36 counts and Mr. Singh's conviction of 3 counts, while reversing 1 record-falsification count as to each of them. On remand, Mr. Azano was sentenced to 36 months and Mr. Singh to 12 months and 1 day.

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2. *United States v. Berkenfield*, No. 11-cr-3486-JAH (S.D. Cal.) (Houston, J.); *United States v. Peterson*, No. 12-cr-1009-JAH (S.D. Cal.) (Houston, J.); *United States v. Espino*, 892 F.3d 1048 (9th Cir. 2018) (Bataillon, Callahan, Nguyen, JJ.)

I supervised the team that prosecuted this 27-defendant mortgage-fraud case. In addition, I was lead counsel in the separate jury trial of Ms. Espino, who was charged with false declarations before the grand jury regarding her role as a tax preparer in the scheme. At trial, I handled opening statement, rebuttal closing argument, several direct examinations, and the cross-examination of the defense's only witness, a forensic-document expert. The jury convicted Ms. Espino, who received a time-served sentence, and the Ninth Circuit affirmed that conviction.

For the other jury trial in this case, I successfully opposed several of the defense's pretrial motions, including a motion to suppress statements, but otherwise supervised and provided strategic advice. In total, 22 defendants pleaded guilty to conspiracy, wire fraud, or other felonies (4 of these cases were later dismissed under diversionary or deferral agreements and 1 in the interests of justice), 3 defendants were convicted at trial, 1 acquitted, and 1 case dismissed after the jury deadlocked on one count and acquitted on another. The lead defendant was sentenced to 41 months, seven other defendants received sentences ranging from 3 months to 13 months and one day, and the remaining defendants faced probationary or time-served sentences.

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3. *United States v. Portocarrero*, No. 13-cr-2196-JLS (S.D. Cal.) (Sammartino, J.); *United States v. Mokayef*, No. 15-cr-2645-JLS (S.D. Cal.) (Sammartino, J.); *United States v. Koh*, No. 15-cr-2716-JLS (S.D. Cal.) (Sammartino, J.)

This transnational organized-crime investigation targeted a violent sports-betting ring known as “Macho Sports.” In this case, I devised a strategy of wiretaps, undercover operations, and financial probes that ultimately uncovered critical evidence on the organization’s leadership in Peru and Norway. I also organized a coordinated international takedown—across three continents—that netted 18 individual defendants and over \$10 million in forfeitures. Throughout my involvement in the investigation, I was the sole counsel for the United States. After indictment, I remained sole counsel while negotiating the guilty pleas of the first 14 defendants. Then, with co-counsel, I negotiated the four remaining defendants’ guilty pleas to a racketeering conspiracy. One organizational defendant, Macho Sports International Corporation, never made an appearance and was eventually dismissed from the case. The four lead defendants received sentences that ranged from 18 to 22 months. Two others were sentenced to 13 months and almost 11 months, and the remaining defendants were placed on probation.

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4. *United States v. Cervantes*, No. 13-cr-1345-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Cashman*, No. 14-cr-3621-GPC (S.D. Cal.) (Curiel, J.); *United States v. Alonso*, No. 14-cr-0120-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Abueg*, No. 14-cr-0144-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Mercado*, No. 14-cr-0180-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Mercado*, No. 14-cr-0181-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Kay*, No. 14-cr-0187-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Ramirez*, No. 14-cr-0213-AJB (S.D. Cal.) (Battaglia, J.); *United States v. Nguyen*, No. 14-cr-0282-AJB (S.D. Cal.) (Battaglia, J.)

This case concerned a long-running bribery-and-kickback scheme involving multi-million-dollar contracts at military and federal installations. I led a multi-agency investigation that included the FBI, IRS, Naval Criminal Investigative Service, Defense Criminal Investigative Service, and the Offices of Inspector General for both the General Services Administration and the Small Business Administration. As lead counsel for the

United States, I crafted an investigative plan that included subpoenas, financial analysis, search warrants, a video-recorded meeting, and a cooperating witness wearing a wire.

My team ultimately secured the convictions of all 11 defendants. Mr. Cervantes, a Defense Department supervisor who described himself as the “Godfather at Camp Pendleton,” pleaded guilty to bribery of public officials and conspiracy to bribe public officials and was sentenced to 24 months. Mr. Cashman, a General Services Administration supervisor, pleaded guilty to filing a false tax return and to a two-pronged conspiracy to commit bribery and theft of government property, which resulted in a 16-month sentence. Two prime contractors, two businesses, and five sub-contractors each pleaded guilty to at least one felony count of a fraud- or corruption-related crime, including Anti-Kickback Act violations, conspiracy to bribe public officials, false tax returns, or structuring transactions to evade reporting requirements. These latter defendants received sentences ranging from time served or probation to six months in custody.

Representation Dates: 2012 – 2015

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5. *United States v. Ottinger*, No. 10-cr-5016-H (S.D. Cal.) (Huff, J.)

This FBI Violent Crimes Task Force wiretap investigation into the Hells Angels culminated in the indictment of 36 defendants for a methamphetamine-trafficking conspiracy, including six “Full-Patch” Hells Angels, six Hells Angels associates, and ten career offenders. The investigation initially focused on Mr. Ottinger, the Hells Angels’ Sergeant-at-Arms, who was suspected of drug-trafficking and violent crimes, such as the murder of a rival Mongols motorcycle gang member. Over eight rounds of wiretap orders, my team uncovered a vast methamphetamine-trafficking network engaged in various violent and weapons-related crimes. The investigative team also thwarted a planned kidnapping. As sole counsel for the United States, I led the investigation and prosecution, including preparing 8 wiretap and 18 search-warrant applications, securing indictments, and handling all pretrial, trial-related, and post-conviction proceedings before the grand jury and trial court.

All defendants were eventually convicted. In total, 32 defendants pleaded guilty to the methamphetamine conspiracy, with sentences ranging from 30 to 262 months. Three pleaded guilty to other drug-related or firearm felonies, with sentences ranging from 15 to 46 months. One defendant’s case was dismissed in favor of prosecuting him for a different methamphetamine-distribution conspiracy in another case, which resulted in conviction and a 20-year sentence.

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6. *United States v. Jones*, No. 10-cr-4141-H (S.D. Cal.) (Huff, J.)

In this public-corruption trial, a former Customs and Border Protection Officer was convicted of conspiring with a drug cartel and alien-smugglers to allow drugs and undocumented persons into the United States in exchange for bribes. As co-lead counsel for the United States, I was responsible for most of the motions practice and argument. During trial, I handled opening statement and roughly half of the witness examinations, including the direct examinations of a former corrupt officer, the head of a drug-smuggling ring, and that drug-smuggler's wife, as well as the cross-examination of the director of the Otay Mesa, California, Port of Entry. I also prepared to cross-examine defendant, but he never testified. The jury convicted defendant of both conspiracy and attempted marijuana-importation, and he was ultimately sentenced to 30 months.

Representation Dates: 2012 – 2014

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7. *United States v. Alarid*, No. 11-cr-1447-LAB (S.D. Cal.) (Burns, J.)

This two-defendant jury trial involved nearly 60,000 pounds (30 tons) of marijuana smuggled through a 600-yard cross-border drug tunnel. At the time, this was the largest drug seizure in California history. The defendants were alleged to be the head of an international drug-smuggling organization and one of his tractor-trailer drug-load drivers. I joined the prosecution team as co-lead trial counsel, handling a pretrial evidentiary hearing, opening statement, cross-examination of all defense witnesses (two pretrial and one at trial), and direct examination of various witnesses, including the prosecution's expert witness. The jury found defendants guilty of all charges, including conspiracies to import and to distribute marijuana as well as possessing marijuana with intent to distribute it. The lead defendant was sentenced to 300 months, but that was later reduced to time served for compassionate release due to that defendant's diagnosis of stage IV terminal cancer. The other defendant was ultimately sentenced to 188 months.

Representation Dates: 2011 – 2012

Co-Counsel

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8. *United States v. Walker*, No. 08-cr-0256-L (S.D. Cal.) (Lorenz, J.); *United States v. Tryals*, 525 F. App'x 554 (9th Cir. 2013) (Rawlinson, Bybee, Timlin, JJ.)

This FBI Violent Crimes Task Force wiretap investigation targeted gang-related crack- and methamphetamine-distribution. Of the 13 defendants, 12 pleaded guilty and received sentences ranging from 30 to 144 months. Only Mr. Tryals, who had no drugs on his

person at arrest, demanded a jury trial. As sole counsel for the United States, I handled all aspects of the investigation and prosecution, including trial and appeal. After the jury convicted Mr. Tryals of conspiring to distribute crack cocaine, he appealed the trial court's pretrial rulings on his motion to dismiss for an alleged Speedy Trial Act violation and his motion to suppress statements under *Miranda*. The Ninth Circuit affirmed the conviction, finding no error. Mr. Tryals was originally sentenced to 240 months, which was later reduced to time served (just over 152 months) under the First Step Act.

Representation Dates: 2007 – 2013

Opposing Counsel for Mr. Tryals's Trial

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9. *United States v. Navarro*, No. 07-cr-0222-IEG (S.D. Cal.) (Gonzalez, J.); *United States v. Navarro*, 608 F.3d 529 (9th Cir. 2010) (Kleinfeld, Tallman, Trager, JJ.)

In this heroin-importation trial, Mr. Navarro, who had a prior felony drug-smuggling

conviction, was arrested at the San Ysidro, California, Port of Entry attempting to smuggle almost 30 pounds of heroin into the United States. Mr. Navarro admitted being paid \$6,000 to deliver the drugs to Los Angeles, but asserted that he was working with law enforcement as a confidential informant. He was not, however, able to provide his controlling agent's name and later conceded that no law-enforcement officials knew of this smuggling venture. At trial, Mr. Navarro raised two defenses. He again argued that agents authorized him to smuggle the heroin and, in addition, claimed that he was acting under duress and immediate threat of death. The jury rejected these defenses and convicted him of both importing heroin and possessing it with the intent to distribute. The district judge sentenced Mr. Navarro to the mandatory-minimum 240 months, and the Ninth Circuit affirmed the conviction and sentence. That sentence was later reduced to 168 months after a grant of executive clemency that was applied to many defendants in similar mandatory-minimum cases. As co-lead trial counsel, I handled opening statement, much of the trial-level motion practice, and roughly half the witness examinations, including the cross-examination of Mr. Navarro. On appeal, I argued before the Ninth Circuit and wrote some of the supplemental briefing.

Representation Dates: 2007 – 2010

Co-Counsel

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10. *United States v. Reyes-Bosque*, No. 05-cr-2239-BEN (S.D. Cal.) (Benitez, J.); *United States v. Rivas-Pozos*, 273 F. App'x 606 (9th Cir. 2008) (Gibson, O'Scannlain, Graber, JJ.); *United States v. Reyes-Bosque*, 596 F.3d 1017 (9th Cir. 2010) (Siler, Schroeder, Ikuta, JJ.), *cert. denied*, 562 U.S. 1141 (2011); *United States v. Reyes-Bosque*, 624 F. App'x 529 (9th Cir. 2015) (Schroeder, Friedland, Chhabria, JJ.); *Reyes-Bosque v. United States*, Nos. 12-cv-0019-BEN, 05-cr-2239-BEN, 2016 WL 8673872 (S.D. Cal. 2016) (Benitez, J.)

In this case, the United States alleged that Mr. Reyes-Bosque was the kingpin of an alien-smuggling organization and that two codefendants were members of his crew. Witnesses

testified that smuggled individuals were kept at Mr. Reyes-Bosque's stash houses under hostage-like conditions and that some were physically and sexually assaulted. Another witness testified that unknown individuals threatened his life before trial to prevent his testimony. A jury convicted Mr. Reyes-Bosque of aiding aggravated-felon aliens to enter the United States and nine other alien-smuggling-related counts. He was sentenced to 210 months. A different jury convicted the two codefendants of six counts of bringing aliens to the United States for financial gain and six counts of harboring aliens, but the United States later agreed to dismiss the financial-gain counts after a change in the law. Those two codefendants were each sentenced to 48 months. Co-counsel assisted with a suppression hearing, an interlocutory appeal, and a post-conviction appeal of the initial denial of Mr. Reyes-Bosque's motion to vacate his sentence. Otherwise, I was sole counsel for the United States, including investigation, pretrial proceedings, both jury trials, appeal, and various post-conviction proceedings until I became a magistrate judge in 2016.

Representation Dates: 2005 – 2016

Co-Counsel

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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.)

As a magistrate judge, I am the founding and sole judge for our district's Veterans Diversion Court, which is a pretrial-diversion program for honorably discharged veterans. The goal of this rehabilitation-focused program is to address the root causes of criminality and to give veterans who sacrificed greatly for our country a second chance at an honorable life. Participants avoid prison and earn a dismissal of their criminal cases if they complete a rigorous, 18- to 24-month monitored program of monthly court appearances, frequent drug testing, and mandatory substance-abuse treatment, therapy, and other services. I am also one of two judges presiding over our district's Veterans Treatment Court, which is a similar program for veterans who committed their crimes due to service-connected trauma.

I have never performed lobbying activities nor 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.

For the Spring 2016 semester, I was a regular guest lecturer for the White Collar Crime course at the University of San Diego School of Law. I co-taught with two professors and took primary or co-responsibility for the classes dealing with: search warrants and probable cause; perjury; obstruction-of-justice crimes; tax crimes and false declarations; and discovery and prosecutorial misconduct. Syllabus supplied.

For some time before 2004, I periodically assisted as an unpaid guest instructor/evaluator for a Trial Advocacy Course at the University of North Carolina School of Law. The course's two professors were partners at my law firm. I assisted by providing feedback on the law students' performances of mock opening statements, direct and cross-examinations, and closing arguments. I am unable to locate a syllabus.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted

contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

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.

If confirmed, I hope to continue serving as a reservist in the United States Army, California Army National Guard. Otherwise, I have no plans, commitments, or agreements to pursue outside employment.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will continue to recuse myself from any case in which I or an immediate family member has a financial interest, as well as any case involving a party who I represented or prosecuted. Otherwise, no family members or other persons, parties, categories of litigation, or financial arrangements are likely to present actual or potential conflicts of interest for me.

- 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 continue to resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges; 28 U.S.C. § 455; and

all applicable policies and procedures of the United States Courts.

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.

Throughout my career, I have made pro bono work and serving the disadvantaged a priority. Just months after I was licensed—in my very first trial—I successfully defended a pro bono client and military servicemember on a disorderly-conduct charge in civilian court. As a public defender, I exclusively represented indigent and disadvantaged clients. And in my six years at Rudolf Maher Widenhouse & Fialko, roughly half my cases were court-appointed or pro bono trials and appeals.

During my service as a federal prosecutor, judge advocate, and magistrate judge, I did not directly represent indigent clients, but I continued to find ways to help the disadvantaged. For example, when I was a prosecutor, I volunteered monthly as a Judge Pro Tem in Small Claims Court. As a magistrate judge, I am the sole and founding judge for our Veterans Diversion Court, and I also serve on our Pro Bono Panel Committee. Throughout my time in government service, I have also volunteered hundreds of off-duty hours toward community-service and humanitarian projects.

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.

My jurisdiction has two local selection committees for United States District Judges: one each for Senator Dianne Feinstein and Senator Alex Padilla. I submitted an application to Senator Feinstein’s local committee on January 25, 2021, and to Senator Padilla’s local committee on March 18, 2021. I was interviewed by Senator Feinstein’s local committee on March 10, 2021, and by Senator Padilla’s local committee on April 13, 2021. I was told that both local committees recommended my nomination. On November 8, 2021, I interviewed with the statewide chair of Senator Feinstein’s selection committee. Thereafter, I had a series of four interviews: first with the statewide chair of Senator Padilla’s selection committee on January 21, 2022; next with Senator Padilla’s statewide co-chair on January 27, 2022; then with counsel to Senator Padilla on February

18, 2022; and lastly with Senator Padilla himself on March 3, 2022.

On March 11, 2022, an attorney from the White House Counsel's Office contacted me, and I interviewed with that Office later in the day. Since March 12, 2022, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 14, 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 reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.