

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jeanne Evelyn Davidson

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

Judge, United States Court of International Trade

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

Office: United States Department of Justice
Civil Division, Commercial Litigation Branch
Offices of Foreign Litigation and International Judicial Assistance
Suite 11006
1100 L Street, NW
Washington, DC 20530

Residence: Bethesda, Maryland

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

1953; Whittier, California

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

1977 – 1980, New York University School of Law; J.D., 1980

1975 – 1976, University of California at Berkeley; A.B., 1976

Summer 1974, University of California at Santa Cruz; no degree

1971 – 1973, California State University, East Bay (formerly, California State University, Hayward); no degree

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.

1987 – 1992; 1993 – present

United States Department of Justice

Civil Division, Commercial Litigation Branch

950 Pennsylvania Avenue, NW

Washington, DC 20530

Director, Offices of Foreign Litigation and International Judicial Assistance (2013 – present), and International Trade Field Office (2007 – present)

Director, National Courts Section (2007 – 2013)

Deputy Director, National Courts Section (1998 – 2006)

Assistant Director, National Courts Section (1990 – 1992 and 1993 – 1997)

Trial Attorney, National Courts Section (1987 – 1989)

1992 – 1993

Office of the United States Trade Representative

600 17th Street, NW

Washington, DC 20506

Associate General Counsel and Chair of the Section 301 Committee

1980 – 1986

Steptoe & Johnson

1330 Connecticut Avenue, NW

Washington, DC 20036

Associate

July – August 1979

Vinson & Elkins

2200 Pennsylvania Avenue, NW

Washington, DC 20037

Summer Associate

June – July 1979

Winston & Strawn (formerly Cole & Dietz)

40 Wall Street

New York, NY 10005

Summer Associate

Summer 1978

Vera Institute of Justice

30 East 39th Street

New York, NY 10016

Summer Intern

1976 – 1977

Volunteers in Service to America (VISTA)

Legal Services of Northern California (formerly Solano County Legal Assistance Agency)

1810 Capitol Street

Vallejo, CA 94590

Paralegal/Outreach Coordinator

Other Affiliations (Uncompensated Unless Otherwise Noted):

2012 – present

Potomac Horse Center

14211 Quince Orchard Road

North Potomac, MD 20878

Equestrian Horse Show Announcer/Registrar (compensated)

2007 – present

Federal Circuit Bar Association

Charitable and Educational Fund

1620 I Street, NW

Washington, DC 20036

President (2014)

President Elect (2013)

Vice President (2012)

Treasurer (2011)

Secretary (2010)

Board of Directors (2007 – 2010)

2009 – 2014

Customs & International Trade Bar Association

Washington, DC, and New York, NY

Board of Directors, Member at Large

2005 – 2010

Georgetown University School of Law International Trade Update

Georgetown University Law Center

600 New Jersey Avenue, NW

Washington, DC 20001

Advisory Board

2004 – 2009

Huntington Terrace Citizens Association

Bethesda, MD

Board of Directors

2004 – 2006
Court of Federal Claims Bar Association
Washington, DC
Board of Governors

1981 – 1986
Portsmouth Condominium Association
1735 New Hampshire Avenue, NW
Washington, DC 20036
Board of Directors

1981 – 1983
Planned Parenthood of the District of Columbia
1108 16th Street, NW
Washington, DC 20036
Board of Directors/Secretary

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

I have not served in the military. I am not required to register for selective service.

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

Golden Eagle Award, Presented by Chief Judge Patricia E. Campbell-Smith in recognition of outstanding service, dedication and commitment to the United States Court of Federal Claims, 26th Judicial Conference (2014)

Civil Division, Department of Justice, Superior Achievement and Performance Awards (2006 – 2013; 2000 – 2004; 1994 – 1998; 1988 – 1991)

Michael F. Hertz Memorial Award for Exceptional Professionalism and Outstanding Performance, presented by the Assistant Attorney General for the Civil Division, Department of Justice (2012)

Coin of Excellence, bestowed by the General Services Administration Inspector General for the successful defense and prosecution of civil fraud claims in *Morse Diesel International* (2009)

Special Commendation by the Civil Division, Department of Justice, for representation of the United States in international dispute resolution proceedings before the London Court of International Arbitration concerning the Softwood Lumber Agreement (2008)

Coin of Excellence, bestowed by the Army Corps of Engineers, for the successful prosecution of civil fraud claims in *Daewoo* (2007)

Court of Federal Claims Bar Association Award for Outstanding Contributions and Service as a member of the Board of Governors (2006)

Presidential Rank Award for Meritorious Executive (2005)

Special Commendation by the Civil Division, Department of Justice, for representation of the United States in *Glendale*, the first *Winstar* trial on damages (1998)

Certificate of Appreciation by the United States Trade Representative for Outstanding Contributions to the Negotiation of the North America Free Trade Agreement (1993)

Outstanding Performance Award by the United States Trade Representative (1992)

Special Commendation by the Civil Division, Department of Justice, for representation of the United States in *Daewoo* (1987)

Arthur T. Vanderbilt Award for Outstanding Contributions to New York University School of Law (1980)

Editor in Chief, *Annual Survey of American Law*, New York University (1979 – 1980)

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.

Advisory Council for the Court of Appeals for the Federal Circuit (2007 – present)

Member (2007 – July 2014)

Ex-Officio Member (July 2014 – present)

Advisory Council for the Court of Federal Claims (2007 – 2013)

Advisory Committee on Federal Rule of Evidence 502, Court of Federal Claims (2009)

Advisory Committee on Related Cases, Court of Federal Claims (2007 – 2008)

American Bar Association (1983 – 1992)

Court of Federal Claims Bar Association
Board of Governors (2004 – 2006)

Customs & International Trade Bar Association
Board of Directors, Member at Large (2009 – June 2014)

District of Columbia Bar Association (1980 – present)
Nominating Committee for Board of Directors (1999)

Federal Circuit Bar Association
President (2014)
President-Elect (2013)
Vice President (2012)
Treasurer (2011)
Secretary (2010)
Board Member (2007 – 2010)
Co-Chair, Government Contracts Committee (2005 – 2007)
Associate Editor, Newsletter (1987 – 1990)

Historical Society for the Court of Appeals for the Federal Circuit (2008 – present)

Judicial Conference Planning Committee for the Court of Federal Claims (2005, 2013)

Judicial Conference Planning Committee for the Court of International Trade (2010)
Chair

Judicial Conference Steering Committee for the Court of Appeals for the Federal Circuit (2012)

Planning Committee for the 25th Anniversary Program for the Court of International Trade (2005)

Steering Committee: “When Does Retroactivity Cross The Line? *Winstar*, *Eastern Enterprises*, and Beyond,” Court of Federal Claims Conference (1999)

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.

District of Columbia (1980)

There has been no lapse in membership.

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

United States Court of Appeals for the District of Columbia Circuit (1980)

United States Court of Appeals for the Federal Circuit (1986)

United States Court of Appeals for the Fourth Circuit (1994)

United States Court of Appeals for the Tenth Circuit (approximately 2010)

United States District Court for the District of Columbia (1980)

United States Court of International Trade (1986)

United States Court of Federal Claims (1987)

District of Columbia Superior Court (1980)

To the best of my recollection, my membership in the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, and the United States Court of Appeals for the Fourth Circuit lapsed in the late 1990s after the courts adopted renewal requirements. I was no longer practicing personally before those courts and did not need to be a member to be listed as a government supervisory attorney on briefs.

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.

Civil Division Committee on Alternative Dispute Resolution (1991)

Commercial Litigation Branch Representative

Department of Justice International Affairs Committee (2013 – present)

Civil Division Representative

Executive Office Working Group on Unfair Trade Laws (1995)

Representative of Civil Division, Department of Justice

Georgetown University School of Law International Trade Update (2005 – 2010)

Advisory Board

Huntington Terrace Citizens Association (2004 – 2009)

Board of Directors

Representative, Suburban Hospital Community Relations Board

International Trade Commission Trial Lawyers Association (1983 – 1985)

New York University School of Law Alumni Association (District of Columbia Chapter) (1980 – approximately 1989)

Planned Parenthood of the District of Columbia (1981 – 1986)

Board of Directors/Secretary (1981 – 1983)

Portsmouth Condominium Association (1981 – 1986)

Board of Directors (1981 – 1983)

Secretary of State's Advisory Committee on Private International Law
(2014 – present)

Representative of Office of Foreign Litigation, Department of Justice

Section 402 Interagency Committee, chaired by the Office of the United States Trade Representative, for Selection of NAFTA Panelists and Extraordinary Challenge Committee Roster (1993 – present)
Department of Justice Representative

Senior Executive Service Qualifications Review Board (2013 – 2014)

- 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 in response to Question 11a 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.

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.

“Message from the President,” Federal Circuit Bar Association Newsletter, August 2014. Copy supplied.

“Message from the President,” Federal Circuit Bar Association Newsletter, July 2014. Copy supplied.

“CAFC Proposes Use of Hyperlinking in Briefs,” Customs & International Trade Bar Association Newsletter, Vol. 10, Issue 3 (Fall 2012). Copy supplied.

Co-Editor with Bryant Snee, Sean McNamara, and Kirk Manhardt, *Court of Federal Claims Deskbook for Practitioners* (5th ed. 2008). Copy supplied.

Co-Author with Zachary D. Hale, “Developments During 2006 Concerning 28 U.S.C. 1581(i),” 39 Georgetown Journal of International Law 127 (2007). Copy supplied.

“Recent Decisions Concerning Buy-National Requirements,” American Bar Association International Trade Committee Newsletter (Winter 1993 – 1994). Copy Supplied.

From 1987 to 1990, I was an Associate Editor of the Federal Circuit Bar Association Newsletter Casenotes. I have been unable to obtain copies of these newsletters.

Author, “Import Relief and Other Trade Law Developments,” American Bar Association International Trade Committee Newsletter (Summer 1988). Copy supplied.

Co-Editor in Chief, with R. Bradley Wilson, *1980 Annual Survey of American Law*, New York University School of Law. I have been unable to obtain a copy.

Author, “Plea Bargaining: Limits on Prosecutorial Discretion,” 1979 Annual Survey of American Law 1. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have served as an officer of the Federal Circuit Bar Association since 2010. During that time period, the association has at times provided comment letters on a variety of issues that have included my name on the letterhead as an officer. As a matter of course, I have always recused myself from the preparation of these

letters whenever they touched on legislative matters, as indicated in the disclaimers in the letters.

- 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.

July 9, 2009: As a member of the Advisory Committee of the Court of Federal Claims, I participated in a group that made recommendations to the Court of Federal Claims Rules Committee regarding the treatment of related cases. I have no notes, transcript, or recording.

- 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.

June 19, 2014: Moderator, "The Federal Circuit Perspective," Federal Circuit Bar Association Bench & Bar Conference, Asheville, NC. Outline supplied.

February 27, 2014: Moderator, "Ask the Judges," Georgetown University School of Law, International Trade Update, Georgetown University Law Center, Washington, DC. Outline supplied.

February 25, 2014: Panelist, "Pretrial Case Management," Court of Federal Claims Judicial Conference, Washington, DC. The panel discussed defective complaints, motions to dismiss, discovery, and settlement. I have no notes, transcript, or recording. The address of the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

January 30, 2014: Speaker, Investiture of the Honorable Todd M. Hughes, Circuit Judge, Court of Appeals for the Federal Circuit, Washington, DC. Transcript supplied.

March 5-8, 2013; and July 10-13, 2012: Faculty, "Foundations in Leadership," National Advocacy Center, Department of Justice, Columbia, SC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

March 1, 2013: Moderator, "Court of International Trade Year in Review,"

Georgetown University School of Law, International Trade Update, Washington, DC. Outline supplied.

November 15, 2012: Panelist, "Recent Developments in Government Contracts," Court of Federal Claims 25th Judicial Conference, Washington, DC. The panel, consisting of private and government attorneys, discussed recent judicial decisions concerning government procurement and contract disputes. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

June 22, 2012: Panelist, "Public Interest and Policy Implications of Settlement," Federal Circuit Bar Association Bench & Bar Conference, San Diego, CA. The panel, composed of attorneys from various fields of law within the Federal Circuit's jurisdiction, discussed factors that may influence the decision to settle, the manner and terms of settlement. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 18, 2012: Panelist, "A New Bridge Across the Atlantic: U.S. and German Judicial Systems," Federal Circuit Bar Association, Washington, DC. The panel compared judicial review systems in the United States and Germany, particularly in intellectual property and international trade. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 17, 2012: Panelist, "Winstar and Spent Nuclear Fuel Appeals: Lessons Learned," Court of Appeals for the Federal Circuit Judicial Conference, Washington, DC. The panel discussed procedures used in these clusters of large cases against the government and ways similar clusters could be managed in the future. I have no notes, transcript, or recording. The address for the Court of Appeals for the Federal Circuit is 717 Madison Place, NW, Washington, DC 20005.

October 27, 2011: Moderator, "Impact of Financial Crisis Upon Government in Customs and Trade Area," Court of International Trade Judicial Conference, Washington, DC. Outline supplied.

October 19, 2011: Panelist, "Careers in the Law," Court of Federal Claims 24th Judicial Conference, Berkeley Law, Oakland, CA. The panel discussed careers in public service and areas of law within the Court of Federal Claims Jurisdiction. I have no notes, transcript, or recording. The address for Berkeley Law is 215 Boalt Hall, Berkeley, CA 94720.

October 19, 2011: Panelist: "Managing Complex Litigation," Court of Federal Claims 24th Judicial Conference, Oakland, CA. Outline supplied.

November 19, 2010: Moderator, “The Global Community: Globalization and Federal Circuit Subject Matter,” Federal Circuit Bar Association, Washington, DC. Outline supplied.

November 5, 2010: Speaker, “Regulatory Takings and Contracts,” University of Vermont Law School and Berkeley Law Collaborative on Regulatory Takings, Energy & Resources, Berkeley, CA. I addressed the demarcation between contract and takings claims and ways in which recent decisions had blurred the line. I have no notes, transcript, or recording. The address for the University of Vermont Law School is 164 Chelsea Street, South Royalton, VT 05068.

October 26, 2010: Panelist, “Alternative Dispute Resolution in Government Contract Cases at the Trial and Appellate Levels,” Federal Circuit Bar Association, Washington, DC. Outline supplied.

June 24, 2010: Panelist, “The Circuit Jurisprudence – Trade, Government Contract, Intellectual Property,” Federal Circuit Bar Association Bench & Bar Conference, Colorado Springs, CO. The panel, composed of attorneys from various fields of law, discussed recent developments in particular sectors of the Federal Circuit’s jurisdiction. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 20, 2010: Panelist, “Challenges for the Court of International Trade,” Court of Appeals for the Federal Circuit Judicial Conference, Washington, DC. The panel discussed recent changes in methodology by the trade agencies. I have no notes, transcript, or recording. The address of the Court of Appeals for the Federal Circuit is 717 Madison Place, NW, Washington, DC 20005.

April 20, 2010: Keynote Speaker, Customs & International Trade Bar Association Annual Meeting, New York, NY. I discussed ways in which judicial review of trade and customs matters could be facilitated and streamlined. I have no notes, transcript, or recording. The Customs & International Trade Bar Association has no physical address.

2010: Speaker, Federal Circuit Mediators Training Seminar, Court of Appeals for the Federal Circuit, Washington, DC. Outline supplied.

February 25, 2010: Panelist, “Bench and Bar Roundtable,” Georgetown University School of Law, International Trade Update. The panel, including judges and practitioners, discussed recent developments in Court of International Trade litigation. I have no notes, transcript, or recording. The address of Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, DC 20001.

Fall 2009 and Fall 2004: Faculty, Oral Advocacy Training, Civil Division of the

United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

March 6, 2009: Panelist, "Procurement Going Forward: Today's Questions for Tomorrow's Challenges," 15th Annual Federal Procurement Institute, American Bar Association, Section of Public Contract Law, Annapolis, MD. The panel discussed recent court decisions concerning federal procurement. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

January 13, 2009: Moderator, "Winning before Speaking – Excellence in Appellate Advocacy," Federal Circuit Bar Association, Washington, DC. Outline supplied.

November 19, 2008: Panelist, "Cutting Edge Issues in Government Contract Litigation," Court of Federal Claims Judicial Conference, Washington, DC. Outline supplied.

October 21, 2008: Moderator, "When to Appeal – Excellence in Appellate Advocacy," Federal Circuit Bar Association, Washington, DC. Outline supplied.

June 26, 2008: Panelist, "The Supreme Court and the Federal Circuit," Federal Circuit Bar Association Bench & Bar Conference, Monterey, CA. The panel addressed Supreme Court decisions during the past year in appeals from the Federal Circuit. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

May 15, 2008: Panelist, "Litigation Today: The View from the Parties," Court of Appeals for the Federal Circuit Judicial Conference, Washington, DC. The panel discussed recent trends in litigation in tribunals within the Federal Circuit's jurisdiction. I have no notes, transcript, or recording. The address of the Court of Appeals for the Federal Circuit is 717 Madison Place, NW, Washington, DC 20005.

January 30, 2008: Panelist, "Strategic Decision-Making in Trade and Customs Litigation," Georgetown University School of Law, International Trade Update, Washington, DC. The panel discussed litigation strategies in customs and trade litigation and appellate practice. I have no notes, transcript, or recording. The address of Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, DC 20001.

2007: Panelist, "Civility and Professionalism," Federal Circuit Bar Association, Washington, DC. The panel discussed the need for and benefits of civility in litigation. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

November 16, 2007: Co-Moderator, “The New Civilian Board of Contract Appeals,” Federal Circuit Bar Association, Government Contract Section, Washington, DC. I co-led a discussion with Administrative Judges and practitioners about the new Civilian Board of Contract Appeals, which combined and replaced several smaller civilian boards. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

June 28, 2007: Panelist, “The Murky Ethics of Mediation Advocacy,” Federal Circuit Bar Association Bench & Bar Conference, Cambridge, MD. A copy of my unpublished paper on which my discussion was based is supplied.

February 1, 2007: Moderator, “The Year in Customs and Trade—Key Developments at the CIT/CAFC and Lessons Learned for Practice,” Georgetown University School of Law, International Trade Update. I have no notes, transcript, or recording. The address of Georgetown University School of Law is 600 New Jersey Avenue, NW, Washington, DC 20001.

January 26, 2007: Speaker, Retirement Ceremony in Honor of David M. Cohen, Director, Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530.

November 6, 2006: Panelist, “The Judges Speak to the Bar,” Court of International Trade Fourteenth Judicial Conference, New York, NY. Outlined supplied.

February 2, 2006: Moderator, “Court of International Trade Year in Review,” Georgetown University School of Law, International Trade Update, Washington, DC. Outline supplied.

2006, 2000, 1993 – 1996, and 1991: Faculty, Alternative Dispute Resolution (ADR) Training, Civil Division of the United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

2003 – 2005: Faculty, International Trade Litigation Training, Civil Division of the United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

2005, 2004, and 2002: Faculty, Trial Procedure Training, Civil Division of the United States Department of Justice, Washington, DC. Because the materials used at this training are law enforcement sensitive, they are not supplied.

2005: Panelist, “Streamlining International Trade Cases,” Federal Circuit Bar Association, Washington, DC. I discussed ways that mass litigation at the Court

of International Trade could be efficiently organized and managed. I have no notes, transcript, or recording. The address of the Federal Circuit Bar Association is 1620 I Street, NW, Washington, DC 20036.

November 4, 2005: Panelist, "Practical Issues in Selecting and Working with Experts," Court of Federal Claims Judicial Conference, National Constitutional Center, Philadelphia, PA. I discussed the appropriate use of experts in litigation, including the different roles of consulting and testifying experts. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

November 3, 2005: Moderator, "Back to the Future: The Trade Court's Next 25 Years," Court of International Trade 25th Anniversary Celebration, New York, NY. Outline supplied.

June 24, 2005: Moderator, "Tips and Traps: A Roundtable Discussion of Litigation Lessons from Recent Tucker Act Cases," Federal Circuit Bar Association Bench and Bar Conference, Kiawah Island, SC. Outline supplied.

March 3, 2005: Panelist, "Bench and Bar Roundtable," Georgetown University School of Law, International Trade Update, Washington, DC 20001. Outline supplied.

November 28, 2004: Panelist, "Latest Developments in Injunctions and Liquidations in Trade Remedy Cases," Court of International Trade Thirteenth Judicial Conference, New York, NY. A copy of my unpublished paper upon which my discussion was based is supplied.

October 11, 2004: Panelist, "The Written Word," Appellate and Trial Advocacy Series, Federal Circuit Bar Association, Washington, DC. Outline supplied.

2004: Moderator, "Alternative Dispute Resolution," Court of Federal Claims Bar Association Conference, Washington, DC. I led a discussion of various forms of alternative dispute resolution and their respective advantages and disadvantages. I have no notes, transcript, or recording. The Court of Federal Claims Bar Association has no physical address.

2003: Panelist, "The People's Court," Court of Federal Claims Judicial Conference, Washington, DC. I discussed the origins and purpose of the Court of Federal Claims. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

2002: Panelist, "New Rules of Procedure," Court of Federal Claims Bar Association Conference, Washington, DC. I discussed recent revisions to the

Federal Rules of Civil Procedure, which were expected to be incorporated into the Court of Federal Claims Rules. I have no notes, transcript, or recording. The Court of Federal Claims Bar Association has no physical address.

October 2002: Panelist, "Trial Preparation and Organization," Court of Federal Claims Judicial Conference, Washington, DC. I discussed critical steps in preparing for trial, including team roles and witness preparation. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

2001, 2000, 1998, 1997, 1996, 1993 and 1992: Guest Lecturer, Course on International Trade Disputes, Georgetown University School of Law, Washington DC. Representative outline supplied.

2001: Panelist, "Remedies for Breach of Contract," Court of Federal Claims Judicial Conference, Washington, DC. I discussed the remedies available, and unavailable, for breach of contract by the government. I have no notes, transcript, or recording. The address for the Court of Federal Claims is 717 Madison Place, NW, Washington, DC 20005.

June 13, 2001: Panelist, "Managing Large Cases," Court of Federal Claims Bar Association Conference, Washington, DC. Outline supplied.

2000: Panelist, "Expert Depositions," Court of Federal Claims Bar Association Conference, Washington, DC. I discussed proper preparation for and conduct of expert depositions. I have no notes, transcript, or recording. The Court of Federal Claims Bar Association has no physical address.

June 1999: Panelist, "Alternative Dispute Resolution," American Bar Association, Litigation Section, Washington, DC. I discussed various alternative dispute resolution procedures. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

April 2, 1999: Instructor, "Tenth Intensive Program on Trial Preparation and Advocacy in Federal Procurement – Building a Record/Briefing a Case," American Bar Association, Public Contracts Section, Washington, DC. I discussed proper preparation for and conduct of trials. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

1998: Panelist, "The Court of International Trade's Jurisdictional Mandate," Court of International Trade Judicial Conference, New York, NY. I discussed recent decisions delineating the jurisdiction of the trade court. I have no notes, transcript, or recording. The address of the Court of International Trade is One Federal Plaza, New York, NY 10278.

1998: Speaker, "Supervising Litigation Overseas," Women International Business and Legal Forum, Business Development Associates, Inc. in cooperation with The National Association of Women Lawyers, Washington, DC. I discussed the special requirements and risks in conducting discovery in foreign countries. I have no notes, transcript, or recording. The address of Business Development Associates is 8601 Georgia Avenue, Silver Spring, MD 20910.

June 25, 1997; July 14, 1993: Panelist, "My Brilliant Career: Job Prospects in International Trade," District of Columbia Bar Association, Washington, DC. I spoke to summer associates and summer law interns regarding careers in international trade, particularly in the public sector. I have no notes, transcript, or recording. The address of the District of Columbia Bar Association is 1101 K Street, NW, Washington, DC 20005.

May 23, 1996: Panelist, "The Role of Government Lawyers," Court of Appeals for the Federal Circuit Fourteenth Judicial Conference, Washington, DC. Transcript supplied.

June 16, 1994: Panelist, "The New Federal Rules – What Impact Will They Have on the Court of Federal Claims," Court of Appeals for the Federal Circuit 12th Judicial Conference, Washington, DC. Transcript supplied.

March 23, 1994: Panelist, "Dispute Resolution under NAFTA," World Jurist Association, Washington, DC. I discussed the procedures for dispute resolution under NAFTA. I have no notes, transcript, or recording. The address of the World Jurist Association is 1000 Connecticut Avenue, NW, Washington, DC 20036.

March 25, 1993: Panelist, "Advocacy Before the Office of the United States Trade Representative," American Bar Association, Washington, DC. I discussed the interagency trade policy process and ways in which private sector views can be incorporated. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

June 1992: Speaker, "Dispute Settlement Proposals in NAFTA – Antidumping and Countervailing Duty Law," U.S. Chamber of Commerce, International Division, 1615 H Street, NW, Washington, DC 20062. I discussed the procedures for dispute resolution under NAFTA. I have no notes, transcript, or recording. The address of the U.S. Chamber of Commerce is 1615 H Street, NW, Washington, DC 20062.

December 1991: Judge, Philip C. Jessup International Moot Court Competition, George Washington University School of Law, Washington, DC. I judged semi-finalists in moot court competition. I have no notes, transcript, or recording. The

address of George Washington University School of Law is 2000 H Street, NW, Washington, DC 20052.

December 4, 1990: Speaker, "Enforcement of Laws against Customs Fraud," Customs Lawyers Association, Washington, DC. I discussed actions pursuant to 19 U.S.C. 1592 for penalties for customs fraud. I have no notes, transcript, or recording. The address for the Customs Lawyers Association is P.O. Box 75486, Washington, DC 20013.

January 17, 1990: Panelist, "Litigation Before the Court of International Trade: Practice and Procedure," American Bar Association, Section of International Law and Practice, Washington, DC. I discussed unique aspects of practice in the trade court. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

October 15, 1990: Moderator, "Antidumping/Countervailing Duty Proceedings," Court of International Trade Seventh Judicial Conference, New York, NY. Transcript supplied.

November 18 1988: Panelist, "The Jurisdictional Boundaries of the Court of International Trade: Has the Court Exceeded its Statutory Mandate?," Court of International Trade Fifth Judicial Conference, New York, NY. Transcript and a copy of my unpublished paper upon which my discussion was based are supplied.

October 26, 1987: Speaker, "International Law – Practice in U.S. Government," John Bassett Moore Society of International Law, University of Virginia School of Law, Charlottesville, VA. I spoke to law students about careers in international law, particularly in the public sector. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Road, Charlottesville, VA 22903.

- 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.

None.

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

I have not held any judicial office.

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

i. Of these, approximately what percent were:

jury trials:	____%
bench trials:	____% [total 100%]
civil proceedings:	____%
criminal proceedings:	____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have

come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held any judicial office.

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

15. Public Office, Political Activities and Affiliations:

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

I have held no public offices. I have never been a candidate for elective office or a nominee to any appointed office.

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

I have not held office in or rendered services to any political party or election committee. I have not held a position or played a role in any political campaign.

16. Legal Career: Answer each part separately.

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

I did not serve as a law clerk to a judge.

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

I have never practiced alone.

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

1980 – 1986
Steptoe & Johnson
1330 Connecticut Avenue, NW
Washington, DC 20036
Associate Attorney in International Trade and Litigation Groups

February 1992 – February 1993
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20506
Associate General Counsel and Chair of the Section 301 Committee

1987 – 1992; 1993 – present
United States Department of Justice
Civil Division, Commercial Litigation Branch
950 Pennsylvania Avenue, NW
Washington, DC 20530
Director of Offices of Foreign Litigation and International Judicial Assistance (2013 – present) and International Trade Field Office (2007 – present)
Director, National Courts Section (2007 – 2013)
Deputy Director, National Courts Section (1998 – 2006)
Assistant Director, National Courts Section (1990 – 1992, 1993 – 1997)
Trial Attorney, National Courts Section (1987 – 1989)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

While in private practice from 1980 to 1986, I worked primarily on international law, international trade, administrative law, and commercial disputes. In addition to working on large and complex matters, I always handled some pro bono cases myself.

In 1987, I joined the Department of Justice as a Trial Attorney in the International Trade Section. I worked on many matters, including *Daewoo*, the largest customs fraud case ever brought by the United States, resulting in the largest recovery under the civil customs fraud statute. I also handled many large clusters of unfair trade cases at the Court of International Trade, including dozens of cases involving imports of flowers from around the world, and dozens of other cases involving imported tapered roller bearings. I then assumed responsibility for other types of matters, including claims by alleged government informants for monetary rewards and a wide range of commercial disputes. In 1990, I became the Assistant Director with responsibility for not only international trade but also for the National Courts Section. In that capacity, I supervised a wide range of government contract disputes, military and civilian personnel and pay claims, takings and other constitutional claims, as well as international trade.

In 1992, the United States Trade Representative's Office asked me to assume responsibility for trade disputes at the General Agreements on Tariffs and Trade (predecessor to the World Trade Organization) and to serve as Chair of the interagency Section 301 Committee. In those capacities, I chaired public hearings and represented the United States before international tribunals.

In 1993, I returned to the Department of Justice as an Assistant Director in the National Courts Section with responsibility for international trade and other commercial and constitutional litigation. In addition to supervising the work of line attorneys, I personally handled many large and complex cases, including constitutional claims brought by Article III Judges challenging the imposition of Social Security and Medicare taxes, constitutional challenges by exporters to a harbor maintenance fee imposed upon the value of their cargo, and the litigation that followed the savings and loan crisis of the late 1980s.

In 1998, I became a Deputy Director of the National Courts Section, and in 2007, I became the Director. In that capacity, I supervised all significant litigation conducted by the approximately 160 attorneys in the section. I also personally handled several appeals or oral arguments each year in significant cases, including constitutional challenges to the U.S. Tariff Schedules and the Byrd Amendment, constitutional challenges to searches of laptops at airports, and affirmative suits against sureties to

collect millions of dollars owed to the U.S. Treasury in connection with unpaid antidumping duties on Chinese imports. As a result of my expertise, the United States Trade Representative's Office asked me to lead a team of Justice attorneys in a series of cases against the Government of Canada under the Softwood Lumber Agreement in the London Court of International Arbitration.

In 2013, I became the Director of the Office of Foreign Litigation, which is responsible for all litigation by and against the United States in foreign courts, and the Office of International Judicial Assistance, which serves as the Central Authority for the United States under the Hague Conventions on Service and Evidence. I also retained responsibility for international trade litigation, including supervision of the International Trade Field Office in New York City.

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

At Steptoe & Johnson, my clients ranged from multinational corporations to individuals seeking redress for civil rights violations. I specialized in international law, international trade, administrative law, and litigation.

At the United States Trade Representative, my client was the President, as USTR serves as the President's arm for trade negotiations and disputes. On behalf of the President, USTR coordinates positions concerning trade matters within the Executive Branch.

As an attorney for the Department of Justice, my client has been the United States, including all three branches of government and the public. I have developed special expertise in complex litigation, international law and trade, commercial disputes, and constitutional claims.

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

I have been a litigator, or supervisor of litigators, for my entire career. From 1980 to 1986, while in private practice at Steptoe & Johnson, I appeared in court occasionally to argue motions and examine witnesses at trials. As a Trial Attorney and Assistant Director in the Commercial Litigation Branch from 1987 to 1992 and 1993 to 1997, I personally handled thousands of cases and appeared in court frequently to argue motions and participate in trials. For many years, I averaged one appellate argument per month, while also managing a caseload of over 100 active cases. From 1992 to 1993, as an Associate General Counsel at the Office of the United States Trade Representative, I appeared in district court in one case and appeared as the principal representative of the United States

before approximately a dozen international tribunals. From 1998 to 2013, as Deputy Director and Director of the National Courts Section, I primarily supervised litigation, although, I continued to handle several appeals per year, and I appeared in trial courts occasionally at the request of client agencies. Currently, as Director of the Office of Foreign Litigation and the International Trade Field Office, I occasionally present oral arguments in trade cases before the Court of Appeals for the Federal Circuit.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 95% |
| 2. state courts of record: | 0% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

ii. Indicate the percentage of your practice in:

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

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

The Department of Justice's Case Assignment System lists over 5,000 cases that I have personally handled, and over 7,000 cases that I have supervised, during my tenure. While many cases are dismissed for lack of jurisdiction or failure to state a claim, and many others are settled or resolved by substantive motion, a large number of these cases were tried to a final judgment. Over the course of my career, I have served as lead counsel in approximately a dozen large and complex trials, and have personally participated in or assisted with approximately three dozen other trials that led to judgment. I also have supervised hundreds of trials. In addition to cases resolved by trial, I have personally handled hundreds of cases that were resolved on motion (including numerous cases resolved pursuant to Administrative Procedure Act standards).

i. What percentage of these trials were:

- | | |
|--------------|------|
| 1. jury: | 0% |
| 2. non-jury: | 100% |

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.

While in private practice, I assisted in the preparation of petitions for writs of certiorari and amicus briefs filed at the Supreme Court in the Iranian Claims

litigation. It is unlikely that my name was listed on those briefs, to which many lawyers contributed.

At the Department of Justice, I worked with the Solicitor General's Office to prepare every case in which I was involved as the assigned attorney or reviewer for the Supreme Court. During the seven years that I served as Director of the National Courts Section, my name appeared on every Supreme Court brief involving that section. I personally reviewed virtually all of the drafts provided to and produced by the Office of the Solicitor General in those cases. The Solicitor General's Office invited me to sit at counsel table during the oral argument in *Hatter, et al. v. United States*, 532 U.S. 557 (2001), because of my extensive involvement in the preparation of the case. In addition to *Hatter*, I was personally involved in the Supreme Court briefs in the following cases:

Ashley Furniture Industries v. United States, No. 13-1367 (brief in opposition, available at 2014 WL 3492047)

Aracoma Coal Co. v. United States, No. 13-941 (brief in opposition, available at 2014 WL 1396760)

Almond Bros. Lumber Co. v. United States, No. 13-811 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0811.resp.pdf>)

Deckers Outdoor Corp. v. United States, No. 13-803 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0803.resp.pdf>)

Rack Room Shoes v. United States, Nos. 13-690, 13-822 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0690.resp.pdf>)

John R. McCarron v. United States, No. 13-304 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2013-0304.resp.pdf>)

Johnnie H. Beasley v. Eric K. Shinseki, No. 12-1419 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2013/0responses/2012-1419.resp.pdf>)

Robert John McCarthy v. International Boundary and Water Commission, No. 12-1364 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-1364.resp.pdf>)

Pitts v. Shinseki, No. 12-1151 (brief in opposition, available at 2013 WL 2251692)

Robert Donnell Donaldson v. Department of Homeland Security, No. 12-1044 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-1044.resp.pdf>)

Beer, et al. v. United States, No. 12-801 (petition, available at <http://www.justice.gov/osg/briefs/2012/2pet/7pet/2012-0801.pet.aa.pdf>)

Ruth Hill Frederick v. Eric K. Shinseki, No. 12-749 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-0749.resp.pdf>)

Lady Louis Byron v. Eric K. Shinseki, No. 12-389 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-0389.resp.pdf>)

Hitachi Home Electronics, Inc. v. United States, No. 12-148 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2012/0responses/2012-0148.resp.pdf>)

Alden Leeds, Inc. v. United States, No. 11-1486 (brief in opposition, available at 2012 WL 5353867)

CCA Associates v. United States, No. 11-1352 (brief in opposition, available at 2012 WL 3902580)

Sioux Honey Ass'n v. United States, No. 11-1337 (brief in opposition, available at 2012 WL 2645075)

Constancio Lara v. OPM, No. 11-915 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0915.resp.pdf>)

First Annapolis Bancorp, Inc. v. United States, No. 11-912 (2012) (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0912.resp.pdf>)

Lionel Guerra v. Eric J. Shinseki, No. 11-773 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0773.resp.pdf>)

Keith A. Roberts v. Eric K. Shinseki, No. 11-603 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0603.resp.pdf>)

Donald E. Bitzer v. Eric K. Shinseki, No. 11-437 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0437.resp.pdf>)

Paul M. Dean v. United States, No. 11-329 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0329.resp.pdf>)

Innovair Aviation Ltd. v. United States, No. 11-122 (brief in opposition, available at 2011 WL 5999522)

Arctic Slope Native Association v. Kathleen Sebelius, No. 11-83 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2011-0083.resp.pdf>)

Kelly S. Jennings v. Social Security Administration, No. 10-1509 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2010-1509.resp.pdf>)

United States Steel Co. v. United States, Nos. 10-1433, 10-1439 (brief in opposition, available at 2011 WL 3664446)

Larry G. Tyrues v. Eric K. Shinseki, No. 10-1405 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2011/0responses/2010-1405.resp.pdf>)

Holland, et al. v. United States, No. 10-1221, 132 S. Ct. 365 (2011) (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2010-1221.resp.pdf>)

Consolidation Coal Co. v. United States, No. 10-1020 (brief in opposition, available at 2011 WL 1769335)

Precision Pine & Timber, Inc. v. United States, No. 10-341 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2010-0341.resp.pdf>)

Catherine Roberson v. Eric K. Shinseki, No. 10-334 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2010-0334.resp.pdf>)

North Star Alaska Housing Corp. v. United States, No. 10-122 (brief in opposition, available at 2010 WL 4625006)

Agredano v. United States, No. 10-99 (brief in opposition, available at 2010 WL 4959746)

Metlakatla Indian Community v. Kathleen Sebelius, No. 09-1466 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2009-1466.resp.pdf>)

Beer, et al. v. United States, No. 09-1395 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2009-1395.resp.pdf>)

Totes-Isotoner v. United States, No. 09-1360 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2010/0responses/2009-1360.resp.pdf>)

General Dynamics Corp. v. United States, Nos. 09-1298, 09-1302 (brief in opposition, available at 2010 WL 3300134; response brief, available at 2010 WL 5099376)

Arctic Slope Native Association v. Kathleen Sebelius, No. 09-1172 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-1172.resp.pdf>)

Bank of Guam v. United States, No. 09-1140 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-1140.resp.html>)

Connie E. Yant v. United States, No. 09-1100 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-1100.resp.pdf>)

Henderson v. Shinseki, No. 09-1036 (brief for respondent, available at 2010 WL 4312791; brief in opposition, available at 2010 WL 2173778)

Hardies Fruit & Vegetable Co. South v. United States, No. 09-840 (brief in opposition, available at 2010 WL 2145273)

Acceptance Insurance Co. v. United States, No. 09-771 (brief in opposition, available at 2010 WL 1321422)

SKF USA Inc. v. US Customs and Border Protection, No. 09-767 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0767.resp.html>)

Palmyra Pacific Seafoods, L.L.C. v. United States, No. 09-766 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0766.resp.html>)

Hudson v. United States, No. 09-736 (brief in opposition, available at 2010 WL 638465)

Lisanti v. United States, No. 09-543 (brief in opposition, available at 2010 WL 342148)

John v. United States, Nos. 09-498, 09-499 (brief in opposition, available at 2010 WL 3000894)

Rose Acre Farms, Inc. v. United States, No. 09-342 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0342.resp.pdf>)

Biltmore Forest Broadcasting FM, Inc. v. United States, No. 09-88 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0088.resp.html>)

Daewoo Engineering & Construction Co. v. United States, No. 09-3 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2009-0003.resp.html>)

Dennis J. Laroche v. Eric K. Shinseki, No. 08-1413 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2009/0responses/2008-1413.resp.pdf>)

Mullica West, Limited, et al. v. United States, No. 08-1167 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-1167.resp.html>)

Delmarva Power & Light Co. v. United States, No. 08-790 (brief in opposition, available at 2009 WL 759414)

Jonathan L. Haas v. James B. Peake, No. 08-525 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0525.resp.html>)

CCA Associates v. United States, No. 08-505 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0505.resp.html>)

AmeriSource Corp. v. United States, No. 08-497 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0497.resp.pdf>)

Ross L. Bair, et al. v. United States, No. 08-242 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0242.resp.html>)

Huntleigh USA Corp. v. United States, No. 08-198 (brief in opposition, available at 2008 WL 4757419)

Mola Development Corp. v. United States, No. No. 08-138 (brief in opposition, available at 2008 WL 4772106)

IMS Engineers-Architects, P.C. v. Pete Geren, No. 08-82 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0082.resp.html>)

Nufarm America's Inc. v. United States, No. 08-31 (brief in opposition, available at 2008 WL 4533648)

Sakar International v. United States, No. 08-26 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2008-0026.resp.html>)

United States v. Eurodiff, SA, Nos. 07-1059, 07-1078 (petition for writ of *certiorari*, available at 2008 WL 437010; reply brief, available at 2008 WL 905193; brief for the United States, available at 2008 WL 2794014; reply brief, available at 2008 WL 4650592)

United States Steel Corp. et al. v. Canadian Lumber Trade Alliance, et al., No. 07-1470 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2008/0responses/2007-1470.resp.pdf>)

Long Island Savings Bank v. United States, No. 07-1234, 129 S. Ct. 38 (2008) (brief in opposition, available at <http://www.justice.gov/osg/briefs/2007/0responses/2007-1234.resp.html>)

James P. Peake v. Woodrow F. Sanders, No. 07-1209 (petitioner's opening brief, available at <http://www.justice.gov/osg/briefs/2007/2pet/7pet/2007-1209.pet.aa.html>)

Groff v. United States, No. 07-460 (brief in opposition, available at 2008 WL 65143)

Hughes v. United States, No. 07-735 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2007/0responses/2007-0735.resp.html>)

NTN Corp. v. United States, No. 07-449 (brief in opposition available at 2007 WL 4613635)

Brodowy v. United States, No. 07-393 (brief in opposition, available at 2007 WL 4142599)

Weeks Marine, Inc. v. Fisherman's Harvest Inc., Nos. 07-372, 07-389 (brief in opposition, available at 2007 WL 4287341)

Amber-Messick v. United States, No. 07-176 (brief in opposition, available at 207 WL 3085078)

Stephen S. Adams v. United States, No. 07-116 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2007/0responses/2007-0116.resp.html>)

Parkdale Int'l v. United States, No. 07-65 (brief in opposition, available at 2007 WL 4300855)

Department of the Army v. John E. Kirkendall, No. 07-19 (petitioner's opening brief, available at <http://www.justice.gov/osg/briefs/2007/2pet/7pet/2007-0019.pet.aa.html>)

Barnes v. United States, No. 06-1466 (brief in opposition, available at 2007 WL 2261599)

Richlin Security Service Co. v. Michael Chertoff, No. 06-1717 (response brief, available at <http://www.justice.gov/osg/briefs/2007/3mer/2mer/2006-1717.mer.aa.pdf>; brief in opposition, available at 2007 WL 3000777)

JTEKT Corp. v. United States, No. 06-1632 (brief in opposition, available at 2007 WL 2781068)

Evelyn L. Lewis v. United States, No. 06-1289 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-1289.resp.html>)

Night Vision Corp. v. United States, No. 06-1156 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-1156.resp.pdf>)

Corus Staal B.V. v. United States, No. 06-1057 (brief in opposition, available at 2007 WL 1552212)

Old Stone Corp. v. United States, No. 06-837 (brief in opposition, available at 2007 WL 545645)

Applied Cos. v. United States, No. 06-817 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-0817.resp.html>)

Citizens Financial Services v. United States, No. 06-231 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2006-0231.resp.html>)

Timken U.S. Corp. v. United States, No. 06-44 (brief in opposition, available at 2006 WL 2944534)

Motion Systems Corp. v. George W. Bush, No. 05-1443 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2006/0responses/2005-1443.resp.html>)

Preston Martin, et al. v. United States, No. 05-1221 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-1221.resp.html>)

Southwest Investment Co. v. United States, No. 05-1087 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-1087.resp.pdf>)

Renesas Technology America Inc. v. United States, No. 05-986 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-0986.resp.html>)

Hitachi High Technologies America, Inc. v. United States, No. 05-918 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-0918.resp.html>)

Corus Stahl v. United States, No. 05-346 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2005-0364.resp.html>)

United States v. California Federal Bank, FSB, No. 04-1709 (reply in support of cross-petition, available at <http://www.justice.gov/osg/briefs/2005/2pet/7pet/2004-1709.pet.rep.html>)

California Federal Bank v. United States, No. 04-1557 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2005/0responses/2004-1557.resp.html>)

AG Route Seven Partnership v. United States, No. 04-835 (brief in opposition, available at 2005 WL 438413)

United States v. Glendale Federal Bank, FSB, No. 04-786, (conditional petition, available at <http://www.justice.gov/osg/briefs/2004/2pet/7pet/2004-0786.pet.aa.html>; reply brief, available at <http://www.justice.gov/osg/briefs/2004/2pet/7pet/2004-0786.pet.rep.html>)

Franklin Savings Corp. v. United States, No. 04-693 (brief in opposition, available at 2005 WL 545645)

Glendale Federal Bank v. United States, No. 04-626 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2004/0responses/2004-0626.resp.html>)

Former Employees of Marathon Ashland Pipeline v. Elaine L. Chao, No. 04-397 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2004/0responses/2004-0397.resp.html>)

Koyo Seiko Co. v. United States, No. 04-87 (brief in opposition, available at 2004 WL 2216343)

Bank United v. United States, No. 03-1410 (brief in opposition, available at 2004 WL 1488297)

George E. Warren Corp. v. United States, No. 03-1280, 543 U.S. 808 (2004) (brief in opposition, available at 2004 WL 1347281)

H.C. Bailey, Jr., et al. v. United States, No. 03-1073 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2003/0responses/2003-1073.resp.html>)

Defenders of Wildlife v. William T. Hogarth, No. 03-915 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2003/0responses/2003-0915.resp.html>)

Thomson Multimedia v. United States, No. 03-882, 541 U.S. 1040 (2004) (brief in opposition, available at 2004 WL 871294)

CF Industries Inc. v. United States, No. 03-867 (brief in opposition, available at 2004 WL 871293)

American Telephone and Telegraph Co. v. United States, No. 02-1569 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2003/0responses/2002-1569.resp.pdf>)

Hohenberg Bros. Co., et al. v. United States, No. 02-1286 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2002/0responses/2002-1286.resp.html>)

John K. Castle, et al. v. United States, No. 02-938 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2002/0responses/2002-0938.resp.html>)

United States v. California Federal Bank, FSB, No. 01-698, (conditional cross-petition for writ of *certiorari*, available at 2001 WL 34133914; reply brief for cross-petitioner, available at <http://www.justice.gov/osg/briefs/2001/2pet/7pet/2001-0698.pet.rep.pdf>)

California Federal Bank v. United States, No. 01-592 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2001/0responses/2001-0592.resp.html>)

BMW Manufacturing Corp. v. United States, No. 01-238 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2002/0responses/2002-1286>)

Smurfit-Stone Container Corp. v. United States, No. 00-1131 (brief in opposition, available at 2001 WL 34116162)

Florida Sugar Marketing and Terminal Ass'n v. United States, No. 00-660 (brief in opposition, available at <http://www.justice.gov/osg/briefs/2000/0responses/2000-0660.resp.pdf>)

International Business Machines Corp. v. United States, No. 00-482 (brief in opposition, available at 2000 WL 34000084)

Caguas Central Federal Savings Bank, et al. v. United States, No. 00-448 (brief in opposition, available at

<http://www.justice.gov/osg/briefs/2001/2pet/6invit/2000-0448.resp.pdf>)

United States v. Swisher International, Inc., No. 00-415 (petition for writ of *certiorari*, available at 2000 WL 34000578)

United States v. Judge Terry J. Hatter, Jr., et al., No. 99-1978 (petition for writ of *certiorari*, available at <http://www.justice.gov/osg/briefs/1999/2pet/7pet/99-1978.pet.aa.pdf>); (brief for petitioner, available at 2000 WL 1784977)

Bestfoods v. United States, No. 99-1735 (brief in opposition, available at <http://www.justice.gov/osg/briefs/1999/0responses/98-1735.resp.html>)

Carnival Cruise Lines, Inc. v. United States, No. 99-1600 (brief in opposition, available at <http://www.justice.gov/osg/briefs/1999/0responses/99-1596.resp.pdf>)

United States v. United States Shoe Corp., No. 97-372 (petition for writ of *certiorari*, available at 1997 WL 33485657; reply brief available at 1997 WL 33485656; brief for petitioner, available at 1997 WL 772730; reply brief, available at 1998 WL 67748)

Cal-Almond v. United States, No. 96-11 (brief in opposition, available at 1996 WL 33439328)

United States v. Hatter, No. 95-1733 (petition for writ of *certiorari*, available at 1996 WL 33438656)

Ismael R. Diaz v. Department of the Air Force, No. 95-1145 (response brief, available at <http://www.justice.gov/osg/briefs/1995/w951145w.txt>)

Vierrether v. United States, No. 93-982 (brief in opposition, available at 1994 WL 16100222)

Dames & Moore v. Regan, No. 80-2078, 453 U.S. 654 (1981) (motion for leave to file brief *amicus curiae*, available at 1981 WL 390317)

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and

- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. The *Winstar* Litigation

In 1996, the Supreme Court upheld the right of thrifts to sue the United States for breach of contract based upon a statutory change to regulatory accounting. *United States v. Winstar Corp.*, 518 U.S. 839 (1996). This decision resulted in over 123 cases filed by more than 400 plaintiffs with damages claims totaling roughly \$50 billion. I was responsible for mobilizing the government's resources, analyzing the claims, identifying appropriate defenses, and preparing for trials and subsequent appeals. I recruited and trained approximately 50 attorneys, formed litigation and appellate teams, retained experts, and worked extensively with the courts and plaintiffs' counsel to develop case management orders to minimize the burden and cost of the litigation. I drafted, reviewed, and edited thousands of briefs, motions, pretrial and post-trial submissions, and appellate briefs, and participated in hundreds of moot courts. I served as counsel of record in the first cases to proceed to trial on damages, including a 14-month trial in *Glendale Federal Bank, FSB v. United States*, 43 Fed. Cl. 390, 400 (1999) (Smith, CJ), *aff'd in part, vacated in part, rev'd in part*, 239 F. 3d 1374 (Fed. Cir. 2001) (Mayer and Linn, JJ, Plager, SJ), *decision on remand*, 54 Fed. Cl. 8 (2002) (Smith, CJ), *aff'd*, 378 F. 3d 1308 (Fed. Cir. 2004) (Mayer and Lourie, JJ, Plager, SJ), *cert. denied*, 544 U.S. 904 (2005). I personally handled approximately a dozen appeals to the Court of Appeals for the Federal Circuit in lead cases to establish benchmarks for settlement and to narrow the issues to be tried in the remaining cases. *E.g.*, *Westfed v. United States*, 407 F.3d at 1368 (Fed. Cir. 2005) (Rader, Gajarsa, Prost, JJ). *Southern California Federal Savings & Loan v. United States*, 422 F.3d 1319 (Fed. Cir. 2005) (Newman, Gajarsa, Mayer, JJ); *Cain and Federal Deposit Ins. Corp. v. United States*, 350 F.3d 1309 (Fed. Cir. 2003) (Friedman, SJ, Newman, Rader, JJ); *California Federal FSB v. United States*, 245 F.3d 1243 (Fed. Cir. 2001) (Mayer, CJ, Plager, SJ, Linn, J); *Glass v. United States*, 258 F.3d 1349 (Fed. Cir. 2001) (Michel, Schall, JJ; Archer, SJ); *Caguas Central Federal Bank v. United States*, 215 F.3d 1304 (Fed. Cir. 2000) (Plager, Rader, JJ, Friedman, SJ). With all but one of the 122 cases resolved, the government has prevailed entirely in approximately 70 percent of the cases and paid seven cents on the dollar of known claims.

At the trial court, then Chief Judge Loren Smith controlled case management and presided over the *Glendale* trial. Virtually every Court of Federal Claims judge presided over one or more damages trials, including Judge Hewitt (*Westfed*), Judge Bruggink (*LaSalle Talman*), Judge Hodges (*California Federal*), Judge Weiss (*Castle*), Judge Margolis (*Glass*), Judge Christine Miller (*Statesman*), Judge Firestone (*Hometown*), and Judge Coster-Williams (*First Annapolis*).

Opposing Counsel: Over 60 law firms were involved in the *Winstar* litigation.

The four members of the Plaintiffs' Coordinating Committee were Jerry Stouck, now with Greenberg Traurig, 2101 L Street, NW, Washington, DC 20037, Tel: 202-331-3100; Melvin C. Garbow, Arnold & Porter, 555 Twelfth Street, NW, Washington, DC 20004, Tel: 202-942-5899; Steven S. Rosenthal, Kaye Scholer, 901 15th Street, NW, Washington, DC 20005, Tel: 202-682-3553; and Charles J. Cooper, Cooper & Kirk, 1523 New Hampshire Avenue, NW, Washington, DC 20036, Tel: 202-220-9660. In *Glendale*, in which I was lead trial counsel, my opposing counsel was Jerry Stouck (listed above). In *California Federal*, my opposing counsel in the appeal were Theodore B. Olson, Theodore J. Boutrous, Jr., Mark A. Perry, David B. Salmons, John C. Millian, and Paul Blankenstein of Gibson, Dunn & Crutcher, LLP, 1050 Connecticut Avenue, NW, Washington, DC 20036, Tel: 202- 822-2082.

Co-Counsel: David M. Cohen, former Director of the National Courts Section, (now retired); Kenneth Dintzer, Acting Deputy Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-616-0385; Scott Austin, Assistant Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-616-0317; Arlene Groner, Senior Trial Counsel, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-307-0162; Colleen Conry, Ropes & Gray, 700 12th Street, NW, Washington, DC 20005, Tel: 202-508-4834.

2. The Harbor Maintenance Fee Litigation

Congress enacted the Harbor Maintenance Fee to fund harbor maintenance and development projects through the imposition of a tax based upon imports, exports, and passengers through U.S. ports. In 1995, exporters began to challenge the tax, asserting that it violated the Export Clause of the Constitution. Eventually, several thousand cases were filed at the Court of International Trade. All of the cases were assigned to Judge Jane Restani, but three Judges (Restani, Musgrave, and DiCarlo) decided the merits. I worked with Judge Restani and a Plaintiffs' Steering Committee to develop test case procedures for resolution of the common issues. I prepared the trial and appellate briefs for the Court of International Trade and the Court of Appeals for the Federal Circuit and participated in the briefs in the Supreme Court. *E.g.*, *United States v. United States Shoe Corp.*, 523 U.S. 360 (1998), *aff'd* 114 F.3d 1564 (Fed. Cir. 1997); *see Thomson Consumer Electronics, Inc. v. United States*, 247 F.3d 1210 (Fed. Cir. 2001); *Stone Container Corp. v. United States*, 229 F.3d 1345 (Fed. Cir. 2000); *Florida Sugar Marketing v. United States*, 220 F.3d 1331 (Fed. Cir. 2000); *Carnival Cruise Lines, Inc. v. United States*, 200 F.3d 1361 (Fed. Cir. 2000); *International Business Machines Corp. v. United States*, 201 F.3d 1367 (Fed. Cir. 2000). Ultimately, the Supreme Court held that the tax was unconstitutional as applied to exports because the tax was imposed on the cargo itself, based upon its value, and was not sufficiently related to harbor maintenance. I subsequently developed and supervised a streamlined refund process that minimized the burdens upon the

litigants and the court. I also participated in numerous related cases, in which the government defeated claims for class-action certification, constitutional claims by importers and passengers, and claims for interest.

Opposing Counsel: The Plaintiffs' Steering Committee was led by Steven H. Becker, now with the Becker Law Firm PLLC, 600 Third Avenue, New York, NY 10016, Tel: 212-499-9098. My opposing counsel in *Thomson* was J. Kevin Horgan of Dekieffer & Horgan, 729 15th Street, NW, Washington, DC 20005, Tel: 202-783-6900.

Co-Counsel: My team included The Honorable Todd M. Hughes, now a Circuit Judge on the Court of Appeals for the Federal Circuit, 717 Madison Place, NW, Washington, DC 20005, Tel: 202-275-8840; and Richard McManus, Federation Quebecoise de Professeures et Professeurs d'Universite (FQPPU), No. 405-4446, Boul Saint Laurent, Montreal, Quebec, Tel: 514-843-5953.

3. *Hatter, et al. v. United States*, 532 U.S. 557 (2001), *aff'g*, 185 F.3d 1356 (Fed. Cir. 1999) (Plager, Rader, JJ, Archer, SJ), *rev'ing*, 38 Fed. Cl. 166 (1997) (Turner, J.), *on remand from* 64 F.3d 647 (Fed. Cir. 1995)

In 1982 and 1983, Congress extended Medicare and Social Security to the federal government, including the judicial branch. Article III judges challenged the imposition of these taxes as unconstitutional diminutions of their salary. I was counsel of record in the trial court and appellate court in defending the legislation. I drafted the briefs and presented the oral arguments at the trial and appellate courts. I also worked closely with the Solicitor General's Office to present the case on appeal to the Supreme Court. After three trial court decisions and three appeals, the Supreme Court held that the imposition of Social Security tax was discriminatory, and therefore unconstitutional, because certain high level officials in the political branches were exempt from that tax. The Court upheld the imposition of Medicare taxes upon judges, however, because they were applied to all citizens. Following the Supreme Court's decision, I developed and supervised an expedited refund process that allowed all eligible Judges to obtain appropriate refunds without the need for litigation between every member of the judiciary and the United States.

Opposing Counsel: Plaintiffs were represented by Steven S. Rosenthal, Kaye Scholer, 901 15th Street, NW, Washington, DC 20005, Tel: 202-682-3553.

Co-Counsel: Assisting me with the later phases of the litigation, including the refund process, was Luke Levasseur, now with Mayer Brown, 1999 K Street, NW, Washington, DC 20006, Tel: 202-263-3469.

4. U.S. Tariff Schedules Litigation

In 2007, importers filed approximately 250 lawsuits in the Court of International

Trade alleging that the United States Tariff Schedules violate the Equal Protection Clause of the Fifth Amendment because they impose different tariff rates upon men's, women's, and children's versions of the same article. I supervised the development of a test case procedure and the merits proceedings before the trial court, and I personally handled the appeals to the Federal Circuit. The trial court initially dismissed the complaints for failure to state a claim because they failed to allege facts sufficient to support a facial discrimination claim. *Totes–Isotoner Corp. v. United States*, 569 F. Supp. 2d 1315 (Ct. Int'l Trade 2008) (Pogue, Barzilay, Restani, JJ). The Federal Circuit affirmed but left open the possibility that another plaintiff could allege an as-applied discrimination claim. *Totes–Isotoner Corp. v. United States*, 594 F.3d 1346 (Fed. Cir. 2010) (Lourie, Dyk, Prost, JJ). A new test case was selected for the as-applied challenge, but the trial court dismissed that case for failure to show any government intention to discriminate. *Rack Room Shoes v. United States*, 821 F.Supp.2d 1341 (Ct. Int'l Trade 2012) (Pogue, CJ). The Federal Circuit affirmed, *Rack Room Shoes v. United States*, 718 F.3d 1370 (Fed. Cir. 2013) (Clevenger, Moore, Reyna, JJ), and the Supreme Court denied *certiorari*.

Opposing Counsel: The lead attorney for most of these cases was Michael T. Cone of FisherBroyles LLP, 470 Atlantic Avenue, Independence Wharf, Boston, MA 02210, Tel: 212-655-5471. John M. Peterson, Russell A. Semmel and Richard F. O'Neill of Neville Peterson LLP, 55 Broadway, New York, NY 10006, Tel: 212-635-2730, represented Totes and Rack Room.

Co-Counsel: The government's team included Reginald Blades, Assistant Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-616-8257; and Aimee Lee, Senior Trial Counsel, International Trade Field Office, Civil Division, Department of Justice, 26 Federal Plaza, New York, NY 10278, Tel: 212-264-9253.

5. *PS Chez Sidney, L.L.C. v. United States*, 442 F. Supp. 2d 1329 (Ct. Int'l Tr. 2006), rev'd, 2010 U.S. App. LEXIS 22584, at *3 (Fed. Cir. Oct. 28, 2010) (Rader, CJ, Newman, Reyna, JJ), and related "Byrd Amendment" cases

In 2000, Congress enacted the Continued Dumping and Subsidy Offset Act (the "Byrd Amendment"), which allowed members of domestic industries to seek distributions of antidumping duties collected from importers. To receive distributions, the statute requires that a domestic producer have been a petitioner in the antidumping investigation or a supporter of the petition. The agencies charged with administering this scheme determined "support" based upon documents filed during investigations. Members of domestic industries who had remained neutral or opposed investigations, and therefore were not eligible for distributions, brought suit, claiming that the support requirement violated the First and Fifth Amendments of the Constitution. I handled the first of these cases to be heard in the Court of International Trade (before Judge Wallach, now a Circuit Judge on the Court of Appeals for the Federal Circuit). I supervised the appeal

from that decision and have supervised various related challenges, all of which ultimately have been resolved favorably for the United States. *E.g.*, *SKF USA, Inc. v. United States*, 451 F. Supp. 2d 1355, 1366 (Ct. Int'l Trade 2006), *rev'd sub nom. SKF USA, Inc. v. U.S. Customs & Border Prot.*, 556 F.3d 1337 (Fed. Cir. 2009 (per curiam)); *Candle Corp. v. United States*, 374 F.3d 1087 (Fed. Cir. 2004) (Michel, CJ, Gajarsa, Dyk, JJ); *Ashley Furniture Industries, Inc. v. United States*, 734 F.3d 1306 (Fed. Cir. 2013) (Prost, Clevenger, Moore, JJ); *Cemex SA v. United States*, 384 F.3d 1314 (Fed. Cir. 2004) (Newman, Rader, JJ, Michel, CJ).

Opposing Counsel in *Chez Sidney* was William E. Brown of Wolff Ardis, P.C., 5810 Shelby Oaks Dr., Memphis, TN 38134, Tel: 901-763-3336.

Counsel for Defendant-Intervenor in *Ashley*, *SKF*, *Cemex*, and other cases: Joseph W. Dorn, King & Spalding, 1700 Pennsylvania Avenue, NW, Washington, D.C. 20006, Tel: 202-626-5445.

Co-Counsel: Frank White, Assistant Director, Commercial Litigation Branch, Department of Justice, 1100 L Street, NW, Washington, DC 20530, Tel: 202-307-6462.

6. *United States v. Great American Insurance Co.*, No. 12-1462 (Fed. Cir. 2013) (Prost, Taranto, JJ, Plager, SJ)

As imports from China have increased over the past decade, it has become increasingly difficult for the United States to collect unpaid duties and antidumping duties on Chinese imports. Although importers are required to post bonds, and in some circumstances cash deposits, these protections are frequently exceeded by the importer's debt, and collection from the importer is often impossible. Several years ago, I organized a team to begin collection actions in the Court of International Trade to require sureties to honor their commitments under the security bonds. In several lead cases, sureties asserted a range of defenses. I presented the oral argument in the first of these cases to reach the Court of Appeals for the Federal Circuit. The appellate court largely ruled in favor of the government, eliminating some of the core defenses of sureties in all of the collection cases. This decision paved the way for settlements in many cases.

Opposing Counsel: Great American Insurance Co. was represented on appeal by Carter G. Phillips of Sidley & Austin, 1501 K Street, NW, Washington, DC 20005, Tel: 202-736-8270.

Co-Counsel: Customs and Border Protection was represented by Chief Counsel Scott Falk, 1025 F Street, NW, Washington, DC 20004, Tel: 202-344-2940.

7. *Kam-Almaz v. United States*, 682 F.3d 1364 (Fed. Cir. 2012) (Lourie, Prost, JJ; Newman, J (dissenting))

Over the past decade, security officials at airports in the United States have had to consistently adapt and respond to new threats to public safety. Electronic equipment carried by travelers poses particularly difficult issues for security. In some cases, laptop computers have been seized and not returned, or returned in damaged condition. Several Fourth and Fifth Amendment challenges have been raised in various courts concerning seized and destroyed laptops. I personally handled one of the first “laptop” cases to be decided on appeal. In *Kam-Almaz v. United States*, an American citizen’s laptop was seized upon his reentry to the United States. He was given a paper stating that the laptop would be returned within 30 days, but it was not returned until ten weeks after the seizure, and then in damaged condition. Mr. Kam-Almaz sued, asserting breach of an implied-in-fact bailment contract and seeking compensation pursuant to the Takings Clause. The Federal Circuit majority held that Mr. Kam-Almaz had failed to allege sufficient facts to support his bailment claim and that the seizure of his laptop was an exercise of police power, an exception to the Fifth Amendment.

Opposing Counsel: Matthew J. Dowd, Wiley Rein LLP, 1776 K Street NW, Washington, DC 20006, Tel: 202-719-7343.

8. *Asociacion Colombiana de Exportadores de Flores (Asocoflores) v. United States*, 903 F. 2d 1555 (Fed. Cir. 1990) (Mayer, Friedman, Baldwin, JJ), and related cases

During the late 1980s, the Department of Commerce issued antidumping duty orders upon imports of flowers from various countries. Many complaints were filed in the Court of International Trade by importers challenging the imposition of antidumping duties and by domestic producers who sought higher duties. I handled all of these cases before the Court of International Trade and the Court of Appeals for the Federal Circuit. In *Asocoflores*, the appellate court held that interested parties to an antidumping investigation could challenge the deposit rates imposed upon imported merchandise, without waiting to challenge the actual assessment of duties, which occurs much later. I also was responsible for a series of other related cases in which courts sustained important methodologies utilized by the trade agencies in determining dumping of perishable products. *E.g.*, *Floral Trade Council of Davis, Cal. v. United States*, 888 F. 2d 1366 (Fed. Cir. 1989); *Floral Trade Council of Davis, Cal. v. United States*, 716 F. Supp. 1580 (Ct. Int’l Trade 1989); *Florex v. United States*, 705 F. Supp. 582 (Ct. Intl. Tr. 1989).

Opposing Counsel: In *Asocoflores*, my opposing counsel were Patrick McCrory (retired) of Arnold & Porter, 555 12th Street, NW, Washington, DC 20004, Tel: 202-942-5000, and Spencer Griffith, now at Akin Gump Strauss Hauer & Feld, 1333 New Hampshire Avenue, NW, Washington, DC 20036, Tel: 202-887-4000.

Intervenors: Intervenors (plaintiffs in other cases) were represented by the Honorable Jimmie Reyna, now a Circuit Judge on the Court of Appeals for the

Federal Circuit, 717 Madison Place, NW, Washington, DC 20005, Tel: 202- 275-8000; James R. Cannon, Jr., now with Cassidy Levy Kent, 2000 Pennsylvania Avenue, NW, Washington, DC 20006, Tel: 202-567-2318; Terrence Stewart of Stewart and Stewart, 2100 M Street, NW, Washington, DC 20037, Tel: 202-785-4185; and Munford Paige Hall of Adduci, Mastriani, and Schaumburg, 1133 Connecticut Avenue, NW, Washington, DC 20036, Tel: 202-467-6300.

9. *U.S. Association of Importers of Textiles and Apparel v. United States*, 413 F.3d 1344 (Fed. Cir. 2005) (Michel, CJ, Mayer, Lourie, JJ)

In 2004, the Court of International Trade (Goldberg, SJ) granted a preliminary injunction barring an inter-agency committee, the Committee for the Implementation of Textile Agreements, from considering petitions for safeguards against increasing textile imports from China. I handled an expedited appeal to the Court of Appeals for the Federal Circuit, which vacated the injunction. The appellate court reversed the trial court, holding that a trial court must decide a pending motion to dismiss for lack of jurisdiction before deciding whether to grant a preliminary injunction. The appellate court also held that mere novelty of a claim is not sufficient to satisfy the likelihood of success requirement for a preliminary injunction. Finally, because the appellate court clarified that it was inappropriate to enjoin the mere commencement of a trade proceeding, the plaintiff voluntarily dismissed the case on remand.

Opposing Counsel: Plaintiffs in this case were represented by Brenda A. Jacobs and Neil R. Ellis, Sidley & Austin, 1501 K Street, NW, Washington, DC 20005, Tel: 202-736-8075.

10. *Corus Staal BV v. Department of Commerce*, 395 F.3d 1343 (Fed. Cir. 2005), *cert. denied*, 126 S. Ct. 1023 (2006)

Since the founding of the GATT after World War II, and continuing with the creation of the WTO in 1994, litigants in domestic courts have attempted to rely upon reports issued by these international trade dispute panels to contest agency decisions under United States law. Court decisions were unclear and inconsistent concerning the relevance of WTO panel reports in domestic litigation. In *Corus Staal*, the Court of Appeals for the Federal Circuit (Mayer, Plager, SJ, Prost, CJ) agreed with the position long advocated by the government that, unless and until a WTO report is adopted by the political branches, it is not part of domestic law and may not be considered by the judicial branch in determining the legality of agency action. I supervised this case and participated in the drafting of briefs and preparation for oral argument.

Opposing counsel: Corus was represented by Richard O. Cunningham and Alice Kippel, Steptoe & Johnson, 1330 Connecticut Avenue, NW, Washington, DC 20036, Tel: 202-429-6434. Counsel for defendant-intervenor-appellee were Ellen J. Schneider, Robert E. Lighthizer, John J. Mangan and Jeffrey D. Gerrish of

Skadden, Arps, Slate, Meagher & Slom LLP, 1440 New York Avenue, NW, Washington, DC 20005, Tel: 202-371-7099.

Co-counsel were Mark Barnett, now Judge, Court of International Trade, One Federal Plaza, New York, NY 10278, Tel: 212-264-1628; and John McInerney, Chief Counsel for Trade Enforcement and Compliance, Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, Tel: 202-482-1434.

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

My most significant legal activities, apart from litigation, include the provision of advice and counsel within the government and professional activities to advance the administration of justice.

Over the course of my career at the Department of Justice, client agencies regularly have sought my advice to reduce litigation risk resulting from their decisions and actions. My guidance also is sought concerning proposed legislation to ensure consistency in U.S. legal positions and reduction of litigation risk exposure. In my current position as Director of the Office of Foreign Litigation, I devote extensive time to coordination within the executive branch of U.S. legal positions in both domestic and foreign courts to ensure accuracy and consistency.

As a member of the statutorily-established Advisory Councils of the Court of Appeals for the Federal Circuit and the Court of Federal Claims, and at the request of the Chief Judges of those Courts, I have recommended improvements in court procedures. For example, I participated in small groups including private and public bar members to formulate recommendations concerning procedures for handling related cases, e-discovery, claw-back orders, and hyperlinking in briefs. While serving as a Board Director of the Court of Federal Claims Bar Association, I recruited contributors, organized, edited, and arranged for publication of the fifth edition of the *Deskbook*, a traditional resource for practitioners in that court. I worked with the Chief Judge and Clerk of the Court of International Trade to improve standard case management procedures and record filing requirements. I supported the Court of Appeals for the Federal Circuit in the establishment of a formal mediation program by participating in annual training programs for mediators. Finally, at the suggestion of the Chief Judge of the Court of Appeals for the Federal Circuit, I organized a four-part series on appellate advocacy, with each of the four panels including a Federal Circuit judge, a private practitioner, and a government appellate attorney. The panels were broadcast as webinars to over two dozen sites throughout the country.

I have not performed any lobbying activities.

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

None.

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.

I have no arrangements for deferred income or future benefits from previous business relationships. When I worked at Steptoe & Johnson, the firm had a 401(k) plan in which I participated. When I left the firm, I rolled over the fund to a new T. Rowe Price account, which I alone own and control.

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

No.

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

See attached financial disclosure report.

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

See attached net worth statement.

24. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain

how you would address any such conflict if it were to arise.

I am unaware of any individuals, family or otherwise, that are likely to present potential conflicts of interest. As the Director responsible for international trade litigation involving the United States, I would have a conflict with most cases that are currently pending at the Court of International Trade. If confirmed, I would recuse myself from all cases in which I was either directly or indirectly involved during my tenure at the Department of Justice.

For matters handled by the Department of justice after my departure, I would apply the standards of 28 U.S.C. § 455 and the Code of Conduct for United States Judges, as well as any other pertinent principles of judicial ethics, to determine whether to recuse in other matters.

- 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 consult rules and decisions that address what constitutes a conflict of interest, including 28 U.S.C. § 455 and the Code of Conduct for United States Judges, and based on that consultation, I would compile a comprehensive list of matters for easy flagging of potential conflicts of interest. In close cases, I would consult other Judges and any persons designated by the court or judicial organizations to provide advice on any questions that may arise.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I am firmly committed to the principle that every attorney should perform public service and pro bono work. During my years in private practice, I almost always had at least one pro bono matter. For example, I assisted in the representation of an African-American family in a civil rights action for damages against members of the Ku Klux Klan who burned a cross on the family's front lawn. I also represented several abandoned children in termination of parental rights cases so that they could be adopted by their foster families. I helped an Eastern European refugee whose property was confiscated first by the Nazis and then by the Russians to petition for relief from the Foreign Claims Settlement Commission.

During my tenure in the Department of Justice, while unable to represent parties in suits against the United States, I have fully supported requests by attorneys under my supervision to participate in other types of pro bono activities. I also appointed a mid-level manager as the pro bono coordinator to ensure that opportunities and policies relating to pro bono work were fully available.

As the new President of the Federal Circuit Bar Association, I have made strengthening the pro bono program for veterans a priority.

26. Selection Process:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On June 27, 2014, I was contacted by an official from the Office of Legal Policy at the Department of Justice, who asked whether I would be interested in being considered for a vacancy on the Court of International Trade. I later confirmed my interest, and I have since been in contact with officials from the Office of Legal Policy. On August 6, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C.

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

No.

AFFIDAVIT

I, Jeanne E. Davidson, do swear that
the information provided in this statement is, to the best of my
knowledge, true and accurate.

8/14/14
(DATE)

Jeanne E. Davidson
(NAME)

Natalie Palmer
(NOTARY)

NATALIE R. PALMER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 2015