

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jessica Gloria Lynn Clarke

Jessica Clarke Crockett (previous married name)

Jessica Clarke Thompson (informally)

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

United States District Judge for the Southern District of New York

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

Office: New York State Office of the Attorney General
 28 Liberty Street, 20th Floor
 New York, New York 10005

Residence: Valhalla, New York

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

1983; Akron, Ohio

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.

2005 – 2008, The Ohio State University Moritz College of Law; J.D. (*cum laude*), 2008

2001 – 2005, Northwestern University; B.A., 2001

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.

2019 – present
New York State Office of the Attorney General
28 Liberty Street, 20th Floor
New York, New York 10005
Chief, Civil Rights Bureau

2021 – present
Columbia Law School
435 West 116th Street
New York, New York 10027
Lecturer-in-Law

2016 – 2019
Emery Celli Brinckerhoff Abady Ward & Maazel, LLP
600 Fifth Avenue, Tenth Floor
New York, New York 10020
Of Counsel (2018 – 2019)
Associate (2016 – 2018)

2010 – 2016
United States Department of Justice
Civil Rights Division, Housing & Civil Enforcement Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
Trial Attorney

2008 – 2010
United States District Court for the Northern District of Ohio
801 West Superior Avenue, Courtroom 17A
Cleveland, Ohio 44113
Law Clerk to the Honorable Solomon Oliver, Jr.

Summer 2007
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
Summer Associate

January 2007 – April 2007
United States District Court for the Southern District of Ohio
85 Marconi Boulevard
Columbus, Ohio 43215
Judicial Extern to the Honorable James L. Graham

Summer 2006
Porter Wright Morris & Arthur, LLP

41 South High Street, Suites 2800 – 3200
Columbus, Ohio 43215
Summer Associate

Other affiliations (uncompensated):

2005 – present
Kalaloo LLC
Member

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

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

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

Coro Leadership New York, Fellow (2020 – 2021)

The Ohio State University Moritz College of Law, Outstanding Recent Alumna Award (2018)

Public Justice, Trial Lawyer of the Year Finalist (2017)

United States Department of Justice, Civil Rights Division
Assistant Attorney General's Distinguished Service Award (2016)
Meritorious Award (2015, 2014)
Special Achievement Award (2012)

The Ohio State University Moritz College of Law
Robert M. Duncan Service Scholarship (2008)
Judge Joseph H. Harter Memorial Award for Best Grade in Trial Practice (2008)
Public Service Fellow (2008)
Diversity Enrichment Scholarship (2005)

Ohio Women's Bar Association, Hultin, Hemann & Resnick Scholarship (2007)

Heritage Award for Service to the Black Community at Northwestern University (2005)

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

American Bar Association

Metropolitan Black Bar Association

Co-Chair, Civil Rights Committee (2017 – 2018)

National Employment Lawyers Association/New York

New York City Bar Association

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.

New York, 2009

New Jersey, 2018

There have been no lapses 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 Sixth Circuit, 2016

United States District Court for the Eastern District of Michigan, 2016

United States District Court for the Eastern District of New York, 2016

United States District Court for the Southern District of New York, 2016

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Big Brothers Big Sisters, Volunteer (2008 – 2010)

Delta Sigma Theta Sorority, Inc. (2003 – present) (membership currently inactive)

Junior League of Central Westchester (2020 – present)

Junior League of Montclair-Newark (2018 – 2020)
New Member Chair (2019 – 2020)
New Member (2018 – 2019)

Northwestern University Leadership Circle (2020 – present)

Ohio State Bar Association Law and Leadership Institute, Contributing Writer
(2009 – 2010)

The Ohio State University Moritz College of Law, Moritz Merit Scholar Mentor
(2020 – present)

Old Trail School Alumni Council (2008 – 2009)

- 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.

The Junior League is an international women's organization committed to volunteer work and developing the leadership potential of women. The organization limits membership to women. Delta Sigma Theta Sorority, Inc. is a national service organization that limits its membership to women. To the best of my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Pennsylvania Supreme Court Strikes Down Congressional Map that Hurt Black Voters on Ground of Partisan Gerrymandering, Imposes Court-Drawn Map for 2018 Elections, ABA Section of Civil Rights Litigation Practice Pointers (2018). Copy supplied.

During my clerkship in approximately 2010, I volunteered as a contributing writer for a newsletter for the Ohio State Bar Association's Law and Leadership Institute, which is a five-week summer program for students in Cleveland's public schools who are interested in pursuing law. I am unable to locate the articles I wrote that were published.

Mediator Selection, Discipline, and Liability in TOWARD A PROTOCOL FOR ADMINISTRATIVE AGENCY MEDIATION IN OHIO (2009). Copy supplied.

Putting the Ball in a New Court: Using Restorative Justice as a Means to Punish NBA Players for the Commission of Violent Offenses, Ohio State Journal on Dispute Resolution's Mayhew-Hite Report on Dispute Resolution and the Courts (2008). 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.

New York State Office of the Attorney General's Preliminary Report on the New York City Police Department's Response to Demonstrations Following the Death of George Floyd (2020). Copy supplied.

I have contributed to the reports below issued by the Office of Special Investigations (formerly the Special Investigations and Prosecutions Unit) at the New York State Office of the Attorney General. Copies supplied.

2021 Investigation into the Death of Troy Hodge

2021 Investigation into the Death of Daniel Prude

2021 Investigation into the Death of Ferdy Jacinto-Martinez

2021 Investigation into the Death of Tina Davis

2021 Investigation into the Death of Allan Feliz

2020 Investigation into the Death of Evgeniy Lagoda

2020 Investigation into the Death of Dwayne Pritchett

2019 Investigation into the Death of Jaime Lopez-Cabrera

2019 Investigation into the Death of Edwin William Garcia Lopez

2019 Investigation into the Death of Jonathan Maldonado

- 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.

Comment Letter from 23 Attorneys General to the U.S. Department of Housing and Urban Development Regarding Proposed Rule on Disparate Impact Liability under the Fair Housing Act (Aug. 24, 2021). Copy supplied.

Comment Letter from Coro Leadership New York Fellows to the Environmental Justice Advisory Board Regarding the City's Renewable Rikers Act (Apr. 30, 2021). Copy supplied.

Open Letter to the U.S. Senate by Former and Current New York Attorney General Officials in Support of the Confirmation of Kristen Clarke (Apr. 13, 2021). Copy supplied.

Letter to Mayor of Buffalo Byron Brown Regarding Buffalo Draft Resolution Pursuant to Executive Order 203 (Mar. 25, 2021). Copy supplied.

Letter to Members of the Peekskill Police Reform Task Force Regarding Peekskill, N.Y. Police Reforms Pursuant to Executive Order 203 (Mar. 25, 2021). Copy supplied.

Letter to Mayor of Kingston Steven Noble, Police Chief Egidio Tinti, and Members of the Re-envision Public Safety Task Force Regarding Kingston, N.Y. Police Reforms Pursuant to Executive Order 203 (Mar. 18, 2021). Copy supplied.

Letter to Village of Hempstead Attorney Cherice P. Vanderhall, Esq. Regarding Village of Hempstead's Response to Executive Order 203 (Feb. 22, 2021). Copy supplied.

Letter from the New York State Office of the Attorney General and New York State Education Department to Local Education Agencies Regarding Support for Homeless Students (Feb. 16, 2021). Copy supplied.

Letter from Attorney General Letitia James to Congress Regarding Vaccine Administration (Dec. 3, 2020). Copy supplied.

Letter from Attorney General Letitia James to Boards of Elections Regarding Addressing Long Lines and Complying with the Americans with Disabilities Act (Oct. 29, 2020). Copy supplied.

Letter from Attorney General Letitia James to Boards of Elections and Local Law Enforcement Regarding Voter Intimidation (Oct. 21, 2020). Copy supplied.

On August 18, 2020, I testified—on behalf of the New York State Office of the Attorney General—before the New York City Police Department, regarding its proposed amendment of rules for the suspension or revocation of press credentials. Testimony supplied.

Letter from Attorney General Letitia James to Local Law Enforcement Concerning Supplemental Guidance on Participation by Local Authorities in Immigration Enforcement (Apr. 8, 2020). Copy supplied.

Letter from Attorney General Letitia James to Attorney General William Barr, Immigration Judges, and Acting Court Administrator Regarding New York Immigration Court Operations During COVID-19 (Mar. 20, 2020). Copy supplied.

Comment Letter from 22 Attorneys General to the U.S. Department of Housing and Urban Development Regarding Proposed Rule on the Fair Housing Act's Disparate Impact Standard (Oct. 18, 2019). Copy supplied.

Letter from Attorneys to House Speaker Paul Ryan in Opposition to Stephen Bannon's Appointment as White House Chief Strategist (Nov. 23, 2016). Copy supplied.

Letter from Faculty, Staff, Alumni, and Students of Northwestern University to University Leadership on Sanctuary for Undocumented Immigrants (Nov. 14, 2016). Copy supplied.

In addition to the letters listed above, attorneys that I supervise at the New York State Office of the Attorney General occasionally worked on letters that were reviewed and approved by our Appeals and Opinions Bureau or Chief Counsel for Federal Initiatives, a process in which I did not play a role.

- 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.

April 27, 2021: Guest Lecturer, State and Local Government, Albany Law School (virtual event). Presentation supplied.

April 14, 2021: Speaker, Eliminating Barriers to Housing in New York
Convening, Enterprise Community Partners, New York, New York. Remarks
supplied.

December 17, 2020: Faculty, Fair Housing Law and Practice 2020, Practising
Law Institute, New York, New York. Video available at
<https://vimeo.com/654269060/f6c8fd6da0>.

October 2, 2020: Panelist, Civil Rights Litigation on Behalf of Children, Families,
and People with Disabilities, New York City Bar Association (virtual event).
Video available at <https://www.youtube.com/watch?v=SaW7YeptkoA>.

September 30, 2020: Moderator, A Virtual Tour of the Undesign the Redline
Exhibit and Conversation on Race, Segregation, and Social Justice, New York
State Office of the Attorney General, New York, New York. Notes supplied.

May 14, 2020: Panelist, Hate Crimes Virtual Forum, Asian American Federation
and Community Relations Service of United States Department of Justice (virtual
event). Notes supplied.

April 23, 2020: Panelist, Avoiding Gender Discrimination in the COVID-19
Work-from-Home Era, New York City Bar Association (virtual event). Notes
supplied.

February 12, 2020: Panelist, Dismantling and Combating Hate, State University
of New York at Purchase, Purchase, New York. Notes supplied.

June 26, 2019: Panelist, Disparate Impact under the Fair Housing Act after
Inclusive Communities, Lawyers' Committee for Civil Rights Under Law, New
York, New York. Notes supplied.

May 30, 2019: Panelist, Fair Housing Expert Training, Thurgood Marshall
Institute, NAACP Legal Defense & Educational Fund, Inc., Chapel Hill, North
Carolina. Presentation supplied.

October 5, 2018: Award Recipient Speaker, The Ohio State University Moritz
College of Law Alumni Award Ceremony, Columbus, Ohio. Video supplied.

2016 (date unknown): Speaker, Columbia University, New York, New York. I
spoke to a group of pre-law students about my experiences in college, law school,
and my legal career. I have no notes, transcript, or recording. The address for
Columbia University is 515 West 116th Street, New York, New York 10027.

June 2009 (date unknown): Panelist, Stephanie Tubbs Jones Summer Legal
Academy, Cleveland Metropolitan Bar Association, Cleveland, Ohio. I spoke to

Cleveland-area high school students interested in pursuing law about my experiences in college and law school. I have no notes, transcript, or recording. The address for the Cleveland Metropolitan Bar Association is 1375 East Ninth Street, Second Floor, Cleveland, Ohio 44114.

- 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.

Unfinished: Short Creek, Witness Docs (Oct. 2020). Interview supplied and audio excerpts available at <https://podcasts.apple.com/lu/podcast/short-creek-e8-can-i-get-a-witness/id1516705248?i=1000496056490> and <https://podcasts.apple.com/lu/podcast/short-creek-e9-grassroots-in-the-desert/id1516705248?i=1000496563655>.

Television Appearance, Discussion on Discrimination in Real Estate Industry in Long Island, Newsday Live (Jan. 30, 2020). Video available at <https://www.newsday.com/long-island/investigations/long-island-divided-real-estate-discrimination-impacts-solutions-newsday-live-full-video-1.41233678>.

Jessica Lessenhop, *A Woman's Choice—Sexual Favours or Lose Her Home*, BBC News (Jan. 11, 2018). Copy supplied.

In representing Dr. Jill Stein in the Michigan recount following the 2016 presidential election, I gave several interviews and statements to the press, including a press conference at the time the recount was first requested. A recording of the entire press conference is unavailable, but clips can be found at <https://www.freep.com/story/news/local/michigan/detroit/2016/12/07/federal-judge-halts-michigan-election-recount/95110008>; <https://www.fox17online.com/2016/11/30/stein-requests-presidential-recount-in-michigan>; <https://www.lansingstatejournal.com/story/news/politics/elections/2016/11/30/presidential-recount-request-michigan/94662830>; <https://thehill.com/homenews/campaign/309358-federal-judge-kills-recount-effort-in-michigan>; and <https://www.detroitnews.com/videos/news/politics/elections/2016/12/01/jill-stein's-attorney,-security-expert-discuss-mich.-presidential-reco/94721298>.

Romance lights up July night, Charlotte Observer (July 22, 2010). Copy supplied.

Maren Dougherty, *It's All Greek to Me!: Members of black Greek sororities, frats bond for life*, Daily Nw. (Jan. 31, 2005). Copy supplied.

Laura Olson, *Tis Better to Give*, Daily Nw. (Nov. 30, 2004). Copy supplied.

Shruti Kumar, *Network Advantage*, Daily Nw. (Mar. 2, 2003). Copy supplied.

E.L. Rogers, *Walsh earns sloppy win over Tallmadge*, Cleveland Plain Dealer (Mar. 2, 2001). Copy supplied.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
- i. Of these cases, approximately what percent were:
- jury trials: _____%
- bench trials: _____%
- ii. Of these cases, approximately what percent were:
- civil proceedings: _____%
- criminal proceedings: _____%
- 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 of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

None.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever

held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I served as an Ohio Voter Protection Team volunteer for Hillary Clinton's presidential campaign in 2016.

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

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

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

I served as a law clerk to Judge Solomon Oliver, Jr. on the United States District Court for the Northern District of Ohio from 2008 to 2010.

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

I have never practiced law alone.

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

2010 – 2016

United States Department of Justice
Civil Rights Division, Housing & Civil Enforcement Section
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
Trial Attorney

2016 – 2019

Emery Celli Brinckerhoff Abady Ward & Maazel, LLP
600 Fifth Avenue
New York, New York 10020
Associate (2016 – 2018)
Of Counsel (2018 – 2019)

2019 – present

New York State Office of the Attorney General
28 Liberty Street
New York, New York 10005
Chief, Civil Rights Bureau

- 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.

While in law school, I participated in The Ohio State University Moritz College of Law's Mediation Clinic. I have not served as a mediator or arbitrator as a practicing attorney.

b. Describe:

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

Following graduation from law school, I served as a law clerk to Judge Solomon Oliver, Jr. on the United States District Court for the Northern District of Ohio from 2008 to 2010.

In 2010, I joined the United States Department of Justice through its Honors Program, serving for six years as a Trial Attorney in the Civil Rights Division's Housing and Civil Enforcement Section. In that role, I largely focused on enforcing the Fair Housing Act through affirmative litigation. I also investigated and litigated police misconduct, public accommodations discrimination, and religious land use cases.

From 2016 to 2019, I worked in private practice at Emery Celli Brinckerhoff Abady Ward & Maazel, LLP. There, I focused on affirmative civil rights and commercial litigation. I also worked on post-conviction criminal cases.

Since 2019, I have served as Chief of the Civil Rights Bureau of the New York State Office of the Attorney General. In this role, I supervise attorneys and staff in enforcing federal, state, and local civil rights laws in New York. The work of the Bureau largely consists of investigations and litigation, but I am also involved in report writing, public education and outreach, and other policy work.

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

At the United States Department of Justice and the New York State Office of the Attorney General, I have focused on affirmative civil rights litigation, investigations, and policy work, including in the areas of fair housing, policing, and public accommodations, and I represented the United States Government and the State of New York, respectively. In private practice, I represented individuals in civil rights litigation,

businesses in commercial litigation, and criminal defendants in post-conviction matters.

- 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.

As a Trial Attorney with the United States Department of Justice, approximately 60 percent of my practice involved litigation. In private practice, about 90 percent of my practice involved litigation. At the New York State Office of the Attorney General, approximately a quarter of my practice involves litigation, including supervising Assistant Attorneys General in filed cases. Throughout my legal career, I have appeared in court occasionally.

- i. Indicate the percentage of your practice in:

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

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

- 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.

When I was a Trial Attorney with the United States Department of Justice, I tried one highly significant case to verdict in federal court as associate counsel. The case was litigated for over four years and involved a six-week jury trial. I worked on all parts of the litigation, including drafting the complaint, participating in drafting the government's opposition to the defendants' motion to dismiss, drafting and responding to discovery requests, taking and defending depositions, and preparing and opposing pre-trial motions *in limine*. I also argued the government's opposition to the defendants' motion to dismiss. At trial, I gave the opening statement and put on and cross-examined fact and expert witnesses.

Additionally, I served as associate counsel for three matters in private practice that settled shortly before trial. Two of those cases were in federal court, and the third was in state court. In all three cases, I helped prepare our trial strategy, reviewed and identified potential exhibits, prepared fact and expert witnesses for trial, and worked with jury consultants. In both cases in federal court, I drafted motions *in limine* and oppositions to the defendants' motions *in limine*. In the state court case, I participated in a pre-trial conference.

I also worked on two abbreviated state court proceedings that required the petitioner to submit evidence to the court at the outset of the case. First, while in private practice, I was lead counsel for a defendant in one of these proceedings. I drafted the motion to dismiss the petition and argued it before the court, successfully obtaining the dismissal of the case against the client. Second, as Chief of the Civil Rights Bureau at the New York Attorney General's Office, I supervised a case we won after the expedited state court proceeding. The decision was affirmed on appeal. In that case, I oversaw the investigation, reviewed and edited all filings, supervised the overall case strategy, and helped to prepare attorneys for argument.

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury: 0%

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

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

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

- 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. *In re: N.Y.C. Policing During Summer 2020 Demonstrations*, No. 20 Civ. 8924 (S.D.N.Y.)

At the end of May 2020, the Governor of New York directed the New York Attorney General's Office (NYAG's Office) to investigate the New York City Police Department's (NYPD) response to large-scale protests following the death of George Floyd. I led a team of attorneys, investigators, and other staff in conducting this investigation. The team reviewed over 1,300 complaints, interviewed witnesses, coordinated a public hearing, and

collected evidence from witnesses, the NYPD, and other government agencies. I also worked directly with our consultants—former Attorney General of the United States Loretta Lynch and NYU School of Law Professor Barry Friedman—on the investigation.

In January 2021, we filed suit against the City of New York, the Mayor, and NYPD leadership. I coordinated and supervised the drafting of the complaint and the development of the legal theories. The complaint includes claims that the NYPD used excessive force against protesters in over 150 incidents between May and December of 2020, falsely arrested legal observers and curfew-exempt essential workers, and otherwise violated New Yorkers' First Amendment rights. The case was consolidated for discovery with several other individual and putative class action cases filed by protesters, journalists, and legal observers who allege they were harmed during the protests.

The City moved to dismiss the NYAG Office's case, arguing that the NYAG lacked standing to sue and the complaint failed to allege sufficient allegations against the City and its leadership. I supervised the team on the legal strategy for opposing the dismissal motion and edited our brief before filing. On July 10, 2021, the district court denied the City's motion, except as to the NYPD police commissioner, who was dismissed from the case. Since then, I have supervised all aspects of the case, including strategizing and overseeing our overall case strategy, reviewing discovery requests and responses, helping attorneys prepare for court conferences and depositions, and locating and selecting experts. The suit remains pending before District Judge Colleen McMahon and Magistrate Judge Gabriel W. Gorenstein in the United States District Court for the Southern District of New York.

Co-Counsel:

Travis England
Lillian Marquez
Greg Morrill
Swati Prakash
Colleen Faherty
Conor Duffy
New York State Office of the Attorney General
28 Liberty Street, 20th Floor
New York, NY 10005
(212) 416-8250

Opposing Counsel:

Dara Weiss
Joshua Lax
New York City Law Department
100 Church Street
New York, NY 10007
(212) 356-1000

2. *People of the State of N.Y. v. Schofield*, 2021 N.Y. Slip Op. 04785 (3d Dep't 2021)

This case involved allegations that the Rensselaer County Board of Elections (RBOE) and its commissioners violated New York's early voting law by failing to provide voters with the adequate and equitable access to poll sites that the state law requires. RBOE refused to place a poll site in a centrally located area within the county's most densely populated city, making it difficult for voters in the county to vote early. On May 27, 2021, the New York Attorney General's Office in its *parens patriae* capacity petitioned the Rensselaer County Supreme Court for emergency relief, seeking to annul the early voting sites chosen by RBOE. The court (Justice Adam W. Silverman) granted the petition and ordered RBOE to select sites in compliance with the early voting law. On August 26, 2021, the Appellate Division, Third Department (Presiding Justice Elizabeth A. Garry, Justice Michael C. Lynch, Justice Christine M. Clark, Justice Stan L. Pritzker, and Justice John P. Colangelo) affirmed the decision on appeal.

I supervised our litigation of this matter from the outset of the investigation in approximately October 2020 until the case concluded in August 2021. This included overseeing the investigation, reviewing and editing all filings, supervising the overall case strategy, and helping to prepare attorneys for argument.

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3. *Coleman v. City of New York*, No. 17 Civ. 7265 (S.D.N.Y.)

In this case, my firm represented three Black former detectives of the Intelligence Bureau, an elite division of the New York City Police Department (NYPD) responsible for thwarting terrorist plots and other organized criminal activity. The putative class action alleged that the Bureau's leadership discriminated against Black detectives by failing to promote them based on race.

I worked on the case from shortly before its filing in September 2017 until the case settled in June 2019. I was the primary drafter of the complaint and drove the case through discovery, including drafting and responding to discovery requests and taking key depositions, including of the Chief of the Intelligence Bureau. The case was litigated before Judge Gregory Woods of the United States District Court for the Southern District of New York. The case resolved on behalf of the individual clients following settlement conferences with Magistrate Judge Barbara Moses.

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4. *J.A. v. SCO Family of Servs.*, No. 16 Civ. 05269 (E.D.N.Y.); *J.M. v. SCO Family of Servs.*, No. 17 Civ. 306 (E.D.N.Y.)

These cases involved several current and former foster children, who were placed by SCO Family of Services in the home of a man who allegedly sexually and physically abused those in his care. The suits alleged that SCO Family of Services failed to properly vet the foster home and ignored signs of abuse. The complaints asserted constitutional claims under 42 U.S.C. § 1983, as well as violations of New York common law.

I represented the plaintiffs in both actions from before the suits' filing in September 2016 through settlement in January 2019. I drafted the complaints and spearheaded our discovery requests, a motion to compel, and the opposition to SCO Family of Services' motion for judgment on the pleadings. The dispositive motion was fully briefed, but not resolved, by the time of settlement. I also led settlement discussions and the drafting of the resulting settlement agreement.

The case was litigated before District Judge Sandra J. Feuerstein and Magistrate Judge Anne Y. Shields of the United States District Court for the Eastern District of New York.

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5. *Caring Prof'ls, Inc. v. Catholic Health Care Sys. d/b/a ArchCare*, No. 656248 (N.Y. Cty. Sup. Ct.)

Here, my firm represented Caring Professionals, Inc., a home care service provider, in an action against Catholic Health Care and related companies seeking to recover \$1.3 million in unpaid invoices. Caring Professionals provided home health aides to the companies and was never fully paid for its services. The suit also alleged certain defendants closed and transferred their services to other related entities to avoid paying the money owed. Based on these allegations, Caring Professionals asserted claims against Catholic Health Care and related companies for account stated, breach of contract, *quantum meruit*, fraud, fraudulent conveyance, and conversion.

I worked on the case from March 2017 until its settlement in August 2018. Shortly before I joined the case, the defendants filed a motion to dismiss. I was the primary drafter of the opposition to the dismissal motion and the cross-motion for summary judgment on the account stated claim. After the dispositive motions were fully briefed, the court (Justice Andrea Masley) granted Caring Professionals' summary judgment motion on the account stated claim, ordering the defendants to pay a portion of the amount owed plus pre- and post-judgment interest. And although the court granted the defendants' motion to dismiss the fraud and conversion claims and the *quantum meruit* claim against one defendant, the court allowed all other claims to proceed. Shortly after the court's decision, the parties settled the case.

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6. *Port Auth. Police Benevolent Ass'n v. Port Auth. of N.Y. & N.J.*, No. 15 Civ. 3526
(S.D.N.Y.)

In this case, my firm represented the Port Authority Police Benevolent Association (a union of Port Authority Police Department (PAPD) officers) and an individual plaintiff (a former probationary police officer) in an action against the Port Authority of New York and New Jersey and its police department's leadership. The case arose out of a graduation party that happened after a class of new PAPD recruits successfully completed the police academy. Following graduation, the new, probationary officers organized a party in Hoboken, New Jersey, during which several probationary officers engaged in a range of misconduct and illegal activity. After that night, the PAPD launched a sweeping investigation into what occurred. PAPD interviewed every probationary officer who attended the party and required that the officers turn over their personal cell phones for review and inspection without a warrant. The central issue in the case was whether the cell phone searches were constitutional.

I worked on the case from December 2016, shortly after the defendants filed a motion for summary judgment, until the case settled in March 2018, just before trial. I drafted significant portions of the opposition to the defendants' summary judgment motion. The court granted the defendants' motion with respect to the claims for equitable relief, but largely upheld the claim for damages. After summary judgment, the parties prepared for trial. I drafted motions *in limine*, prepared witnesses for trial, and assisted in drafting the joint pre-trial statement. Less than a month before the scheduled trial date, the parties agreed to settle the case.

The case was litigated before Judge Alison Nathan of the United States District Court for the Southern District of New York, and later before her colleague, Judge Kimba Wood, who decided the motion for summary judgment.

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7. *Stein v. Thomas*, 222 F. Supp. 3d 539 (E.D. Mich. 2016), *aff'd*, 672 F. App'x 565 (6th Cir. 2016)

My firm was retained by Dr. Jill Stein following the 2016 presidential election for litigation regarding her petition seeking a statewide recount. The Michigan State Board of Canvassers granted Dr. Stein's petition for the recount under state law. Thereafter, the Trump campaign filed an objection to the recount petition, which the Board rejected. The Board concluded, however, that it had to wait two business days before starting the recount. Because that delay would jeopardize whether the Board could complete the recount before the Electoral College deadline, Dr. Stein filed a motion for a temporary restraining order in the United States District Court for the Eastern District of Michigan directing the recount to begin immediately. After argument, the district court granted the temporary restraining order, which was subsequently upheld by the United States Court of Appeals for the Sixth Circuit.

While the federal court case was pending and the recount began, the Michigan Attorney General filed a mandamus action against the Board of Canvassers in a Michigan state appellate court, arguing that the Board improperly applied state law in granting the recount petition. The appellate court granted the Attorney General's mandamus petition, and the Michigan Supreme Court affirmed. Thereafter, the federal district court dissolved the temporary restraining order, and Dr. Stein voluntarily dismissed her case.

I worked on the federal litigation from its inception through its conclusion, assisting with drafting briefs, developing strategy for court hearings, working with expert witnesses, and handling press inquiries. The case was litigated before Judge Mark A. Goldsmith of the United States District Court for the Eastern District of Michigan.

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8. *United States v. Town of Colorado City*, No. 3:12-cv-08123 (D. Ariz.)

The United States brought this case against two towns on the Arizona and Utah border—Colorado City, Arizona and Hildale, Utah. The suit alleged that the two towns and their joint police department were under the control of the leadership of the Fundamentalist Church of Jesus Christ of Latter-Day Saints (FLDS). It further alleged that city officials and the police discriminated against non-FLDS members living in the community by denying them water services, access to housing, and police protection. The complaint included claims under the Fair Housing Act, 42 U.S.C. § 2000b, and the Violent Crime Control and Law Enforcement Act, which gives the U.S. Attorney General the authority to bring suit to address a pattern or practice of unconstitutional policing. The suit alleged that the towns violated the First, Fourth, and 14th Amendments to the U.S. Constitution. The claim under Section 2000b was later voluntarily dismissed.

I started working on the case during its investigatory phase in 2011, and I represented the United States in the litigation from the date of filing in June 2012 until after the trial concluded in March 2016. I worked on all parts of the litigation, including drafting the complaint, participating in drafting and arguing in opposition to the defendants' motion to dismiss, drafting and responding to discovery requests, taking and defending depositions, and preparing and opposing pre-trial motions *in limine*. I also helped select and worked closely with expert witnesses, including two water experts, two police practices experts, a forensic accountant, and a handwriting expert. At trial, I gave the opening statement and put on and cross-examined fact and expert witnesses.

The jury, which issued an advisory verdict on the police misconduct claim, found in favor of the United States on all claims. The case represented the Civil Rights Division's first lawsuit to include claims under both the Fair Housing Act and the Violent Crime Control and Law Enforcement Act, as well as the Division's first successful civil police misconduct trial. Shortly before the verdict, the parties settled the damages claim, which resulted in \$1,435,000 in damages to nine victims and \$165,000 in civil penalties. Later, the district court entered an injunction requiring the towns to revise their policies, hire two new officers, hire a police consultant and mentor for the police department, and undergo extensive training and monitoring. The towns appealed, but the United States Court of Appeals for the Ninth Circuit upheld the district court's order. *United States v. Town of Colorado City*, 935 F.3d 804 (9th Cir. 2019).

The case was litigated before Judge H. Russel Holland of the United States District Court for the District of Alaska, who was sitting by designation in the District of Arizona. The case was decided on appeal by Judges Michael Daly Hawkins and Milan D. Smith, Jr. of the Ninth Circuit and Judge Barbara M. G. Lynn of the Northern District of Texas, sitting by designation.

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9. *United States v. Wesley*, No. 14 Civ. 1032 (M.D.N.C.)

This lawsuit was brought by the United States against Southeastern Community and Family Services, Inc., a public housing agency that administered the Housing Choice Voucher Program in rural North Carolina, and two of its employees. The suit alleged that the employees sexually harassed and assaulted female voucher participants and applicants. The case was consolidated with a suit brought by private plaintiffs (*Sellers v. Wesley*, No. 1:14-cv-422 (M.D.N.C.)).

I began working on the case during the pre-suit investigation in 2014 through the date the consent decree was entered in July 2015. I was responsible for leading case strategy, locating and interviewing witnesses, drafting the complaint and motion to consolidate, and serving as lead counsel during mediation and settlement. After a two-day mediation, both cases settled as reflected in a consent decree requiring the defendants to pay more than \$2.7 million in damages, fees, costs, and civil penalties. The settlement compensated more than 70 victims and was the largest settlement of its kind at the time. The consent decree also required the public housing agency to fire the employee-harassers and prevented them from managing any future housing assistance program or rental properties. Further, the decree required the agency to establish new policies, mandate training of employees, and hire an independent manager to oversee the voucher program.

The case was litigated before District Judge Catherine C. Eagles and Magistrate Judge Joe L. Webster of the United States District Court for the Middle District of North Carolina.

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10. *United States v. Kelly*, No. 10 Civ. 186 (S.D. Miss.)

The United States brought this case against the property manager and owner of an apartment complex in Vicksburg, Mississippi. The complaint alleged that the defendants refused to renew the lease of a white tenant because she had a bi-racial daughter and associated with African Americans. The United States Department of Housing and Urban Development (HUD) referred the complaint to the United States Department of Justice after HUD received a complaint, conducted an investigation, and issued a charge of discrimination.

I started working on the case as the lead attorney in approximately October 2010 after HUD's referral of the case to the Department of Justice. I drafted the complaint and all discovery requests and responses, appeared before the district court at the initial conference, deposed and defended witnesses in depositions, and led the settlement conference before the magistrate judge. The case settled at that conference. In March 2012, the court entered the parties' proposed consent decree, which required monetary relief for the plaintiff and injunctive relief in the form of training and policy changes.

The case was litigated before District Judge David C. Bramlette III and Magistrate Judge John M. Roper of the United States District Court for the Southern District of Mississippi.

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

In addition to the significant litigation experience described above, I have been involved in various other legal activities throughout my career.

At the New York State Office of the Attorney General, a substantial portion of my work includes investigations that do not result in litigation. The Civil Rights Bureau's investigations focus mainly on fair housing, criminal justice, education, and employment matters. As the Bureau's chief, I also engage in other types of legal work, including helping the office develop policy positions on civil rights issues and proposed legislation. And I supervise the Bureau's recurring Election Hotline, where the public can report and seek assistance on issues they encounter while attempting to vote.

In addition to this work, I serve on the New York State Office of the Attorney General Employee Conduct Committee, which reviews evidence of employee misconduct and determines whether remedial or disciplinary action is warranted. I also have helped develop several office-wide protocols, including on ethical obligations during investigations and the impact of new state criminal discovery rules on parallel civil investigations.

In private practice, I represented a client in a significant mediation. Among other things, I prepared the client for the proceeding and gave the opening statement. I also helped

advise several clients regarding employment and contract-related disputes that never resulted in litigation.

While at the United States Department of Justice, I worked on several investigations that did not result in litigation, including in fair housing, fair lending, religious land use, and public accommodations matters. I also served as a co-coordinator of the Student Intern Program and created and implemented a legal writing program for non-attorney staff.

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

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

Since January 2021, I have co-taught an externship and seminar called Civil Litigation-Employment Law at Columbia Law School. Students extern at the Labor Bureau of the New York State Office of the Attorney General and participate in a seminar where we discuss labor and employment law and help students develop practical litigation skills, including by conducting mock client interviews, drafting complaints and discovery, and taking and defending mock depositions. Syllabus supplied.

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

None.

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

None.

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

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

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I would recuse myself from any case I previously worked on, supervised, or contributed to as an attorney or supervisor. I do not anticipate any potential conflicts of interest involving family members or other persons, parties, categories of litigation, or financial arrangements upon assuming the position to which I have been nominated. I will evaluate any actual or potential conflict of interest on a case-by-case basis, with reference to all applicable statutes, canons, and rules and consultation with other judges as necessary and appropriate.

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

I would resolve any actual or potential conflict of interest by consulting the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any other relevant statutes, ethical canons, and rules.

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.

As a government lawyer, I am and was precluded from taking on direct pro bono representations, but all of my work was dedicated to serving the public, and I have focused on representing the interests of the most vulnerable in our society. In private practice, I was active in pro bono work. For instance, I successfully represented on a pro bono basis Grand Street Settlement—a non-profit providing resources and direct services to New Yorkers in need—in an action challenging its receipt of a government grant. I also volunteered with the Safe Passage Project and represented an immigrant child in family and immigration courts to obtain Special Immigrant Juvenile Status.

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 approximately February 7, 2021, I submitted a judicial questionnaire to Senator Schumer's Judicial Screening Committee. On March 24, 2021, I interviewed with the Committee. On May 30, 2021, I interviewed with Senator Schumer. On September 2, 2021, I interviewed with attorneys from the White House Counsel's Office. Since that date, I have been in contact with officials from the Office of Legal Policy at the United States Department of Justice. On December 15, 2021, my nomination was submitted to the Senate.

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

No.