

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Michael Arthur Delaney

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

United States Circuit Judge for the First Circuit

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.

McLane Middleton, Professional Association
900 Elm Street, 10th Floor
Manchester, New Hampshire 03101

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

1969; Lynn, Massachusetts

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.

1991 – 1994, Georgetown University Law Center; J.D., 1994

1987 – 1991, College of the Holy Cross; B.A., 1991

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.

2013 – present
McLane Middleton, Professional Association
900 Elm Street, 10th Floor
Manchester, New Hampshire 03101
Director and Shareholder (2013 – present)

Litigation Department Chair (2022 – present)
Litigation Department Vice Chair (2020 – 2021)
Management Committee Member (2018 – 2021)
Hiring Committee Chair (2016 – 2021)
Hiring Committee Member (2015 – 2016)
Employee Benefits Committee Member (2015 – present)

2009 – 2013; 1999 – 2006

New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301
Attorney General of the State of New Hampshire (2009 – 2013)
Deputy Attorney General (2004 – 2006)
Senior Assistant Attorney General (2002 – 2004)
Chief of the Homicide Prosecution Unit (2002 – 2004)
Assistant Attorney General, Homicide Prosecution Unit (2000 – 2002)
Attorney, Criminal Justice Bureau (1999 – 2000)

2006 – 2009

Office of Governor John H. Lynch
State House
107 North Main Street
Concord, New Hampshire 03301
Legal Counsel

Summer 1993; 1994 – 1999

Wiggin & Nourie, P.A.
20 Market Street
Manchester, New Hampshire 03101
Associate Attorney (1994 – 1999)
Summer Associate (Summer 1993)

Summer 1991; Summer 1992

Plunkett & Plunkett
120 Washington Street
Salem, Massachusetts 01970
Legal Intern

Other affiliations (stipend)

2017 – 2022

Norwin S. and Elizabeth N. Bean Foundation
40 Stark Street
Manchester, New Hampshire 03101
Chair (2021)
Term Trustee (2017 – 2022)

Other affiliations (uncompensated)

2019 – present

Manchester Proud: Championing Student Success
This organization does not have a physical address.
Secretary, Champions Council (2020 – present)
Community Planning Group (2019 – 2021)

2018 – present

New England Legal Foundation
150 Lincoln Street
Boston, Massachusetts 02111
Board of Directors

2013 – present

New Hampshire Campaign for Legal Services: Legal Aid Services
117 North State Street
Concord, New Hampshire 03301
Co-Chair, Leadership Council (2021 – present)
Member (2013 – present)

2014 – present

Boys & Girls Club of Greater Manchester
555 Union Street
Manchester, New Hampshire 03104
Board of Trustees

2019 – 2020

603 Legal Aid f/k/a Legal Advice and Referral Center
93 North State Street, Suite 200
Concord, New Hampshire 03301
Board of Directors

2015 – 2019

New Hampshire Legal Assistance
117 North State Street
Concord, New Hampshire 03301
Board of Directors

2011 – 2013

The Council of State Governments Justice Center
22 Cortlandt Street, Floor 22
New York, New York 10007
Advisory Board Member

2009 – 2013

National Association of Attorneys General

1850 M Street, Northwest, 12th Floor

Washington, DC 20036

Executive Committee (2011 – 2012)

Delegate, American Bar Association Criminal Justice Section (2012 – 2013)

Chair, Eastern Region of Attorneys General (2011 – 2012)

Vice Chair, Eastern Region of Attorneys General (2010 – 2011)

2009 – 2013

Granite State's Children's Alliance

72 South River Road, Suite 202

Bedford, New Hampshire 03110

Board of Directors, Honorary Member

2009 – 2013

The Webster House

135 Webster Street

Manchester, New Hampshire 03104

Board of Directors

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 timely registered for selective service.

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

Best Lawyers, Lawyer of the Year: Education Law (2022)

Best Lawyers, Appellate Practice, Commercial Litigation, Corporate Compliance Law (2015 – present)

Chambers USA: A Guide to America's Leading Lawyers, Litigation: White-Collar Crime and Government Investigations (2018 – present)

New England Super Lawyers, Criminal Defense, (2016 – 2018, 2020 – present)

National Service to Youth Award, Boys and Girls Clubs of America (2019)

Special Recognition, Outstanding Excellence in the Fight Against Domestic Violence, Operation Transformation (2015)

Community Service Award, New Hampshire Turkish Cultural Center (October 16, 2012)

Gubernatorial Proclamation establishing “Michael Delaney Day” in New Hampshire, then-Governor Margaret Wood Hassan (April 18, 2013)

United States Senate Tribute to Michael Delaney, Congressional Record 113th Congress First Session, Vol. 159, No. 51 (April 16, 2013) (then-Senator Kelly Ayotte delivered remarks)

The Honorable William D. Paine II Award, Governor’s Commission on Domestic and Sexual Violence (2013)

Hands of Hope Leadership Award, Granite State Children’s Alliance (2012)

Manchester Union Leader, Forty Under 40 Recipient (2005)

New Hampshire Magazine “Ideal Attorneys” Rising Star (2004)

Director’s Commendation, Federal Bureau of Investigation, Hanover Homicide Task Force (2001)

Dean’s Certificate, Georgetown University Law Center (1994)

International Academy of Trial Lawyers’ Advocacy Award (1994)

Harry S. Truman Scholar Alternate (Massachusetts) (1991)

Phi Beta Kappa Honor Society (1991)

Alpha Sigma Nu Honor Society (1991)

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 (1994 – 1999, 2013 – present)

Manchester, New Hampshire Bar Association (1994 –1999, 2013 – present)

National Conference of Commissioners on Uniform State Laws
Commissioner appointed for New Hampshire (2009 – 2013)

New Hampshire Bar Association
Ethics Committee (2002 – 2004)
Appellate Law Section (2013 – present)

Business Litigation Section (2013 – present)

New Hampshire Gaming Regulatory Oversight Authority (2012 – 2013)

New Hampshire Interbranch Criminal and Juvenile Justice Council (2009 – 2013)

New Hampshire Internet Crimes Against Children Task Force (2009 – 2013)

New Hampshire Supreme Court Committee on Character and Fitness (2004 – 2006)

New Hampshire Supreme Court Indigent Criminal Defense Task Force (2021 – 2022)

The Daniel Webster Batchelder American Inn of Court (approximately 1996 – 1999, 2016 – present)

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 Hampshire, 1994
Massachusetts, 1997

There have been no lapses in membership. I was on inactive status in Massachusetts from 1999 to 2013 during my career in public service in New Hampshire.

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

Supreme Court of the United States, 2011
United States Court of Appeals for the First Circuit, 2019
United States District Court for the District of Massachusetts, 1997
United States District Court for the District of New Hampshire, 1994

There have been no lapses in membership. In 2003, the United States District Court for the District of Massachusetts required all members of the bar to re-register or be placed on inactive status. I did not re-register at that time because I was not practicing law before the District of Massachusetts during my career in public service in New Hampshire. I remained on inactive status between 2003 to 2015 at which time I re-registered to resume active status.

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.

Algonquin Tennis Club (2018 – present)

Central High School Association of Music Parents and Supporters, Head Roadie for Manchester Central High School's Marching Band (2013 – 2022)

Governor's Commission Against Domestic Violence, Sexual Assault and Stalking, Chair (2011 – 2013)

The Granite YMCA (2000 – present)

Manchester Girls Softball League, Coach (2006 – 2009)

Manchester North Little League Baseball, Coach (2009 – 2013)

National Association of College and University Attorneys (2015 – present)

New Hampshire Bar Foundation (2015 – present)

New Hampshire Commission to Combat Human Trafficking (2012 – 2013)

New Hampshire High School State Mock Trial Competition, Volunteer Judge (2018 – 2021)

New Hampshire Police Standards and Training Council (2009 – 2013)

Palace Theatres (2020 – present)

Society of Attorneys General Emeritus (2013 – present)

Swimmers, Inc. a/k/a Sudden Pitch Pool and Tennis Club (2000 – present)

United States Tennis Association (2007 – present)

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

implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the listed organizations 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.

State v. Williams: Telephonic Hearings, Due Process and Access to Court During the Pandemic, New Hampshire Bar News (January 19, 2022). Copy supplied.

Business Court Analyzes Crime-Fraud Exception to Attorney-Client Privilege in Breach of Fiduciary Duty Cases, New Hampshire Bar News (January 20, 2021). Copy supplied.

Trends in Force Majeure Litigation After Eight Months of COVID-19, New Hampshire Bar News (December 16, 2020). Copy supplied.

With W. Glahn III, and J. Parent, *Does the Coronavirus Excuse Performance of a Contract? Force Majeure and Impossibility or Impracticability of Performance*, McLane Middleton COVID-19 Resources (April 8, 2020). Copy supplied.

Yellow Flags Disrupted the NFL's High Profile Investigation of Deflated Footballs, New Hampshire Business Review (March 18, 2016). Copy supplied.

With K. Rubenstein, *MCLE New England: A Practical Guide to Understanding RSA 358-A in New Hampshire*, 1st ed. (2014). I co-authored the introduction and co-edited all chapters of this book. Copy supplied.

Commentary, *There is sex trafficking in New Hampshire, and we must fight it*, New Hampshire Union Leader (January 20, 2013). Copy supplied.

Opinion Editorial, *Reauthorize Violence Against Women Act* (April 1, 2012). Copy supplied.

Public Comments From the Criminal Bureau: Navigating the Uncharted Waters of Professional Conduct Rule 3.6, New Hampshire Bar Journal, Volume 45, Number 1 (March 2004 ed.). Copy supplied.

Richard B. McNamara, *New Hampshire Practice Series: Criminal Practice and Procedure*, 4th ed. (2003). I was an editor of this treatise. 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.

Boys & Girls Club of Manchester 2022 Annual Report. Copy supplied.

Boys & Girls Club of Manchester 2021 Annual Report. Copy supplied.

New Hampshire Campaign for Legal Services: Equal Access to Justice for All 2021 Annual Report. Copy supplied.

Manchester Proud, Our Community's Plan for Manchester's Future of Learning: Excellence and Equity for All Learners (February 20, 2020). Copy supplied.

New Hampshire Governor's Commission on Alcohol and Drug Abuse Prevention, Intervention and Treatment, Collective action, collective impact: New Hampshire's strategy for reducing the misuse of alcohol and other drugs and promoting recovery 2013-2017 (2013). Copy supplied.

New Hampshire Department of Justice, Biennial Report to Governor and Executive Council July 1, 2011 – June 30, 2013 (2013). Copy supplied.

New Hampshire Police Standards and Training Academy, Annual Report July 1, 2012 – June 30, 2013 (2013). Copy supplied.

New Hampshire Department of Justice Election Law Complaint Status Report Submitted Pursuant to RSA 7:6-c, Senate Public and Municipal Affairs Committee and House Election Law Committee (Reporting Period July 1, 2012 – December 31, 2012) (2013). Copy supplied.

New Hampshire Cold Case Unit 2012 Annual Report (2012). Copy supplied.

New Hampshire Police Standards and Training Academy, Annual Report July 1, 2011 – June 30, 2012 (2012). Copy supplied.

New Hampshire Department of Justice, Biennial Report To Governor and Executive Council July 1, 2009 – June 30, 2011 (2011). Copy supplied.

New Hampshire Police Standards and Training Academy, Annual Report July 1, 2010 – June 30, 2011 (2011). Copy supplied.

New Hampshire Cold Case Unit 2011 Annual Report (2011). Copy supplied.

Governor and Executive Council Manual, New Hampshire Department of Justice, Office of the Attorney General, 2011 edition (2011). Copy supplied.

New Hampshire Police Standards and Training Academy, Annual Report July 1, 2009 – June 30, 2010 (2010). Copy supplied.

New Hampshire Cold Case Unit Status Report (December 1, 2010). Copy supplied.

New Hampshire Department of Justice, Report of Attorney General to the Governor and Executive Council, Financial Resources Mortgage, Inc. (May 12, 2010) and First Supplement (May 21, 2010). Copies supplied.

Your Family and Internet Safety, How Safe is Your Child from Online Predators? New Hampshire Attorney General Michael Delaney (May 19, 2010). Copy supplied.

Surf With Your Eyes Open: The Teen Guide to Internet Safety, New Hampshire Attorney General Michael Delaney (May 19, 2010). Copy supplied.

Attorney General's Memorandum on New Hampshire's Right-To-Know Law, RSA Chapter 91-A, 2009 edition (2009). My office updated and published a memorandum describing the statutes and judicial decisions defining the people's right to know. I am unable to obtain a copy.

New Hampshire Department of Justice, Biennial Report To Governor and Executive Council July 1, 2007 – June 30, 2009 (2009). Copy supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Group Presenter, Manchester Proud Community Planning Group, Special Board of School Committee Meeting to Present Manchester Proud's Recommended Strategic Plan for Manchester's Public Schools (February 20, 2020). Video and presentation slides available at <https://vimeo.com/channels/659734/393056849> (at approximately 2:10:14).

On March 12, 2017, I testified before the New Hampshire House of Representatives in support of increased state funding for civil legal aid organizations. I am unable to obtain a copy.

Minutes, New Hampshire Governor and Executive Council Meetings (September 2009 – May 2013). As Attorney General, I attended bi-weekly meetings of the New Hampshire Governor and Executive Council to provide legal advice to the Governor and Council regarding Requested Action Items submitted by state agencies for approval. I made statements throughout each public meeting of the Governor and Council when called upon to speak. The meeting minutes and audio recordings of meetings during 2012 and 2013 are available at <https://www.sos.nh.gov/administration/governor-executive-council/meetings>.

On May 13, 2013, I signed a letter from the National Association of Attorneys General to the United States Food and Drug Administration regarding drug label warnings for neonatal abstinence syndrome. Copy supplied.

On April 15, 2013, I signed a letter from the National Association of Attorneys General to House and Senate leaders regarding immigration policies. Copy supplied.

On March 18, 2013, I signed a letter from State Attorneys General to House and Senate leaders and the Senate Judiciary Committee in support of the nomination of Attorney General Gregory Alan Phillips to the Tenth Circuit Court of Appeals. Copy supplied.

On March 11, 2013, I signed a letter from the National Association of Attorneys General to the United States Food and Drug Administration regarding tamper-resistant opioid drugs. Copy supplied.

On February 19, 2013, the deputy attorney general testified on my behalf before the New Hampshire Senate Ways and Means Committee Hearing in opposition to Senate Bill 152 relative to video lottery and table gaming. I am unable to obtain a copy.

On February 6, 2013, I testified before the New Hampshire Governor and Council regarding exemptions under the Liquor Commission Modernization Act. I am unable to obtain a copy.

On February 1, 2013, the deputy attorney general testified on my behalf before the Joint Legislative Fiscal Committee in support of establishing a bank fraud unit. I am unable to obtain a copy.

On December 31, 2012, I signed a letter from the New Hampshire Attorney General to the New Hampshire Secretary of State regarding a legal opinion for a State Representative candidacy based on a criminal record. I am unable to obtain a copy.

On December 5, 2012, I testified before the Governor and Council regarding missing wine at the New Hampshire Liquor Commission Portsmouth Store. I am

unable to obtain a copy.

On November 30, 2012, I testified before the New Hampshire Senate Finance Committee regarding the New Hampshire Department of Justice's proposed budget. I am unable to obtain a copy.

On November 20, 2012, I signed a letter from the National Association of Attorneys General to House and Senate leaders, Finance Committees, and Ways and Means Committees regarding the Family and Business Tax Cut Certainty Act of 2012. Copy supplied.

On November 2, 2012, I signed a letter from the National Association of Attorneys General to House and Senate leaders in support of the Trafficking Victims Reauthorization Act of 2008. Copy supplied.

On October 5, 2012, I signed a letter from the National Association of Attorneys General to House and Senate leaders regarding the Consumer Credit Access, Innovation and Modernization Act. Copy supplied.

On September 19, 2012, I testified before the Governor and Council at their breakfast meeting regarding the National Mortgage Settlement, a joint state and federal settlement involving residential mortgage foreclosures and loan servicing. I am unable to obtain a copy.

On August 22, 2012, I testified before the Governor and Council concerning a proposal for a financial fraud unit related to the National Mortgage Settlement. Audio available at <https://www.sos.nh.gov/administration/governor-executive-council/meetings> (at approximately 1:10).

On June 28, 2012, I issued a Final Report of the Attorney General concerning the Milford Mustangs Youth Football and Cheerleading Association. Copy supplied.

On May 11, 2012, I signed a letter from the National Association of Attorneys General to the House and Senate Judiciary Committees regarding *PLIVA, Inc. v. Mensing*. Copy supplied.

On May 8, 2012, I signed a letter from the National Association of Attorneys General to the Appropriations Committees in support of the Victims of Crime Act. Copy supplied.

On March 22, 2012, I signed a letter to County Attorneys and All Law Enforcement Officers regarding the audio recording of law enforcement officers. Copy supplied.

On March 15, 2012, I signed a letter from the National Association of Attorneys General to House and Senate Appropriations Committees regarding the Byrne

Justice Assistance Grant. Copy supplied.

On February 27, 2012, I signed a letter from State Attorneys General to President Obama in support of Julie Brill to serve as Chair of the Federal Trade Commission. Copy supplied.

On February 22, 2012, I signed a letter from the National Association of Attorneys General to Google, Inc. regarding Google's privacy policy. Copy supplied.

On January 11, 2012, I signed a letter from the National Association of Attorneys General to Congress in support of the reauthorization of the Violence Against Women Act. Copy supplied.

On December 7, 2011, I signed a letter from the National Association of Attorneys General to members of Congress regarding the Mobile Informational Call Act of 2011. Copy supplied.

On November 21, 2011, I wrote a letter to the New Hampshire State Police and Speaker of the House of Representatives asking for an investigation into the standards of conduct of certain members of the House of Representatives towards an assistant attorney general during a public hearing. I am unable to obtain a copy.

On November 16, 2011, I signed a letter from State Attorneys General to the Federal Trade Commission providing comments on a proposed consent order to resolve charges regarding the marketing of a flavored malt beverage. Copy supplied.

On October 28, 2011, I signed a letter from the National Association of Attorneys General to the Appropriations Committees in support of the Trafficking Victims Protection Act. Copy supplied.

On October 28, 2011, I signed a letter from National Association of Attorneys General to the Senate Finance Committee regarding amendments to the Internal Revenue Code to strengthen the authority of state charity officials. Copy supplied.

On October 24, 2001, I signed initial comments from State Attorneys General to the Federal Communications Commission regarding proposed rulemaking to address telephone bill cramming. Copy supplied.

On October 18, 2011, I signed a letter from the National Association of Attorneys General to Senate Majority and Minority leaders supporting the nomination of Richard Cordray to head the Consumer Financial Protection Bureau. Copy supplied.

On September 16, 2011, I signed a letter from the National Association of Attorneys General to Backpage.com concerning prostitution and sexual trafficking activity on the Backpage.com website. Copy supplied.

On August 26, 2011, I signed a letter from the National Association of Attorneys General to the United States House of Representatives and Senate regarding passage of several bills addressing D-Block wireless communication for law enforcement use and public safety. Copy supplied.

On June 29, 2011, I signed an opinion letter requested by the Speaker of the House of Representatives regarding whether legislative emails constitute governmental records under the Right-to-Know law. Copy supplied.

On April 14, 2011, I testified before the New Hampshire Senate Finance Committee on the proposed budget for the New Hampshire Department of Justice. I am unable to obtain a copy.

On March 11, 2011, I testified before the New Hampshire House Finance Committee on the proposed budget for the New Hampshire Department of Justice. I am unable to obtain a copy.

On March 7, 2011, I spoke during a roundtable discussion of state attorneys general at the National Association of Attorneys General Spring Meeting. My comments focused on National Sexual Assault Awareness Month and ongoing initiatives in New Hampshire to combat sexual violence. Video available at <https://www.c-span.org/video/?298356-1/state-federal-legal-developments> (at approximately 1:08).

On March 1, 2011, an assistant attorney general provided testimony on my behalf before the New Hampshire House Committee on Health, Human Services and Elderly Affairs in opposition to HB 442-FN relative to the use of marijuana for medicinal purposes. Copy supplied.

On February 24, 2011, I testified before the New Hampshire Senate Judiciary Committee on SB 52-FN relative to excluding persons convicted of violent crimes and sexually violent persons from mandatory early release on probation or parole. Copy supplied.

On February 2, 2011, I sent a letter to the New Hampshire House State-Federal Relations and Veterans Affairs Committee opposing House Bill 440-FN, which would have required the attorney general to join a lawsuit challenging the Patient Protection and Affordable Care Act. Copy supplied.

On January 13, 2011, I testified before the New Hampshire House State-Federal Relations and Veterans Affairs in opposition to House Bill 89, which required the

attorney general to join a lawsuit challenging the Patient Protection and Affordable Care Act. Copy supplied.

On January 7, 2011, I testified during a New Hampshire Department of State investigative hearing regarding Financial Resources Mortgage, Inc. Audio available at <https://sos.nh.gov/corporation-ucc-securities/securities-information-for-industry/securities-division-notices-and-cases-of-interest/investigation-of-financial-resources-mortgage-inc/financial-resources-mortgage-inc-investigation>.

On December 10, 2010, I signed a letter from the National Association of Attorneys General to the Food and Drug Administration regarding caffeinated alcoholic beverages. Copy supplied.

On November 9, 2010, I spoke at a regular meeting of the New Hampshire Gaming Regulatory Oversight Authority. Minutes supplied.

On October 13, 2010, I joined in a Joint Statement of the National Association of Attorneys General Mortgage Foreclosure Multistate Group announcing the formation of the multistate group to address the improper submission of affidavits by mortgage loan servicers in support of foreclosures. Copy supplied.

On July 6, 2010, I signed a letter from the National Association of Attorneys General to the Federal Trade Commission regarding comment on the Debt Relief Amendments to the Telemarketing Sales Rule. Copy supplied.

On May 21, 2010, I testified before a New Hampshire Joint Legislative Committee reviewing the State's regulatory oversight of Financial Resources Mortgage, Inc. I testified regarding the New Hampshire Department of Justice's report on Financial Resources Mortgage, Inc. I am unable to obtain a copy.

On May 12, 2010, I testified before the New Hampshire Governor and Council regarding the New Hampshire Department of Justice's Report on Financial Resources Mortgage, Inc. I am unable to obtain a copy.

On May 12, 2010, I signed a letter from the National Association of Attorneys General to the House and Senate Judiciary and Energy and Commerce Committees regarding the Secure and Responsible Drug Disposal Act of 2009. Copy supplied.

On April 15, 2010, I signed a letter from the National Association of Attorneys General to the Senate Judiciary Committee regarding the nomination of Alicia G. Limtiaco to serve as the United States Attorney for Guam and the Northern Mariana Islands. Copy supplied.

On April 5, 2010, I signed a letter from National Association of Attorneys General to the Federal Trade Commission regarding proposed rulemaking for

mortgage assistance relief services. Copy supplied.

On April 1, 2010, I testified before the New Hampshire Criminal Justice and Public Safety Committee in support of Senate Bill 500, the New Hampshire Justice Reinvestment Act, relative to implementing changes in the probation, parole and sentencing of certain offenders in an effort to increase public safety, strengthen community supervision, and reduce recidivism. I am unable to obtain a copy.

On March 30, 2010, I testified before the New Hampshire House Committee on Local and Regulated Revenues in opposition to Senate Bill 489 relative to table gaming and video lottery at certain locations throughout the state. I am unable to obtain a copy.

On March 18, 2010, I signed letters from the National Association of Attorneys General to President Obama, all members of the United States House of Representatives, and all members of the United States Senate regarding the Prevent All Cigarettes Trafficking Act. Copies supplied.

On March 4, 2010, I testified before the New Hampshire Senate Committee on Finance in opposition to Senate Bill 489 relative to table gaming and video lottery at certain locations throughout the state. I am unable to obtain a copy.

On December 7, 2009, I signed a letter from the National Association of Attorneys General to the Federal Trade Commission regarding Free Credit Report rulemaking. Copy supplied.

On November 4, 2009, I signed a letter from the National Association of Attorneys General to the House Committee on Financial Services and the Senate Committee on Banking, Housing and Urban Affairs regarding the concurrent authority of states to enforce federal consumer protection laws overseen by the Consumer Financial Protection Agency. Copy supplied.

On October 27, 2009, I signed a letter from the National Association of Attorneys General to the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights regarding the Discount Pricing Consumer Protection Act (S. 148). Copy supplied.

On October 27, 2009, I signed a letter from the National Association of Attorneys General to the House Judiciary Committee regarding the Discount Pricing Consumer Protection Act (H.R. 3190). Copy supplied.

On October 23, 2009, I signed a letter from the National Association of Attorneys General to the Federal Trade Commission providing comments on the Proposed Rulemaking to amend the Federal Trade Commission's Telemarketing Sales Rule to address the sale of debt relief services. Copy supplied.

On October 13, 2009, I signed a letter from State Attorneys General to the Federal Communications Commission providing comments in response to the Federal Communications Commission's Notice of Inquiry regarding Consumer Information and Disclosure and Truth in Billing and Billing Format. Copy supplied.

On October 8, 2009, I signed a letter from State Attorneys General to the Armed Services Committees in support of retention of the Matthew Shepard Hate Crime Prevention Act in the final version of the fiscal year 2010 Department of Defense Authorization legislation. Copy supplied.

On September 23, 2009, I signed a letter from the National Association of Attorneys General to the House and Senate Judiciary Committees to express support for passage of the Crime Victims Fund Preservation Act of 2009. Copy supplied.

On September 21, 2009, I signed a letter from the National Association of Attorneys General to the House and Senate Judiciary Committees in support of Victims of Crimes Act funding to states. Copy supplied.

From 1999 to 2006 and 2009 to 2013, in my official capacity as Attorney General, Deputy Attorney General, Senior Assistant Attorney General and Assistant Attorney General, I testified on dozens of occasions before the New Hampshire Legislature, primarily before criminal justice committees, judiciary committees, finance committees, and education committees. I am unable to obtain copies.

From 2006 to 2009, in my official capacity as legal counsel to the Office of Governor John H. Lynch, I testified before the state legislature on multiple occasions on behalf of Governor Lynch concerning his public policy priorities, in the areas of ethics reform, strengthening laws against sexual offenders, and education funding reform. I do not possess copies of any written testimony. I have provided press reports where available.

On July 28, 2009, I testified before the New Hampshire Executive Council at a confirmation hearing for my nomination to serve as Attorney General. Copy supplied.

On January 13, 2004, I testified before the New Hampshire Senate Judiciary Committee in support of Senate Bill 339 relative to the involuntary commitment of certain persons not competent to stand trial for certain criminal offenses. I am unable to obtain a copy.

- 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.

The following reflects my best efforts to identify the public speaking events in which I have participated, based upon a review of my records and publicly-available information. It is possible that there are some I was unable to locate.

May 6, 2021: Co-Host, New Hampshire Campaign for Legal Services Breakfast Fundraiser, New Hampshire Campaign for Legal Services, Concord, New Hampshire. Video available at <https://www.youtube.com/watch?v=QKlyuSts2Lw> (at 13:30 and 56:10).

April 22, 2021: Speaker, Virtual Event with New Hampshire Supreme Court Chief Justice Gordon MacDonald, New Hampshire Campaign for Legal Services, Manchester, New Hampshire. Video available at <https://www.youtube.com/watch?v=1-bSSpyiuaw&t=254s> (at 0:00).

March 22, 2021: Presenter, The Role of the New Hampshire Attorney General: Lobbying and the Legislative Process Seminar, University of New Hampshire Franklin Pierce School of Law. The presentation was on the role and functions of the New Hampshire Office of the Attorney General. I have no notes, transcript, or recording. The address for the University of New Hampshire Franklin Pierce School of Law is 2 White Street, Concord, New Hampshire 03301.

June 23, 2020: Panelist, COVID-19's Litigation Impacts on Your Business Contracts, McLane Middleton, Professional Association Webinar, Manchester, New Hampshire. Video available at <https://www.mclane.com/insights/covid-19s-litigation-impacts-on-your-business-contracts> (at 37:34).

April 18, 2019: Presenter, Educational Institutions and Title IX: Institutional Responses to Sexual Harassment and Sexual Assault, Paralegal Association of New Hampshire Continuing Education Program, Manchester, New Hampshire. Presentation slides supplied.

May 24, 2017: Panelist, Liability for Officers, Directors and Owners of Limited Liability Companies and Closely-Held Companies: Potential Criminal Exposure of Individuals, New Hampshire Bar Association Continuing Legal Education Program, Concord, New Hampshire. Presentation supplied.

April 13, 2017: Presenter, Introduction to Credit and Finance, Street Law, Inc. Program, Manchester Central High School, Manchester, New Hampshire. Presentation supplied.

March 20, 2017: Presenter, The Attorney General's Role in Homeland Security, Introduction to Homeland Security Class, University of New Hampshire, Manchester, New Hampshire. My presentation was on the role and functions of the New Hampshire Office of the Attorney General in addressing homeland security matters. I have no notes, transcript, or recording. The address for the University of New Hampshire at Manchester is 88 Commercial Street, Manchester, New Hampshire 03101.

October 15, 2016: Panelist, Boundary Issues in Professional Practice: Clinical, Ethical, Legal and Risk Management Concerns, New Hampshire Psychological Association and Rivier University Continuing Education Program, Nashua, New Hampshire. Presentation supplied.

April 11, 2016: Presenter, Introduction to Advertising, Street Law, Inc. Program, Manchester Central High School, Manchester, New Hampshire. Presentation supplied.

March 7, 2016: Presenter, The Attorney General's Role in Homeland Security, Introduction to Homeland Security Class, University of New Hampshire. My presentation was on the role and functions of the New Hampshire Office of the Attorney General in addressing homeland security matters. I have no notes, transcript, or recording. The address for the University of New Hampshire at Manchester is 88 Commercial Street, Manchester, New Hampshire 03101.

November 13, 2015: Speaker, The Fight Against Domestic Violence, Operation Transformation Gala, Elliot Health Systems, Bedford, New Hampshire. My award presentation speech was about the New Hampshire Coalition Against Domestic and Sexual Violence, the organization receiving a charitable donation from the proceeds of the gala event. I have no notes, transcript, or recording. The address for the Elliot Health Systems is 4 Elliot Way, Manchester, New Hampshire 03103.

March 12, 2015: Panelist, Title IX: Sexual Harassment and Sexual Assault, New Hampshire Bar Association Continuing Legal Education Program, Concord, New Hampshire. Presentation supplied.

2012 (specific date unknown): Presenter, The Role of the Attorney General, State Attorney General Clinic, Harvard University Law School, Cambridge, Massachusetts. I spoke to students participating in the State Attorney General Clinic about my public service as Attorney General of New Hampshire. I have no notes, transcript, or recording. The address for the Harvard University Law School is 1585 Massachusetts Avenue, Cambridge, Massachusetts 02138.

October 16, 2012: Speaker, Friendship Dinner and Award Ceremony, Turkish Cultural Center and Peace Islands Institute, Manchester, New Hampshire. I spoke

as an award recipient of a community service award on the topic of strengthening community bonds with New Hampshire's Turkish community. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Turkish Cultural Center of New Hampshire is 40 South River Road, Unit 57, Bedford, New Hampshire 03110 and the address of the Peace Islands Institute is 1105 Commonwealth Avenue #207, Boston, Massachusetts 02115.

October 10, 2012: Presenter, New Hampshire Supreme Court "On the Road" Special Session, Monadnock Regional High School, Swanzey, New Hampshire. I spoke about upcoming Supreme Court cases to be argued at Monadnock Regional High School. I have no notes, transcript, or recording. The address of Monadnock Regional High School is 60 Old Homestead Highway, Swanzey, New Hampshire 03446.

September 10, 2012: Speaker, The Meaning of September 11, Webster Elementary School, Manchester, New Hampshire. I spoke about the meaning of 9/11. I have no notes, transcript, or recording, but press coverage is supplied. The address of Webster Elementary School is 2519 Elm Street, Manchester, New Hampshire 03104.

June 28, 2012: Speaker, The Arts, Culture and Law Conference, University of New Hampshire Franklin Pierce School of Law, Concord, New Hampshire. My topic was the intersection of arts, culture, and the law. I have no notes, transcript, or recording. The address of the University of New Hampshire Franklin Pierce School of Law is 2 White Street, Concord, New Hampshire 03301.

May 18, 2012: Speaker, New Hampshire Law Enforcement Memorial Ceremony, New Hampshire Law Enforcement Memorial Association, Concord, New Hampshire. I read the Honor Roll of officers who died in the line of duty. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire Law Enforcement Officers' Memorial Association is 11 Hazen Drive, Concord, New Hampshire 03301.

May 17, 2012: Speaker, New Hampshire Homicide Memorial Garden Dedication Ceremony, New Hampshire Chapter of Parents of Murdered Children and Other Survivors of Homicide Victims, Laconia, New Hampshire. I spoke in tribute to homicide victims. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Memorial Garden is Stewart Park, Laconia, New Hampshire 03246.

May 10, 2012: Speaker, Swearing-In Ceremony of Greenland, New Hampshire Police Chief Tara Laurent, Greenland, New Hampshire Police Department, Greenland, New Hampshire. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Greenland, New Hampshire Police Department is 16 Town Square, Greenland, New Hampshire 03840.

April 19, 2012: Speaker, Eulogy Remarks, Greenland, New Hampshire Police Chief Michael Maloney Memorial Service, Winnacunnet High School, Hampton, New Hampshire. Video available at <https://www.youtube.com/watch?v=kIoneBL9M4Y> (at 23:10).

2012 (specific date unknown): Speaker, National Mortgage Settlement to Address Mortgage Loan Servicing and Foreclosure Abuses, New Hampshire Institute of Politics at Saint Anselm College, Manchester, New Hampshire. I spoke about the National Mortgage Settlement and the joint federal-state investigation to prosecute mortgage-backed securities fraud. I have no notes, transcript, or recording, but press coverage is supplied. The address of Saint Anselm College is 100 Saint Anselm Drive, Manchester, New Hampshire 03102.

November 17, 2011: Speaker, Ask, Listen and Learn: Kids and Alcohol Don't Mix, The Foundation for Advancing Alcohol Education, Epsom, New Hampshire. Video available at <https://www.youtube.com/watch?v=v06F38oLZv0> (at 0:00).

November 9, 2011: Panelist, Ending Domestic & Sexual Violence: Innovations in Practice & Research Conference, University of New Hampshire Franklin Pierce School of Law and the New Hampshire Coalition Against Domestic and Sexual Violence, Portsmouth, New Hampshire. I joined a panel discussion with the Attorneys General of Maine and Delaware regarding the prevention of sexual assault and the importance of the Violence Against Women Act. I have no notes, transcript, or recording, but press coverage is supplied. The address for the University of New Hampshire Franklin Pierce School of Law is 2 White Street, Concord, New Hampshire 03301. The address for the New Hampshire Coalition Against Domestic and Sexual Violence is 1 Eagle Square, Concord, New Hampshire 03301.

October 21, 2011: Moderator, National Association of Attorneys General Eastern Region Forum on Human Trafficking, Columbia University School of Law, New York, New York. I moderated a forum on efforts to combat human trafficking. I have no notes, transcript, or recording. The address for the National Association of Attorneys General is 1850 M Street, Northwest, 12th Floor, Washington, DC 20036.

October 3, 2011: Speaker, New Hampshire Prescription Drug Abuse Summit, Governor's Commission on Alcohol and Other Drug Abuse Prevention, Intervention and Treatment, Concord, New Hampshire. The topic was prescription drug abuse in New Hampshire. I have no notes, transcript, or recording. The address of The Governor's Commission on Alcohol and Other Drug Abuse Prevention Intervention and Treatment is 129 Pleasant Street, Concord, New Hampshire 03301.

September 11, 2011: Speaker, 10th Anniversary of 9/11 Memorial Service, State House, Concord, New Hampshire. The topic was a 9/11 memorial speech. I have

no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire State House is 107 North Main Street, Concord, New Hampshire 03301.

September 5, 2011: Speaker, Keynote Remarks at Annual Meeting, The Hundred Club of New Hampshire, Manchester, New Hampshire. I spoke about an organization which raises money for widows and children of police officers and firefighters killed in the line of duty. I have no notes, transcript, or recording, but press coverage is supplied. The address of The Hundred Club of New Hampshire is P.O. Box 23, Manchester, New Hampshire 03105-0023.

May 21, 2011: Speaker, New Hampshire Law Enforcement Memorial Ceremony. New Hampshire Law Enforcement Memorial Association, Concord, New Hampshire. I read the Honor Roll of officers who died in the line of duty. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire Law Enforcement Officers' Memorial Association is 11 Hazen Drive, Concord, New Hampshire 03301.

April 22, 2011: Speaker, Freedom Shrine Dedication Ceremony at Amherst Elementary School, The Nashua Exchange Club, Nashua, New Hampshire. I spoke about the meaning of freedom and historical documents of importance to the nation. I have no notes, transcript, or recording, but press coverage is supplied. The address of Amherst Elementary School is 71 Amherst Street, Nashua, New Hampshire 03064.

October 20, 2010: Speaker, New Hampshire Supreme Court 12th "On the Road" Special Session, Sanborn High School, Kingston, New Hampshire. I spoke about upcoming Supreme Court cases to be argued at Sanborn Regional High School. I have no notes, transcript, or recording, but press coverage is supplied. The address of Sanborn High School is 17 Danville Road, Kingston, New Hampshire 03848.

October 4, 2010: Speaker, Parent Internet Safety Forum with Attorney General Michael Delaney and Mayor Ted Gatsas, Southside Middle School, Manchester, New Hampshire. I spoke about parental education on Internet safety. I have no notes, transcript, or recording. The address of Southside Middle School is 300 South Jewitt Street, Manchester, New Hampshire 03101.

September 11, 2010: Speaker, 9/11 Memorial Ceremony, McDonough Elementary School, Manchester, New Hampshire. I delivered a 9/11 memorial speech. I have no notes, transcript, or recording, but press coverage is supplied. The address of McDonough Elementary School is 550 Lowell Street, Manchester, New Hampshire 03304.

June 2, 2010: Speaker, Ask, Listen and Learn: Kids and Alcohol Don't Mix, The Foundation for Advancing Alcohol Education, Shaker Road School, Concord,

New Hampshire. I have no notes, transcript, or recording. The address of the Shaker Road School is 131 Shaker Road, Concord, New Hampshire 03301.

May 19, 2010: Speaker, Third Anniversary and Fourth Commencement Ceremony of Alternative Sentencing Drug Program, Grafton County Superior Court, North Haverhill, New Hampshire. I provided commencement remarks to graduating participants in the alternative sentencing drug program. I have no notes, transcript, or recording. The address of the Grafton, New Hampshire Superior Court is 3785 Dartmouth College Highway, North Haverhill, New Hampshire 03774.

May 17, 2010: Keynote Speaker, New Hampshire Law Enforcement Memorial Ceremony, New Hampshire Law Enforcement Officers' Memorial Association, Concord, New Hampshire. I provided a keynote address in tribute to fallen officers. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire Law Enforcement Officers' Memorial Association is 11 Hazen Drive, Concord, New Hampshire 03301.

April 14, 2010: Panelist, Legislative Luncheon, The Coalition Against Expanded Gambling, Concord, New Hampshire. I provided remarks in opposition to pending legislation to expand casino gambling in New Hampshire. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire State House is 107 North Main Street, Concord, New Hampshire 03301.

March 30, 2010: Co-Host and Speaker, New Hampshire Prescription Drug Abuse Summit, New Hampshire Department of Justice and New Hampshire Department of Safety, Concord, New Hampshire. I spoke about the prevention of prescription drug abuse. I have no notes, transcript, or recording. The address of the New Hampshire Department of Safety is 33 Hazen Drive, Concord, New Hampshire 03301, and the address of the New Hampshire Department of Justice is 33 Capitol Street, Concord, New Hampshire 03301.

February 11, 2010: Speaker, New Hampshire Bar Association Board of Governor's Meeting, Mid-Winter Bar Meeting of the New Hampshire Bar Association, Manchester, New Hampshire. I spoke about the work of the New Hampshire Attorney General's Office. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire Bar Association is 2 Pillsbury Street, Suite 300, Concord, New Hampshire 03301.

November 23, 2009: Speaker, Governor's Annual Highway Safety Luncheon, Meredith, New Hampshire. I spoke about drunk and drugged driving awareness. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire Office of Highway Safety is 33 Hazen Drive, Room 208, Concord, New Hampshire 03305.

December 4, 2009 – December 21, 2012: Speaker, 150th – 159th New Hampshire Police Full-Time Police Academy Graduation, Concord, New Hampshire. I spoke at most full-time police academy graduations, and my commencement speech was on the rights and liberties set forth in the New Hampshire Constitution that police officers are sworn to protect. I have no notes, transcript, or recording. The address for the Police Standards & Training Council is 17 Institute Drive, Concord New Hampshire 03301.

November 1, 2009: Speaker, Annual Awards Ceremony for Law Enforcement Officers, North Country Public Safety Foundation, Bretton Woods, New Hampshire. The speech was a tribute to law enforcement officials in the North Country. I have no notes, transcript, or recording, but press coverage is supplied. The address of the North Country Public Safety Foundation is 1411 Route 117, Sugar Hill, New Hampshire 03586.

October 15, 2009: Speaker, New Hampshire Supreme Court “On the Road” Program, Memorial High School, Manchester, New Hampshire. The talk was on upcoming Supreme Court cases to be argued at Memorial High School. I have no notes, transcript, or recording, but press coverage is supplied. The address of Memorial High School is 1 Crusader Way, Manchester, New Hampshire 03109.

September 11, 2009: Speaker, 9/11 Remembrance Ceremony, Green Acres School, Manchester, New Hampshire. I spoke to students about remembering the victims and heroes of 9/11. I have notes, transcript, or recording, but press coverage is supplied. The address of Green Acres School is 100 Aurore Avenue, Manchester, New Hampshire 03109.

August 24, 2009: Speaker, Swearing-In Ceremony for Commission as Attorney General, New Hampshire State House, Concord, New Hampshire. The speech was on my oath of office to serve as Attorney General. I have no notes, transcript, or recording, but press coverage is supplied. The address of the New Hampshire State House is 107 North Main Street, Concord, New Hampshire 03301.

- c. 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.

See attached list of interviews.

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: _____% [total 100%]
- ii. Of these cases, approximately what percent were:
- civil proceedings: _____%
- criminal proceedings: _____% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 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.

In 2000, then-Governor Jeanne Shaheen appointed me to serve as Assistant Attorney General with the unanimous consent of five bipartisan Executive Councilors. I served as Assistant Attorney General and Senior Assistant Attorney General until 2004.

In 2004, then-Attorney General Kelly A. Ayotte nominated me to serve as Deputy Attorney General, and I was appointed by then-Governor Craig Benson with the unanimous consent of five bipartisan Executive Councilors. I served as Deputy Attorney General until 2006.

In 2009, then-Governor John H. Lynch nominated me to serve as Attorney General, and I was appointed by Governor Lynch with the unanimous consent of five bipartisan Executive Councilors. I served as Attorney General until 2013.

I have not had any unsuccessful candidacies for elective office or unsuccessful

nominations for 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.

None.

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 have never served as a clerk to a judge.

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

I have never practiced law alone.

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

1994 – 1999
Wiggin & Nourie, P.A.
20 Market Street
Manchester, New Hampshire 03101
Associate Attorney

1999 – 2006; 2009 – 2013
New Hampshire Department of Justice
33 Capitol Street
Concord, New Hampshire 03301
Attorney, Criminal Justice Bureau (1999 – 2000)
Assistant Attorney General, Homicide Prosecution Unit (2000 – 2002)
Senior Assistant Attorney General, Chief of the Homicide Prosecution Unit (2002 – 2004)
Deputy Attorney General (2004 – 2006)
Attorney General (2009 – 2013)

2006 – 2009

Office of Governor John H. Lynch
State House
107 North Main Street
Concord, New Hampshire 03301
Legal Counsel

2013 – present
McLane Middleton, Professional Association
900 Elm Street, 10th Floor
Manchester, New Hampshire 03101
Director and Shareholder (2013 – present)
Hiring Committee Member (2015 – 2016)
Employee Benefits Committee Member (2015 – present)
Hiring Committee Chair (2016 – 2021)
Management Committee Member (2018 – 2021)
Litigation Department Vice Chair (2020 – 2021)
Litigation Department Chair (2022 – present)

- 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.

In 1994, after graduating from law school, I joined Wiggin & Nourie, P.A. as a litigation associate in Manchester, New Hampshire. I focused on complex civil litigation. Approximately fifty percent of my practice involved litigation support for liaison counsel in a \$300 million plaintiffs' class action and multi-district RICO litigation commenced by automobile dealers against the automobile manufacturer American Honda in the Fourth Circuit. I also handled a diverse insurance defense caseload, with experience defending environmental, products liability, medical malpractice, premises liability, automotive and insurance coverage claims in state and federal courts. I conducted legal research and writing, worked with expert witnesses, drafted discovery, took and defended depositions, wrote court pleadings and participated in several civil jury trials. I also drafted appellate briefs for civil appeals before the New Hampshire Supreme Court.

In 1999, I joined the Criminal Justice Bureau at the New Hampshire

Department of Justice and served as a criminal prosecutor for the next five years. I primarily handled homicide investigations and prosecutions, and I served as Chief of the Homicide Prosecution Unit from 2002 to 2004. I prosecuted numerous criminal defendants at jury trials. I also handled financial crimes, public integrity matters, and criminal appeals to the New Hampshire Supreme Court. During this time period, I worked closely with the United States Attorney's Office, the Federal Bureau of Investigation, the United States Marshal's Service, and the United States Secret Service.

In 2004, I was appointed to serve as the State's sole Deputy Attorney General. I supervised the criminal, civil, and administrative law practice areas at the New Hampshire Department of Justice. I assisted the Attorney General with the supervision of 120 state employees, including 60 attorneys, and I helped manage an approximately \$24 million department budget.

In 2006, I joined the Office of Governor John H. Lynch, where I served as legal counsel to Governor Lynch until 2009. I provided legal advice to Governor Lynch regarding his constitutional and statutory duties. I served on a senior leadership team assisting Governor Lynch with the management and oversight of executive branch agencies and with the legal affairs concerning the Governor's public policy priorities.

In 2009, I was appointed to serve as the Attorney General for the State of Hampshire. As a constitutional officer, I served as the State's chief law enforcement officer and chief legal officer.

In 2013, when my term of office as Attorney General ended, I joined McLane Middleton, Professional Association. Over the last 10 years my practice has had three primary areas of focus: business litigation in state and federal courts, government and administrative litigation before state and federal agencies, and education law representing public and private universities, colleges, and independent schools. In addition to litigated matters, I provide strategic counseling and crisis management services for businesses and organizations. Beyond my full-time practice, I have served the firm in a variety of management roles.

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

At Wiggin & Nourie, I split my practice between complex, multi-district federal RICO class action litigation and tort and insurance law. In the RICO multi-district litigation, my typical clients were automobile dealers named as party plaintiffs. In my tort and insurance practice, my typical clients were insurance companies, manufacturers of products, property

owners, and plaintiffs and defendants in personal injury actions.

At the Criminal Justice Bureau of the Attorney General's Office, I represented the citizens of the State of Hampshire in connection with grand jury investigations, criminal prosecutions, and criminal appeals. During this time, my field of practice focused on criminal law and procedure related to homicides, financial crimes, public integrity crimes, and appeals.

As Deputy Attorney General, I represented the citizens of the State of New Hampshire, including state agencies and officials. During this time, I provided legal advice to the Office of the Governor, the New Hampshire Executive Council, executive branch agencies, and state officials. I helped supervise the Office's divisions and bureaus enforcing environmental protection laws, consumer protection laws, antitrust laws, Medicaid fraud laws, and oversight of registered charitable trusts. I also helped supervise criminal prosecutions and civil litigation involving the State.

As legal counsel to Governor Lynch, my client was the Governor of the State of New Hampshire in his official capacity. During this time, my field of practice focused on the constitutional and statutory duties of the Governor of the State of Hampshire and state laws addressing the administration of the executive branch of government.

As Attorney General, I represented the citizens of the State of New Hampshire, including state agencies and officials. During this time, I focused my practice on the constitutional and statutory responsibilities of the Attorney General as chief law enforcement officer and chief legal officer of the State.

At McLane Middleton, Professional Association, my typical clients have included business organizations, business officers and directors; colleges, universities, and independent schools; licensed professionals and judicial officers subject to licensing investigations and disciplinary proceedings; and charitable organizations. During this time, I have focused my practice on business litigation, government litigation, and education law.

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

At Wiggin & Nourie, my practice was 100 percent civil litigation and civil appellate litigation. I appeared in court frequently because I handled a large caseload of personal injury cases. At times I appeared on my own, and on other occasions I appeared with more senior litigators at the firm. In the multi-district litigation, I appeared in court occasionally as part of an internal team of four

attorneys who collaborated with dozens of attorneys from other law firms serving on the plaintiffs' Steering Committee. At the Criminal Justice Bureau of the Attorney General's Office, my practice was 100 percent criminal litigation and criminal appellate litigation. I appeared in court frequently. The Office usually assigned two criminal prosecutors to each homicide prosecution. I typically drafted appellate briefs and argued criminal appeals on my own under the supervision of an Appellate Unit Chief. As Deputy Attorney General and Attorney General, my practice involved regular supervision of civil and criminal litigation, but I appeared in court only occasionally given the nature of my positions. I had no direct participation in litigation when serving as legal counsel to Governor Lynch. At McLane Middleton, approximately 75 percent of my current practice involves litigation before state and federal courts, private arbitration tribunals, and before hearings panels or hearings officers at state and federal agencies. I appear in court somewhat frequently, but with less frequency compared to my earlier litigation practice in the public sector.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 35% |
| 2. state courts of record: | 50% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 15% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 50% |
| 2. criminal proceedings: | 50% |

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

I estimate that I have tried fifteen cases to verdict. At Wiggin & Nourie, I tried approximately three civil jury trials as associate counsel in personal injury cases. I tried approximately ten criminal cases to verdict at the Attorney General's Office. I was sole counsel in two criminal trials and chief counsel or co-chief counsel in approximately eight criminal trials. At McLane Middleton, I have tried one case to jury verdict and I have tried a private arbitration to final decision before a three-person commercial arbitration panel. I was chief counsel in the civil trial and co-chief counsel in the private arbitration. Additionally, I have argued approximately 25 appeals before the New Hampshire Supreme Court and one appeal before the United States Supreme Court.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 75% |
| 2. non-jury: | 25% |

- 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 argued one case before the Supreme Court of the United States on behalf of the State of New Hampshire:

Perry v. New Hampshire, 565 U.S. 228 (2012). Brief available at 2011 WL 4365312 and oral argument transcript supplied.

I was lead signatory as New Hampshire's Attorney General on an amicus brief filed with the Supreme Court on behalf of 22 states:

Dan's City Used Cars, Inc. v. Pelkey, 569 U.S. 251 (2013) (amicus brief of 22 states including New Hampshire in support of respondent, 2013 WL 838157).

I am identified as New Hampshire's Deputy Attorney General on the Petitioner's briefs in the following case:

Ayotte v. Planned Parenthood of Northern New England, 546 U.S. 320 (2006) (brief for petitioner, 2005 WL 1920929, reply brief, 2005 WL 3114384)

I signed the following amicus briefs on behalf of the State of New Hampshire:

Madigan v. Levin, 571 U.S. 1 (2013) (amicus brief of 12 states including New Hampshire in support of petitioners, 2013 WL 648688) (petition for writ of certiorari granted then dismissed as improvidently granted)

United States v. Windsor, 570 U.S. 744 (2013) (amicus brief of 16 states including New Hampshire in support of respondent, 2013 WL 840031)

Hollingsworth v. Perry, 570 U.S. 693 (2013) (amicus brief of 14 states including New Hampshire in support of respondents, 2013 WL 840014)

Koontz v. St. Johns River Water Management Dist., 570 U.S. 595 (2013) (amicus brief for 20 states and one territory including New Hampshire in support of respondent, 2012 WL 6771846)

University of Texas Southwestern Medical Ctr. v. Nassar, 570 U.S. 338 (2013) (amicus brief of 12 states including New Hampshire in support of petitioner, 2013 WL 989022)

Federal Trade Comm'n v. Actavis, Inc., 570 U.S. 136 (2013) (amicus brief of 37 states and one territory including New Hampshire in support of petitioner, 2013 WL 391000)

Maryland v. King, 569 U.S. 435 (2013) (amicus brief of 50 states including New Hampshire in support of petitioner, 2013 WL 98697)

Florida v. Jardines, 569 U.S. 1 (2013) (amicus brief of 27 states including New Hampshire in support of petitioner, 2012 WL 1651335)

Burt v. Titlow, 568 U.S. 1191 (2013) (amicus brief for 19 states including New Hampshire in support of petitioner, 2012 WL 5424727)

Decker v. Northwest Env'tl. Defense Ctr., 568 U.S. 597 (2013) (amicus brief of 31 states including New Hampshire in support of petitioners, 2012 WL 3875150)

Chaidez v. United States, 568 U.S. 342 (2013) (amicus brief of 28 states including New Hampshire in support of respondent, 2010 WL 326587)

Federal Trade Comm'n v. Phoebe Putney Health Sys., Inc., 568 U.S. 216 (2013) (amicus brief of 20 states including New Hampshire in support of petitioner, 2012 WL 3755621)

Bailey v. United States, 568 U.S. 186 (2013) (amicus brief of 24 states including New Hampshire and one territory in support of respondent, 2012 WL 4503270)

Williams v. Illinois, 567 U.S. 50 (2012) (amicus brief of 42 states including New Hampshire in support of respondent, 2011 WL 5125055)

Freeman v. Quicken Loans, Inc., 566 U.S. 624 (2012) (amicus brief of 21 states including New Hampshire in support of petitioners, 2011 WL 6046213)

Coleman v. Court of Appeals of Maryland, 566 U.S. 30 (2012) (amicus brief of 26 states including New Hampshire in support of respondents, 2011 WL 6094903)

PPL Montana, LLC v. Montana, 565 U.S. 576 (2012) (amicus brief of 26 states including New Hampshire in support of respondent, 2011 WL 5373704)

Howes v. Fields, 565 U.S. 499 (2012) (amicus brief of 36 states including New Hampshire in support of petitioner, 2011 WL 2178135)

Bullcoming v. New Mexico, 564 U.S. 647 (2011) (amicus brief of 34 states including New Hampshire in support of respondent, 2011 WL 175867)

PLIVA, Inc. v. Mensing, 564 U.S. 604 (2011) (amicus brief of 43 states including New Hampshire in support of respondents, 2011 WL 805229)

Sorrell v. IMS Health Inc., 564 U.S. 552 (2011) (amicus brief for 35 states including New Hampshire in support of petitioners, 2011 WL 771332)

Turner v. Rogers, 564 U.S. 431 (2011) (amicus brief of 13 states including New Hampshire in support of respondents, 2011 WL 567494)

Camreta v. Greene, 563 U.S. 692 (2011) (amicus brief of 41 states including New Hampshire in support of petitioners, 2010 WL 5168883)

Sossamon v. Texas, 563 U.S. 277 (2011) (amicus brief of 30 states including New Hampshire in support of respondent, 2010 WL 3934615)

Virginia Office for Protection and Advocacy v. Stewart, 563 U.S. 247 (2011) (amicus brief of 13 states including New Hampshire in support of respondents, 2010 WL 4216274)

Snyder v. Phelps, 562 U.S. 443 (2011) (amicus brief of 48 states including New Hampshire in support of petitioner, 2010 WL 2224733)

Michigan v. Bryant, 562 U.S. 344 (2011) (amicus brief for 36 states including New Hampshire in support of petitioner, 2010 WL 1848211)

Williamson v. Mazda Motor of America, Inc., 562 U.S. 323 (2011) (amicus brief for 23 states including New Hampshire in support of respondent, 2010 WL 3167303)

McDonald v. City of Chicago, Ill., 561 U.S. 742 (2010) (amicus brief of 38 states including New Hampshire in support of petitioners, 2009 WL 4378909)

John Doe No. 1 v. Reed, 561 U.S. 186 (2010) (amicus brief for 23 states including New Hampshire in support of respondents, 2010 WL 1320776)

Stop the Beach Renourishment, Inc. v. Florida Dep't of Env'tl. Protection, 560 U.S. 702 (2010) (amicus brief for 26 states including New Hampshire in support of respondents, 2009 WL 3199616)

Carr v. United States, 560 U.S. 438 (2010) (amicus brief of 35 states including New Hampshire in support of respondent, 2010 WL 326587)

Levin v. Commerce Energy, Inc., 560 U.S. 413 (2010) (amicus brief for 43 states including New Hampshire in support of petitioner, 2009 WL 5190481)

Merck & Co., Inc. v. Reynolds, 559 U.S. 633 (2010) (amicus brief of 26 states including New Hampshire in support of respondents, 2009 WL 3495343)

Jerman v. Carlisle, 559 U.S. 573 (2010) (amicus brief of 21 states including New Hampshire in support of petitioner, 2009 WL 3143708)

Graham County Soil and Water Conservation Dist. v. United States ex rel Wilson, 559 U.S. 280 (2010) (amicus brief of 30 states including New Hampshire in support of petitioners, 2009 WL 2903917)

United Student Aid Funds, Inc. v. Espinosa, 559 U.S. 260 (2010) (amicus brief of 33 states including New Hampshire in support of petitioner, 2009 WL 2896304)

I signed the following briefs in support of petitions for writs of certiorari:

Endo Pharmaceuticals, Inc. v. New Hampshire, 138 S. Ct. 1261 (2018) (petition for writ of certiorari, 2017 WL 4947336) (cert. denied)

Elmbrook Sch. Dist. v. Doe, 573 U.S. 922 (2014) (amicus brief of 15 states including New Hampshire in support of petition for writ of certiorari, 2013 WL 314467) (cert. denied)

Virginia v. Env'tl. Protection Agency, 571 U.S. 951 (2013) (amicus brief of 24 states including New Hampshire in support of petition for writ of certiorari, 2013 WL 989014) (cert. denied)

Director of Dept. of Revenue of Montana v. Dept. of Treasury, 569 U.S. 1004 (2013) (amicus brief of 24 states including New Hampshire in support of petition for writ of certiorari, 2013 WL 989014) (cert. denied)

Arnone v. Ebron, 569 U.S. 913 (2013) (amicus brief of eight states including New Hampshire in support of petition for writ of certiorari, 2013 WL 703441) (cert. denied)

San Geronimo Caribe Project, Inc. v. Acevedo-Vila, 568 U.S. 1228 (2013) (amicus brief of three states including New Hampshire in support of petition for writ of certiorari, 2012 WL 1074689) (cert. denied)

Lewis v. Alexander, 568 U.S. 1123 (2013) (amicus brief of 24 states including New Hampshire in support of petition for writ of certiorari, 2013 WL 989014) (cert. denied)

Brown v. Henley, 568 U.S. 1089 (2013) (amicus brief of 16 states including New Hampshire in support of petition for writ of certiorari, 2012 WL 5928327) (cert. denied)

Virginia v. Banks, 566 U.S. 982 (2012) (amicus brief of 17 states including New Hampshire in support of petition for writ of certiorari, 2012 WL 5838444) (cert. denied)

North Carolina ex rel Cooper v. Tennessee Valley Auth., 564 U.S. 1053 (2011) (amicus brief of 16 states including New Hampshire in support of petition for writ

of certiorari, 2011 WL 826341) (cert. dismissed pursuant to Supreme Court Rule 46.1)

Louisiana Wholesale Drug Co., Inc. v. Bayer AG, 562 U.S. 1280 (2011) (amicus brief of 32 states including New Hampshire in support of petitioner, 2011 WL 96299) (petition for writ of certiorari) (cert. denied)

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Given 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. *New Hampshire Lottery Comm'n v. Barr*, 386 F. Supp. 3d 132 (D.N.H. 2019) (Barbadoro, J.), *aff'd in part, vacated in part*, 986 F.3d 38 (1st Cir. 2021) (Lynch, Kayatta, JJ.)

I served as local counsel for NeoPollard Interactive LLC and Pollard Banknote Limited, the providers of technology operating the New Hampshire iLottery System online. NeoPollard and the New Hampshire Lottery Commission sought a declaratory judgment challenging a 2018 opinion issued by the U.S. Department of Justice Office of Legal Counsel (OLC) finding that the federal Wire Act, 18 U.S.C. § 1084(a), prohibited States from using the Internet to transact bets or wagers, even if those bets or wagers originated from the States. The 2018 opinion reversed a 2011 OLC opinion that had authorized States to use the Internet to sell lottery tickets. The 2018 opinion jeopardized the operations of the New Hampshire iLottery System, which deposits approximately \$87 million dollars annually into an Education Trust Fund to provide education funding for public schools. Other state-sponsored iLottery Systems filed pleadings contesting the 2018 opinion. The district court granted declaratory relief and set aside the 2018 opinion under the Administrative Procedure Act (APA). On appeal, the First Circuit affirmed the district court's grant of declaratory relief finding the 2018 opinion to be legally erroneous, but the First Circuit vacated the district court's grant of relief under the APA. In the district court litigation, I edited all dispositive motions filed in district court, served as a liaison to advance litigation strategy discussions with counsel for the co-petitioner (the New Hampshire Lottery Commission), and attended the district court hearing on cross-motions for summary judgment. I also provided legal opinions to my clients concerning the lawfulness of their New Hampshire-based business operations in light of

the conflicting 2018 and 2011 OLC opinions. I did not handle the appeal.

Dates of Representation: 2019 – 2021

Co-Counsel for NeoPollard and Pollard Banknote

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Counsel for the State of New Hampshire

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33 Capitol Street
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Counsel for the United States

Steven A. Meyers
United States Department of Justice
Civil Division
1100 L Street, Northwest
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2. *Securities and Exchange Comm'n v. Present*, 2018 WL 792036 (D. Mass. 2018)
(Sorokin, J.)

I represented the lead cooperating witness in a Securities and Exchange Commission (SEC) civil enforcement action against Mr. Present for fraud. Mr. Present was the co-founder of an investment firm, F-Squared. The SEC charged Mr. Present with falsifying the historical track record of a new investment product marketed as an exchange traded fund. I defended F-Squared's other co-founder. My client avoided any enforcement action based on his cooperation. The civil enforcement action was tried to a jury verdict resulting in a \$12 million judgment and civil penalties against Mr. Present. My primary responsibilities included analyzing my client's potential criminal and civil exposure as co-founder of F-Squared, providing strategic advice to assist my client in making the decision to cooperate with and provide testimony voluntarily during the federal investigation, responding to subpoenas and document requests issued during the federal investigation and civil proceeding, negotiating liability insurance coverage for my client, litigating F-Squared's assertion of attorney-client privilege concerning my client's communications as co-founder, defending my client during his testimony before the SEC and at pre-trial deposition, and defending my client in connection with his testimony as the first witness called to the stand by the SEC during the civil trial.

Dates of Representation: 2013 – 2017

Counsel for the Securities and Exchange Commission

Hon. Rachel Herschfang
Massachusetts Appeals Court
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(617) 725-8106

Counsel for Mr. Present

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Anthony E. Fuller
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125 High Street, Suite 2010
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3. *Finn v. Ballentine Partners*, 169 N.H. 128 (2016) (Lynn, J.)

I represented Ballentine Partners, an investment and wealth management firm, during a five-day arbitration hearing before a panel of three arbitrators appointed by the American Arbitration Association. The case involved claims of breach of contract and unjust enrichment for failure to make financial payments allegedly owed to Ms. Finn under a Shareholder Agreement following Ms. Finn's contested termination as a shareholder. The arbitration panel awarded Ms. Finn \$600,000 in equitable relief. Ballentine Partners successfully petitioned the New Hampshire Superior Court to vacate the arbitration award based on the arbitration panel's plain mistake of law in failing to dismiss the arbitration as precluded by the doctrine of res judicata, which precludes the litigation of claims previously litigated. The case involved a novel issue of law concerning whether the Federal Arbitration Act, 9 U.S.C. § 2, preempted the state court from applying state law to vacate the arbitration award as legally erroneous. On appeal, the New Hampshire Supreme Court affirmed the superior court decision to vacate the arbitration award and held that the Federal Arbitration Act did not preempt the superior court's decision vacating the arbitration award. I was involved in all aspects of the case, including drafting dispositive motions and other pleadings before the arbitration panel and the superior court, taking and defending pre-hearing depositions before the arbitration, preparing fact witnesses and expert witnesses to testify during the arbitration hearing, examining and cross examining witnesses during the arbitration hearing, drafting pleadings filed in superior court to vacate the award, and drafting the appellate brief.

Dates of Representation: 2013 – 2016

Co-Counsel

Wilbur A. Glahn, III
McLane Middleton, Professional Association

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(603) 628-1469

Counsel for Ms. Finn

Jamie N. Hage
Hage Hodes Professional Association
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(603) 259-4488

Robert D. Cohan
Cohan, Rasnick, Myerson Plaut LLP
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4. *State of New Hampshire v. Hess Corporation et. al.*, 161 N.H. 426 (2011) (Duggan, J.), and *State v. Exxon Mobil Corporation*, 168 N.H. 211 (2015) (Dalianis, J.)

As Attorney General of New Hampshire, I led final settlement negotiations in a decades-long civil lawsuit brought by the State of New Hampshire against dozens of major gasoline suppliers for groundwater contamination. The case concerned contamination of the State's groundwater with an anti-knocking gasoline constituent called MTBE. The State reached pre-trial resolutions with all defendants except one, and the State used settlement proceeds to clean the State's groundwater and improve drinking water systems. The case against the remaining defendant, Exxon Mobil, was tried to a civil jury for three months in the Merrimack County Superior Court. The Merrimack County Superior Court allowed the State to assess damages against the defendant based on a novel damages theory tied to the defendant's market share of gasoline distributed throughout the State. I did not try the case, but I was heavily involved in case management, trial preparation, and trial strategy. The jury returned a \$236 million verdict for the State. I also advanced discussions with state officials to structure verdict and settlement awards to remediate contaminated groundwater.

Dates of Representation: 2004 – 2006, 2009 – 2013

Co-Counsel

Alexander Leff
SL Environmental Law Group
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Counsel for Exxon Mobil

David Lender
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New York, NY 10153
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5. *Perry v. New Hampshire*, 565 U.S. 228 (2012) (Ginsburg, J.)

I conducted the oral argument at the U.S. Supreme Court in this criminal appeal for the State of New Hampshire. The question addressed was whether a pretrial eyewitness identification of a defendant made by an eyewitness at a crime scene was inherently suggestive in violation of federal due process rights because the suspect was standing directly next to a police officer when he was identified. Justice Ginsburg delivered the opinion of the Court affirming the State's conviction of Perry by a vote of 8-1, holding that the due process clause does not require a preliminary judicial inquiry into the reliability of an eyewitness' identification unless the identification was procured by unnecessarily suggestive circumstances arranged by law enforcement. Justice Thomas filed a concurring opinion, and Justice Sotomayor filed a dissenting opinion.

Dates of Representation: 2011 – 2012

Co-Counsel

Stephen Fuller
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33 Capitol Street
Concord, NH 03301
(603) 271-3671

Counsel for Mr. Perry

Richard Guerriero
Lothstein Guerriero
Chamberlain Block Building
39 Central Square, Suite 202
Keene, NH 03431
(603) 352-5000

6. *In Re Opinion of the Justices (Requiring Attorney General To Join Lawsuit)*, 162 N.H. 160 (2011) (per curiam decision)

As Attorney General, I successfully challenged the constitutionality of a bill introduced in the New Hampshire House of Representatives mandating me to join the federal lawsuit in the case of *Florida ex rel. Bondi v. U.S. Dep't of Health and Human Services*, 780 F. Supp. 2d 1256 (N.D. Fl. 2011). The federal lawsuit challenged the constitutionality of provisions of the Federal Patient Protection and Affordable Care Act, which required individuals to purchase federally-approved health insurance. I testified in opposition to the House bill and raised concerns that the proposed bill violated the separation of powers between the legislative and executive branches of government. At the request of the New Hampshire Senate, the New Hampshire Supreme Court considered the matter in an advisory opinion. I actively participated in drafting the appellate brief filed with the New Hampshire Supreme Court, asserting that a proposed legislative act requiring the Attorney General to join a federal lawsuit would violate the separation of powers clause under part I, article 37 of the New Hampshire Constitution. The Supreme Court responded to the New Hampshire Senate with an advisory opinion holding that the New Hampshire Constitution vests the executive branch with authority to determine whether it is in the public interest to litigate a particular matter, and it would usurp an essential power of the executive branch to direct the Attorney General to initiate a specific civil lawsuit. The case was viewed by many as a landmark decision upholding the independence of State Attorneys General.

Dates of Representation: 2011

Co-Counsel

Stephen Fuller
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Counsel for the Senate

Richard Lehmann
Lehmann Major List, PLLC
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(603) 731-5435

7. *State v. Whittey*, 149 N.H. 463 (2003) (Dalianis, J.)

I tried this first degree murder case to jury verdict, wrote the appellate brief, and argued the case on appeal before the New Hampshire Supreme Court. In 1980, Mr. Whittey had raped, strangled, and murdered Yvonne Fine, age 80, in her home. In 1999, the State tested preserved seminal fluid that had been collected from Ms. Fine's clothing at the

crime scene in 1980, and the DNA profile matched Mr. Whittey. The case centered on a pretrial *Daubert* challenge to the scientific reliability and admissibility of the emerging DNA testing techniques. Leading national experts on DNA profiling and statistical analysis testified at the *Daubert* hearing and at trial. The jury convicted Mr. Whittey of first degree murder, and he was sentenced to life imprisonment without the possibility of parole. The New Hampshire Supreme Court affirmed his conviction. I handled the cold case homicide investigation, coordinated DNA testing of evidence, presented the grand jury indictment for Mr. Whittey, drafted pretrial motions, participated in pretrial hearings, took and defended pre-trial depositions of expert witnesses, examined and cross-examined expert witnesses at the *Daubert* hearing and at trial, conducted individual *voir dire* for jury empanelment, provided the opening statement at trial, drafted the appellate brief, and argued the appeal for the State.

Dates of Representation: 1999 – 2003

Co-Counsel

Christopher H.M. Carter
Hinckley Allen
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Manchester, NH 03101
(603) 225-4334

Counsel for Mr. Whittey

Cathy Green
Shaheen & Gordon, P.A.
107 Storrs Street
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(603) 617-3035

Hon. Diane Nicolosi
Hillsborough, New Hampshire North Superior Court
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8. *State v. Tulloch and Parker*, No. 01-S-199, 01-S-200, 01-S-711, 01-S-712, 02-S-117
(Grafton County Superior Court) (Smith, J.)

In 2001, Dartmouth College professors Half and Susanne Zantop were stabbed to death in their home. The case was jointly investigated by state and federal law enforcement agencies. I served as second chair counsel overseeing the investigation and prosecution of Messrs. Tulloch and Parker for the double murders. I participated in a confidential adjudicatory hearing in juvenile court to certify the minor, Mr. Parker, as an adult to face first degree murder charges. I drafted pleadings and argued motions before the Grafton County Superior Court. I opposed an interlocutory appeal regarding the collection of blood, hair and hand-writing samples for testing. I coordinated the production of

discovery and forensic testing results of physical evidence from the crime scene. I attended extradition proceedings of Messrs. Tulloch and Parker in Indiana following their arrests. I engaged in plea negotiations with Mr. Parker and attended his interviews provided under a proffer agreement. Following their guilty pleas, I participated in the sentencing hearings of Messrs. Tulloch and Parker, who were sentenced to life imprisonment and 25 years to life imprisonment, respectively.

Dates of Representation: 2001 – 2003

Co-Counsel

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Chair of the Board
BAE Systems, Inc.
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Counsel for Mr. Tulloch

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Counsel for Mr. Parker

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9. *Moser v. Anderson*, No. 93-634-B (D.N.H. Nov. 25, 1996) (Barbadoro, J.)

I was lead associate counsel assisting appointed class counsel in this civil rights action. The putative class complaint alleged that the defendants violated the class members' federal constitutional rights to due process and freedom from unlawful searches when they were routinely subjected to full strip searches after being taken into custody for minor offenses. The defendants were a group of municipalities, law enforcement officials, and corrections officials who implemented non-discretionary policies requiring a full strip search of all detained individuals irrespective of the charged offense or the circumstances surrounding their detention. The court certified the class, and the case resulted in a pretrial settlement in excess of \$1 million. I drafted the motion for class certification and other pleadings, conducted the oral argument at the class certification hearing, conducted and attended depositions with class counsel, and drafted the notices to the class members regarding class certification and class settlement. The lawsuit resulted

in state-wide corrections reforms that abolished policies, which were prevalent in New Hampshire at the time, implementing non-discretionary strip searches for individuals accused of minor offenses.

Dates of Representation: 1994 – 1998

Co-Counsel

Dort S. Bigg (deceased)

Counsel for Defendants

William G. Scott

Boynton, Waldron, Doleac, Woodman & Scott

82 Court Street

Portsmouth, NH 03801

(603) 436-4010

10. *In Re American Honda Motor Co., Inc. Dealership Relations Litigation*, 941 F. Supp. 528 (D. Md. 1996); 168 F.R.D. 535 (D. Md. 1996); 958 F. Supp. 1045 (D. Md. 1997); 965 F. Supp. 716 (D. Md. 1997); 979 F. Supp. 365 (D. Md. 1997); 162 F. Supp. 2d. 387 (2001), *aff'd*, 315 F.3d 417 (2003) (Motz, J.)

At Wiggin & Nourie, I was lead associate for the liaison counsel appointed by the federal courts to coordinate representation of direct action plaintiffs in a multi-district litigation. The case involved claims of racketeering and fraud based on a bribery scheme in which American Honda executives accepted bribes in exchange for the preferential distribution of new motor vehicles to automobile dealers who paid the bribes. I worked on a team of attorneys that drafted motions to compel the production of American Honda's communications with its attorneys based on the crime-fraud exception to the attorney client privilege. I attended many court hearings in the District of Maryland. I prepared for and attended most depositions in the case assigned to my firm, including the depositions of several Japanese executives conducted in a foreign language under the *Hague* convention. I defended some depositions personally. I coordinated discovery and document productions in the case. I regularly attended conferences of the plaintiffs' Steering Committee to discuss case strategy and management of the litigation. The case resulted in a national settlement for \$330 million, the largest civil Racketeer Influenced and Corrupt Organizations (RICO) Act settlement in United States history at the time of settlement.

Dates of Representation: 1994 – 1999

Co-Counsel

Hon. Richard B. McNamara

1 Granite Place N400

Concord, NH 03301

(603) 271-2030

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

As Attorney General, I represented New Hampshire in connection with the landmark \$25 billion agreement with the nation's five largest mortgage servicers to address mortgage loan servicing and foreclosure abuses. The joint agreement provided substantial financial relief to homeowners subject to foreclosure abuses, and it established new homeowner protections for the future. I worked closely with New Hampshire state officials to establish homeowner relief programs using settlement proceeds distributed to civil legal aid organizations and New Hampshire housing authorities providing services to affected and financially vulnerable citizens. During my term as Attorney General, I also served as Chair of a multi-branch committee called the Justice Reinvestment Initiative that advanced corrections reforms to enhance public safety and reduce recidivism through enhanced community supervision and targeted community-based treatment and strategies for those most likely to re-offend.

At McLane Middleton, a portion of my practice includes conducting internal investigations that do not involve litigation. I lead formal inquiries on behalf of businesses and organizations to determine whether laws, regulations or internal organizational policies may have been violated, and if so, to recommend corrective action. These investigations occur at times when no official government inquiry or investigation is pending, and at other times, internal investigations are commenced in response to an official investigation or inquiry to gather information and identify proper corrective action. I often represent organizations in response to civil investigative demands and subpoenas. These matters often do not become litigated matters before courts or administrative bodies.

In addition, I also serve as an external investigator retained by organizations to conduct neutral, independent investigations or reviews. In particular, I am retained by colleges, universities, independent schools and other youth-facing organizations to conduct investigations of faculty, employee, or student misconduct implicating Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., or comparable state laws, which prohibit discrimination on the basis of sex in government-funded education programs or activities.

I also regularly provide legal training to faculty and teachers on the subject matters of maintaining proper personal boundaries in academic settings, institutional policies and procedures prohibiting harassment in workplace, and mandatory reporting laws established by the federal government and states concerning child abuse, neglect, sexual assault, bullying, and other crimes.

From 2002 to 2004, I served on the New Hampshire Bar Ethics Committee when, at the request of the New Hampshire Supreme Court, the Bar Association's Ethics Committee completed a comprehensive review of New Hampshire's rules of professional conduct, the first such review undertaken since the rules had been adopted in 1986. The Committee's work was carried out through lengthy monthly meetings where the Committee reviewed each professional conduct rule in order and formulated recommended changes for consideration by the Supreme Court. This work commenced after completion of the American Bar Association's Ethics 2000 Commission Report. The project took years to complete and involved outreach to members of the Bar Association to evaluate the practical impact of proposed changes to the professional conduct rules recommended by the Bar Association's Ethics Committee.

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

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

None.

20. **Deferred Income/ Future Benefits:** List 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 am required to redeem shares I hold in my law firm, McLane Middleton, Professional Association, if I leave the firm. I am also a vested member of McLane Middleton, Professional Association's defined benefit pension plan.

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

None.

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

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

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I would strictly follow the Code of Conduct for United States Judges, the New Hampshire and Massachusetts Rules of Professional Conduct, and all other applicable rules and ethical canons governing recusal.

I would recuse myself from cases involving McLane Middleton, Professional Association, where I have practiced law since 2013, consistent with the Code of Conduct for United States Judges. I would recuse myself from any cases involving the nonprofit organization Court Appointed Special Advocates (CASA) of New Hampshire, where my wife serves as a public interest lawyer handling child abuse and neglect cases in state courts. I would recuse myself from cases involving the law firm of Ankeles, Vontzalides, Ambeliotis and Delaney, LLP in Peabody, Massachusetts where my brother practices law. I would recuse myself from cases involving the law firm of Goddard, Scuteri & Delaney in Salem, Massachusetts, where another brother practices law.

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

I would evaluate and resolve any potential conflicts of interest by applying the rules and standards in 28 U.S.C. § 455, the Code of Conduct for United States Judges, the Published Advisory Opinions issued by the Committee on Codes of Conduct, and any relevant judicial decisions and opinions that address what constitutes a conflict or the appearance of a conflict. As appropriate, I also would consult with other judges, the First Circuit Clerk's Office, and the First Circuit's Executive Office.

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.

At present, I am handling one pro bono civil case in federal court and one pro bono civil case in state court. In the federal civil case, the federal court appointed me to represent a formerly *pro se* prisoner in a 42 U.S.C. § 1983 action challenging his medical treatment and delayed jaw surgery following a fight between prisoners. In the state civil case, I represent an unmarried mother of three who is attempting to gain sole decision-making and sole residential responsibility in a parenting case involving the biological father's dependency on alcohol.

I have accepted court appointments in approximately 15 indigent criminal defense cases representing disadvantaged clients facing felony and misdemeanor charges in state court. I also serve on an indigent defense task force of attorneys convened at the request of the New Hampshire Supreme Court. This task force is leading efforts to mobilize private law firms to help address a backlog of unassigned cases for indigent criminal defendants without counsel who have a constitutional right to court-appointed counsel.

In addition to my pro bono caseload, I serve as the Co-Chair of the New Hampshire Campaign for Legal Services Leadership Council, where I lead efforts to fundraise and promote awareness of the important work of the State's two civil legal aid organizations, New Hampshire Legal Assistance and 603 Legal Aid. In prior years, I have served as a member of the board of directors of New Hampshire Legal Assistance and 603 Legal Aid, formerly known as the Legal Advice and Referral Center, which runs a legal aid hotline, handles direct representation of indigent clients, and oversees civil pro bono cases assigned to attorneys in private practice.

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.

In February 2022, shortly after the Honorable United States Circuit Judge Jeffrey R. Howard announced that he would be taking senior status, I was contacted by Senator Jeanne Shaheen's office to discuss the position. I expressed my interest

in being considered for nomination to serve as a circuit judge. On February 7, 2022, I met with staff members of Senators Shaheen and Hassan. On February 24, 2022, I met with attorneys from the White House Counsel's Office. On March 1, 2022, I met with Senators Shaheen and Hassan. Since then, I have been in touch with officials from the Office of Legal Policy at the Department of Justice and members of Senator Shaheen's staff. On January 18, 2023, the President announced his intent to nominate me.

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

No.