

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Cathy Ann Bencivengo
Cathy Ann Palumbo

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

United States District Judge for the Southern District of California

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

U.S. District Court – Southern District of California
Edward J. Schwartz U.S. Courthouse
940 Front Street, Room 1131
San Diego, California 92101

Residence: Poway, California

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

1958; Teaneck, New Jersey

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.

1985 – 1988, University of Michigan Law School; J.D., *magna cum laude*, 1988

1980 – 1981, Rutgers University Graduate School; M.A., 1981

1976 – 1980, Rutgers University, Livingston College; B.A., 1980

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.

2005 – present
United States District Court
940 Front Street, Room 1131
San Diego, California 92101
United States Magistrate Judge

Summer 1987; 1988 – 2005
DLA Piper US, LLP
401 B Street, Suite 1700
San Diego, California 92101
Partner (1996 – 2005)
Associate (1988 – 1996)
Summer Associate (May – June 1987)
(Note: From 1987 to 1994, the firm was known as Gray, Cary, Ames & Frye. From 1994 to 2005, it was known as Gray, Cary, Ware & Freidenrich. In 2005 it became DLA Piper Rudnick Gray Cary LLP. It is now known as DLA Piper US, LLP.)

Summer 1999
University of San Diego School of Law
5998 Alcalá Park
San Diego, California 92110
Adjunct Professor

Summer 1987
Honigman Miller Schwartz & Cohn, LLP
2290 First National Building
Detroit, Michigan 48226
Summer Associate

Summer 1986
General Motors Corporation
3031 West Grand Boulevard
Detroit, Michigan 48232
Summer Associate, Legal Department

1984 – 1985
CECO Communications
30400 Van Dyke
Warren, Michigan 48093
Associate Multimedia Producer and Audio/Visual Coordinator

1981 – 1984

Johnson & Johnson

One J & J Plaza

New Brunswick, New Jersey 08903

Communications Specialist (1981 – 1983)

Part-Time Communications Consultant (1983 – 1984, working from home in Michigan)

Other Affiliations (uncompensated):

2009 – present

Association of Business Trial Lawyers of San Diego

PMB 386

1010 University Avenue, #113

San Diego, California 92103

Member, Board of Governors

2007 – 2010

Poway High School Music Boosters

P.O. Box 1376

Poway, California 92074

Director (2007 – 2008)

President (2008 – 2010)

2003 – 2007

San Diego Figure Skating Club

P.O. Box 500774

San Diego, California 92150

Director (2003 – 2005)

Vice-President (2006 – 2007)

President (2007 – 2008)

2004 – 2005

Susan G. Komen Breast Cancer Foundation, San Diego

4699 Murphy Canyon Road, Suite 102B

San Diego, California 92123

Director

2001 – 2005

San Diego County Bar Foundation

1333 Seventh Avenue

San Diego, California 92101

Director

1999 – 2000
San Diego Mediation Center
(currently known as the National Conflict Resolution Center)
625 Broadway, Suite 1221
San Diego, CA 92101
Director

1996 – 1998
San Diego County Bar Association
1333 Seventh Avenue
San Diego, California 92101
Director (1996 – 1998)
Treasurer (1997)
Vice President (1998)

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

I have not served in the United States Military. I did not register for selective service.

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

Order of the Coif, University of Michigan Law School (1988)

First Place – Campbell Moot Court Competition, University of Michigan Law School (1988)

Fellowship to Eagleton Institute of Politics Graduate Program, Rutgers University Graduate School

Undergraduate Associate to Eagleton Institute of Politics, Rutgers University

Departmental Honors in Journalism from Livingston College, Rutgers University

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, Member

American Inns of Court, Louis M. Welsh Chapter
Barrister (1994 – 1996, 2004 – 2005)
Master (2006 – present)

Association of Business Trial Lawyers of San Diego
Member, Board of Governors (2009 – present)

California Bar Association, Member

California Women Lawyers, Member

Federal Bar Association, San Diego Chapter
Member, Advisory Board (2006 – present)

Federal Circuit Bar Association, Member

Federal Magistrate Judges Association
Member (2005 – present)
Ninth Circuit Director (2010 – present)

Lawyer's Club, Member

Ninth Circuit Judicial Conference
Lawyer Representative (Alternate), Southern District of California (2004)
Lawyer Representative, Southern District of California (2005)

Ninth Circuit Magistrate Judges Education Committee
Member (2008 – 2010)
Chair (2009, 2010)

San Diego County Bar Association
Co-Chair, Intellectual Property Section (1993, 1994)
Director (1996 – 1998)
Treasurer (1997)
Vice President (1998)
Member, Lawyer Referral and Information Services Committee (1999 – 2003)
Chair, Lawyer Referral and Information Services Committee (2001)

San Diego County Bar Foundation
Director (2001 – 2005)

San Diego Mediation Center
Director (1999 – 2000)

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.

California, 1988

There have been no lapses in membership.

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

Supreme Court of the United States, 2002

United States Court of Appeals for Ninth Circuit, 1996

United States Court of Appeals for Federal Circuit, 1996

United States District Court for Southern District of California, 1988

United States District Court for Central District of California, 1991

United States District Court for Northern District of California, 1992

United States District Court for Eastern District of California, 1993

California Supreme Court, 1988

There have been no lapses in membership.

11. Memberships:

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

Girl Scouts of America, Adult Member (Approx. 2002 – 2003)

Parent-Teacher-Student Associations for Tierra Bonita Elementary School, Twin Peaks Middle School, Poway High School, Member (1996 – present)

Poway High School Music Boosters

Member (2006 – present)

Director (2007 – 2008)

President (2008 – 2010)

San Diego Figure Skating Club
Director (2003 – 2006)
Vice-President (2006 – 2007)
President (2007 – 2008)

Stone Ridge Country Club (1998 – 2002)

Susan G. Komen Breast Cancer Foundation, San Diego
Director (2004 – 2005)
Member, Grants Committee (2004 – 2007)
Chair, Grants Committee (2005)

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

The Girl Scouts of America is and has always been an organization for girls. To my knowledge, the Girl Scouts does not discriminate, with respect to troop leadership, board membership or other volunteer assignments. Otherwise, I am not aware that any of the organizations I listed in my response to 11a discriminates or has ever discriminated on the basis of race, sex, religion or national origin.

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.

On March 2, 2010, I posted on a message board about a missing high school student. Copy supplied.

With Mike Cook, *Chelsea King Tribute*, Poway High School, 2010 (published at <http://www.phsmb.com/attach/chelseaTribute.pdf>). Copy supplied.

As President of the San Diego Figure Skating Club, I wrote a number of *From the President* messages in the E-Newsletters. The dates of my messages are listed below and copies are supplied:

May 2008
March 2008
January 2008
December 2007
November 1, 2007
October 2007
September 1, 2007
August 1, 2007

I recall co-authoring an article about intellectual property law when I was an associate at my former law firm in the early 1990s, however, I have been unable to obtain a copy.

- 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.

To the best of my recollection, I have not prepared any reports, memoranda or policy statements on behalf of any bar association, committee, conference, or organization of which I was or am a member.

- 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.

On April 20, 2009, I spoke before the Poway Unified School District Board of Education about the proposed elimination or reduction in hours of classified staff positions. Meeting minutes supplied.

On April 18, 2009, I submitted a statement on behalf of the Poway High School Music Program, as the Booster President, to the Directors of the Poway Unified School District regarding funding for the instrumental music program. Copy supplied.

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

If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have not kept a comprehensive list of presentations I have made. The following list is compiled from my calendars and other sources and is my best effort to recreate my history of speaking engagements.

March 30, 2011: sponsored by Association of Business Trial Lawyers of San Diego, at Edward J. Schwartz United States Courthouse, panel on Deposition Practice and Experts. I have no notes, transcript or recording. The address of the ABTL is PMB 386, 1010 University Avenue, #113, San Diego, California 92103.

February 17, 2011: sponsored by American Inns of Court, Louis M. Welsh Chapter, at Latham & Watkins in San Diego, moderated a panel presentation on mock trials and focus groups as a litigation tool. I have no notes, transcript or recording. The Inn of Court does not have a physical address.

January 29, 2011: sponsored by the Thomas Jefferson School of Law, at the Law School, a lunch presentation to Introduction to Intellectual Property Law class on intellectual property litigation in San Diego. I have no notes, transcript or recording. The address of the law school is 1155 Island Avenue, San Diego, California 92101.

November 15, 2010: "Open Doors to Federal Court" Program, at the Federal Court, Courtroom E, presided over a mock criminal trial for middle school students. I have no notes, transcript or recording. The address of the federal courthouse is 940 Front Street, San Diego, California 92101.

October 22, 2010: sponsored by Thomas Jefferson School of Law, at the Law School, a Judicial Panel Presentation on "judge's pet peeves" to law students. I have no notes, transcript or recording, but Thomas Jefferson School of Law coverage is supplied. The address of the law school is 1155 Island Avenue, San Diego, California 92101.

October 15, 2010: sponsored by the Federal Bar Association, San Diego Chapter, at the Federal Court, Courtroom E, a presentation for federal court practitioners explaining the role of Magistrate Judges in the Southern District. I have no notes, transcript or recording. The FBA, San Diego Chapter, does not have a physical address.

September 16, 2010: Judith N. Keep Seminar, sponsored by the Federal Bar Association, San Diego Chapter, at the District Court Jury Lounge, a Magistrate Judges Panel Presentation on Managing Complex Litigation. I have no notes, transcript or recording. The FBA, San Diego Chapter, does not have a physical address.

August 16, 2010: Ninth Circuit Judicial Conference, introduced panelists for session entitled, "Individual Privacy: Challenges Grow as Technology Flourishes." I have no notes, transcript or recording. The Conference does not have a physical address.

June 8, 2010: sponsored by the Federal Bar Association, San Diego Chapter, at Mintz Levin Cohn Ferris in San Diego, a Bench and Bar Panel Presentation on managing patent litigation. I have no notes, transcript or recording, but FBA coverage is supplied. The FBA, San Diego Chapter, does not have a physical address.

April 1, 2010: sponsored by Poway High School Music Boosters, tribute to Chelsea King during the PUSD Band & Orchestra Festival. Video available at <http://www.youtube.com/watch?v=uK4AiDw2RIw>. A copy of my remarks was also supplied in response to 12(a).

March 24, 2010: "Open Doors to Federal Court" Program, at the Federal Court, Courtroom E, hosted a civics class for students modeled on the "Jeopardy" game. I have no notes, transcript or recording, but FBA coverage is supplied. The address of the federal courthouse is 940 Front Street, San Diego, California 92101.

March 5, 2010: sponsored by DLA Piper US, LLP, at DLA in San Diego, a luncheon presentation on women in leadership positions for young women lawyers in honor of Women's History Month. I have no notes, transcript or recording. The address of DLA Piper is 401 B Street, Suite 1700, San Diego, California 92101.

February 6, 2010: sponsored by the Thomas Jefferson School of Law, at the Law School, a lunch presentation to Introduction to Intellectual Property Law class on intellectual property litigation in San Diego. I have no notes, transcript or recording. The address of the law school is 1155 Island Avenue, San Diego, California 92101.

January 28, 2010: sponsored by the San Diego Intellectual Property Law Association, at the Del Mar Marriott, a Magistrate Judge Panel Presentation on Patent Case Management. I have no notes, transcript or recording. The Association has no physical address.

November 20, 2009: sponsored by Thomas Jefferson School of Law, at the Law School, a Judicial Panel Presentation on "judge's pet peeves" to law students. I have no notes, transcript or recording. The address of the law school is 1155 Island Avenue, San Diego, California 92101.

October 16, 2009: sponsored by the Federal Bar Association, San Diego Chapter, at the Federal Court, Courtroom E, a presentation for federal court practitioners

explaining the role of Magistrate Judges in Southern District. I have no notes, transcript or recording, but FBA coverage is supplied. The FBA, San Diego Chapter, does not have a physical address.

September 24, 2009: Judith N. Keep Seminar, sponsored by the Federal Bar Association, San Diego Chapter, in the District Court Jury Lounge, a Magistrate Judges Panel Presentation on Early Neutral Evaluation Conferences. I have no notes, transcript or recording. The FBA, San Diego Chapter, does not have a physical address.

September 17, 2009: sponsored by Women in E-Discovery, at Seltzer Caplan McMahon Vitek in San Diego, a Bench and Bar Panel Presentation on propounding and responding to electronic discovery requests under the Federal Rules. I have no notes, transcript or recording. The Women in E-Discovery San Diego Chapter does not have a physical address.

September 16, 2009: sponsored by American Inns of Court, Louis M. Welsh Chapter, at Latham & Watkins in San Diego, introduced and moderated a panel presentation on ex-parte communications with the court. I have no notes, transcript or recording. The Inn of Court does not have a physical address.

July 20, 2009: Ninth Circuit Judicial Conference, introduced panelists for a session entitled, "Can You Hear Me Now? Ethical Issues Relating to Ex Parte Judicial Communications." I have no notes, transcript or recording. The Conference does not have a physical address.

June 19, 2009: sponsored by the Association of Business Trial Lawyers, at Luce, Forward, Hamilton Scripps, LLP in San Diego, a Bench and Bar Panel Presentation on Managing E-Discovery Disputes in the Southern District. I have no notes, transcript or recording. The address of the ABTL is PMB 386, 1010 University Avenue, #113, San Diego, California 92103.

March 26, 2009: "Open Doors to Federal Court" Program, at the Federal Court, Courtroom E, moderated a student debate on First and Sixth Amendment Rights and Responsibilities. I have no notes, transcript or recording. The address of the federal courthouse is 940 Front Street, San Diego, California 92101.

March 13, 2009: sponsored by Thomas Jefferson School of Law, at the Federal Court in Courtroom 1, a presentation for law students explaining the role of Magistrate Judges in Southern District. I have no notes, transcript or recording. The address of the law school is 1155 Island Avenue, San Diego, California 92101.

February 26, 2009: sponsored by the San Diego Intellectual Property Law Association, at the La Jolla Marriott, a Magistrate Judge Panel Presentation on Electronic Discovery, Local Rules and Early Neutral Evaluation Conferences in

Patent Cases. I have no notes, transcript or recording. The Association has no physical address.

February 18, 2009: sponsored by the San Diego Inn of Court, at the San Diego Superior Court, presided over an Inn of Court workshop on presentation of closing arguments. I have no notes, transcript or recording. The address of the Inn of Court is c/o Norma Angelica Swan, 750 B Street, Suite 1250, San Diego, California 92101.

November 20, 2008: sponsored by the Federal Bar Association, San Diego Chapter, at the Federal Court, Courtroom E, a presentation for federal court practitioners explaining the role of Magistrate Judges in the Southern District. I have no notes, transcript or recording, but FBA coverage is supplied. The FBA, San Diego Chapter, does not have a physical address.

October 15, 2008: sponsored by the Federal Bar Association, San Diego Chapter, at the District Court Jury Lounge, a Magistrate Judges Panel Presentation on criminal practice and recommendations regarding guilty plea hearings. I have no notes, transcript or recording, but FBA coverage is supplied. The FBA, San Diego Chapter, does not have a physical address.

September 17, 2008: sponsored by American Inns of Court, Louis M. Welsh Chapter, at Latham & Watkins in San Diego, introduced and moderated a panel presentation on conflicts of interest resulting from multiple client representation. I have no notes, transcript or recording. The Inn of Court does not have a physical address.

June 9, 2008: sponsored by the Association of Business Trial Lawyers, at the Westin San Diego, a Magistrate Judges Panel Discussion on effective practice before the Magistrate Judges of the Southern District. I have no notes, transcript or recording. The address of the ABTL is PMB 386, 1010 University Avenue, #113, San Diego, California 92103.

May 29, 2008: sponsored by the San Diego Intellectual Property Law Association, at Del Mar Marriott, a Bench and Bar Panel Discussion on Patent Litigation in the Southern District. I have no notes, transcript or recording. The Association has no physical address.

May 7, 2008: Licensing Executives Society International Conference, sponsored by Women in Licensing Bay Area and DLA Piper US, LLP, at Sheraton Chicago Hotel and Towers in Chicago, a Bench and Bar Panel Presentation on Effective Leadership for Women in Intellectual Property Practice. I have no notes, transcript or recording. The address of DLA Piper is 401 B Street, Suite 1700, San Diego, California 92101.

April 14, 2008: sponsored by the San Diego County Bar Association Young/New Lawyers Division, at the W Hotel in San Diego, a brief talk on the importance of mentoring and finding a mentor at a reception for new lawyers. I have no notes, transcript or recording. The address of the SDCBA is 1333 Seventh Avenue, San Diego, California 92101.

March 25, 2008: sponsored by the San Diego County Bar Association Ethics Committee, at the San Diego County Bar Building, a Bench and Bar Panel Presentation on inadvertent disclosure of privileged information and the new Federal Rules of Civil Procedure. I have no notes, transcript or recording. The address of the SDCBA is 1333 Seventh Avenue, San Diego, California 92101.

February 4, 2008: sponsored by the San Diego County Bar Association, at the San Diego County Bar Building, a presentation to third year law students and recent graduates on successful balance in a legal career. I have no notes, transcript or recording. The address of the SDCBA is 1333 Seventh Avenue, San Diego, California 92101.

October 11, 2007: sponsored by Women in Licensing Bay Area, the Association of Corporate Counsel San Francisco Bay Area Chapter, and DLA Piper US, LLP, at Four Seasons Hotel in East Palo Alto, a Bench and Bar Panel Presentation on Effective Trial Practice and Leadership for Women in Intellectual Property Litigation. I have no notes, transcript or recording, but Bureau of National Affairs coverage is supplied. The address of DLA Piper is 401 B Street, Suite 1700, San Diego, California 92101.

September 27, 2007: Judith N. Keep Seminar, sponsored by the Federal Bar Association, San Diego Chapter, Marriott in San Diego, a Magistrate Judges Panel Presentation on Settlement Conferences. I have no notes, transcript or recording. The FBA, San Diego Chapter, does not have a physical address.

August 28, 2007: sponsored by the Federal Bar Association, San Diego Chapter, at the Federal Court, Courtroom E, a presentation for federal court practitioners explaining the role of Magistrate Judges in the Southern District. I have no notes, transcript or recording. The FBA, San Diego Chapter, does not have a physical address.

March 14, 2007: sponsored by the San Diego County Bar Association and three law schools, a presentation to third-year law students about legal careers. I have no notes, transcript or recording. The address of the SDCBA is 1333 Seventh Avenue, San Diego, California 92101.

March 12, 2007: at the Federal Court, Courtroom E, a presentation to local Boy Scout troop on the Federal Court system. I have no notes, transcript or recording. The address of the federal courthouse is 940 Front Street, San Diego, California 92101.

February 27, 2007: sponsored by West Legalworks, at Four Seasons Hotel in Beverly Hills, Los Angeles, a Bench and Bar Panel Presentation on E-Discovery and the new Federal Rules of Civil Procedure. I have no notes, transcript or recording. West Legalworks is part of Thomson West, which is headquartered at 610 Opperman Drive, Eagan, Minnesota 55123.

February 14, 2007: sponsored by the Association of Business Trial Lawyers of San Diego, brown bag lunch speaker. I spoke about my first year on the bench and practices in my courtroom. I have no notes, transcript or recording. The address of the ABTL is PMB 386, 1010 University Avenue, #113, San Diego, California 92103.

December 20, 2006: "Bridging the Gap" Seminar, sponsored by the San Diego County Bar Association, at San Diego County Bar Building, a presentation to newly admitted lawyers on practice in Federal Court. I have no notes, transcript or recording. The address of the SDCBA is 1333 Seventh Avenue, San Diego, California 92101.

September 29, 2006: Judith N. Keep Seminar, sponsored by the Federal Bar Association, San Diego Chapter, at San Diego County Bar Building, a Magistrate Judges Panel Presentation on the New E-Discovery Rules. I have no notes, transcript or recording, but FBA coverage is supplied. The FBA, San Diego Chapter, does not have a physical address.

August 10, 2006: sponsored by the Federal Bar Association, San Diego Chapter, at San Diego County Bar Building, a Magistrate Judge Panel Presentation on Effective Practices for Settlement Conferences. I have no notes, transcript or recording, but FBA coverage is supplied. The FBA, San Diego Chapter, does not have a physical address.

March 1, 2006: sponsored by the California Western School of Law, at the Law School, a Judicial Panel Presentation on the Southern District's Local Patent Rules. I have no notes, transcript or recording. The address of the law school is 225 Cedar Street, San Diego, California 92101.

October 21, 2004: sponsored by California Western School of Law, presentation to graduating law students on maintaining a healthy work/life balance when they start practicing. I have no notes, transcript or recording. The address of the law school is 225 Cedar Street, San Diego, California 92101.

April 24, 2004: sponsored by University of San Diego School of Law, panelist for a continuing legal education session on developments in intellectual property law. I addressed changes in the analysis of willful infringement allegations in patent cases. I have no notes, transcript or recording. The address of the law school is 5998 Alcala Park, San Diego, California 92110.

Since I joined the bench in December 2005, I have participated in a number of Naturalization Ceremonies. I spoke on the following dates: January 18, 2006 at the San Diego Convention Center; June 22, 2007 at San Diego's Golden Hall; February 18, 2009 at San Diego's Golden Hall; and November 17, 2010 at San Diego's Golden Hall. A copy of my speech is supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Greg Moran, *Obama Nominates Judge for Federal Court*, San Diego Union-Tribune, May 11, 2011. Copy supplied.

Pat Broderick, *Judicial Spotlight; Part of the Solution*, Los Angeles Daily Journal, June 30, 2009 [quote re-printed in a May 13, 2011 article]. Copy supplied.

PUSD Board OKs Layoffs, Pay Cuts, Pomerado News, Apr. 22, 2009. Copy supplied.

Emerald Brigade Marches Off with Silver, Pomerado News, Dec. 30, 2008. Copy supplied.

Jason Krause, *E-Discovery Tips from the Bench*, Law Technology News, June 16, 2008. Copy supplied.

Rupa Singh, *Hotel San Diego: Historical Landmark Serves as Building Ground for New Courthouse Annex*, Federal Bar Association of San Diego Newsletter, Summer 2006. Copy supplied.

Carolyn M. Hacker, *Judicial Profile: U.S. Magistrate Judge Cathy Ann Bencivengo*, Federal Bar Association of San Diego Newsletter, Spring 2006. Copy supplied.

Morgan S. Adessa, *The Southern District of California Adopts Its Own Local Patent Rules*, Federal Bar Association of San Diego Newsletter, Spring 2006. Copy supplied.

IP 360 2006 Patent Litigation Survey, IP Law360, Feb. 7, 2006. Copy supplied.

Nancy L. Stagg, *Meet the New Federal Magistrate Judge: The Honorable Cathy Ann Bencivengo*, Association of Business Trial Lawyers of San Diego Report, Jan. 2006. Copy supplied.

Onell R. Soto, *Man on Probation in Attempt to Extort Dr. Seuss Estate*, San Diego Union-Tribune, Aug. 21, 2004. Copy supplied.

Renee Deger, *Fighting for Scraps*, The Recorder, Dec. 27, 2001. Copy supplied.

Neil Morgan, *'Cat in Hat' Seems About to Save Day for Justice*, San Diego Union-Tribune, July 13, 1997. Copy supplied.

Adam Entous, *U.S. Court Blocks 'Cat in the Hat' Parody on O.J.*, Reuters, Mar. 28, 1997. Copy supplied.

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

Judge Pro Tem for the San Diego Small Claims Court, appointed in approximately 1994 and served until mid-2005. The jurisdictional limit was \$5000 or less. I volunteered approximately six times a year and heard and entered judgment on approximately 100 cases. They were all bench trials for civil matters, mainly landlord/tenant disputes, breach of contract matters and property damage claims. I issued no written opinions in any of these matters.

United States Magistrate Judge for the Southern District of California, appointed in December 2005, pursuant to Title 28 U.S.C. Section 636.

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

Two.

- i. Of these, approximately what percent were:

jury trials:	50 %
bench trials:	50 %
civil proceedings:	50 %
criminal proceedings:	50 %

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

See attached list.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the

case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

As a Magistrate Judge in the Southern District of California, I only preside over cases on the consent of the parties. During my five years on the bench I have received consents to my jurisdiction for the following civil matters:

1. *Mytee Products Inc. v. Harris Research, Inc.*, Case No. 06cv1854-CAB

A patent infringement case involving vacuum devices for extracting liquid from carpets. One of the opinions I issued in this case – denying plaintiff’s motion for summary judgment of non-infringement – is published at 615 F. Supp. 2d 1163 (S.D. Cal. 2009) (additional opinions are supplied in response to Question 13d). This case was tried to a jury in October 2009, and the jury returned a verdict in favor of the defendant. An appeal is presently pending before the Court of Appeals for the Federal Circuit. Counsel for the plaintiff was Anthony Dain, Esq., of Procopio Cory Hargreaves & Savitch, 530 B Street, Suite 2100, San Diego, CA 92101, phone 619/238-1900. Counsel for the defendant was Shaun Peck, Esq., of Peck, Hadfield, Baxter & Moore, LLC, 399 North Main Street, Suite 300, Logan, UT 84321, phone 435/787-9700.

2. *Hartless v. Clorox Co.*, Case No. 06cv2705-CAB, and *Wachowski v. Clorox Co.*, Case No. 09cv0138-CAB

Companion class action cases alleging false and misleading advertising involving a consumer product. The cases settled and I presided over the certification of the class for settlement and the class settlement. The order approving the class certification and settlement is reported at *Hartless v. Clorox Co.*, 2011 WL 197542 (S.D. Cal. Jan. 20, 2011). Appeals filed by two objectors are presently pending before the Court of Appeals for the Ninth Circuit. Counsel for the plaintiff class was Timothy Gordon Blood, Esq., of Blood Hurst & O’Reardon LLP, 600 B Street, Suite 1550, San Diego, CA 92101, phone 619/338-1100. Counsel for defendant was Adam G. Levine, Esq., of O’Melveny and Myers, 400 South Hope Street, Los Angeles, CA 90071, phone 213/430-6000.

3. *Lange v. CIR Law Offices*, Case No. 09cv1485-CAB.

A claim brought under the Fair Debt Collection Act, in which the plaintiff alleged the defendant violated the act by unlawfully levying her bank account which contained Social Security funds to satisfy a judgment entered against plaintiff in a state court matter. The case was dismissed on defendant’s motion for summary judgment. The order is reported at *Lange v. CIR Law Offices*, 2010 WL 2524089, (S.D. Cal. June 22, 2010). Counsel for plaintiff was Todd M. Friedman, Esq., Law Offices of Todd M. Friedman, P.C., 369 South Doheny Drive, Suite 415, Beverly Hills, CA 90211, phone 877/206-4741. Counsel for defendant was Mandie

Bullock, Esq., of CIR Law Offices LLP, 8665 Gibbs Drive, Suite 150, San Diego, CA 92123, phone 858/495-1817.

4. *Foster v. Verkouteren*, Case No. 08cv0554-CAB

A prisoner civil rights case in which the plaintiff alleged the defendant assaulted him. The case was dismissed on defendant's motion for summary judgment for failure to exhaust. The order is reported at *Foster v. Verkouteren*, 2009 WL 2485369 (S.D. Cal. Aug. 12, 2009). The order was affirmed by the Court of Appeals for the Ninth Circuit in an unpublished decision, Case No. 09-56396, 405 Fed. Appx. 102 (9th Cir. Nov. 23, 2010). Plaintiff was *pro se*. Counsel for the defendant was Terrence F. Sheehy, Esq., Office of the Attorney General, 110 West A Street, Suite 1100, San Diego, CA 92101, phone 619/645-2618.

5. *Janoe v. Raske*, Case No. 08cv1603-CAB

A prisoner civil rights case in which the plaintiff alleged a denial of access to the courts in violation of the Fourteenth Amendment. I granted defendant's motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). The order is reported at *Janoe v. Raske*, 2009 WL 1615991 (S.D. Cal. June 08, 2009). Plaintiff was *pro se*. Counsel for the defendant was Stephen A. Aronis, Esq., Office of the Attorney General, 110 West A Street, Suite 1100, San Diego, CA 92101, phone 619/645-2138.

6. *Gallo v. Masco Corp.*, Case No. 08cv0604-CAB, and *Ibarra v. Builder Servs. Grp., Inc.*, Case No. 10cv0199-CAB

Related cases involving allegations of denial of overtime compensation and other wage and hour claims. I negotiated the settlement of these cases, and the parties subsequently consented to my jurisdiction to resolve the award of attorneys' fees to plaintiffs. I awarded fees in an order reported at 2011 WL 1627942 (S.D. Cal. Apr. 28, 2011). Counsel for the plaintiffs are John F. Hyland, Esq., of Rukin Hyland Doria & Tindall LLP, 100 Pine Street, Suite 725, San Francisco, CA 94111, phone 415/421-1800 and Linda J. Gullledge, Esq., of the Gullledge Law Group, 1190 South Victoria Avenue, Suite 208, Ventura, CA 93003, phone 805/642-1972. Counsel for the defendants is Arthur F. Silbergeld, Esq., of Bingham McCutchen LLP, 1620 26th Street, Fourth Floor, North Tower, Santa Monica, CA 90404, phone 650/907-1000.

7. *Hendon v. Ramsey*, Case No. 06cv1060-CAB

A prisoner civil rights case in which the plaintiff claimed he was involuntarily medicated in violation of the law. The case was scheduled for trial on March 21, 2011, but settled on February 14, 2011. I issued no substantive orders in this case. Plaintiff was *pro se*. Counsel for the defendant was John P. Walters, II,

Esq., Office of the Attorney General, 110 West A Street, Suite 1100, San Diego, CA 92101, phone 619/645-3033.

8. *Struble v. Fallbrook Union High School Dist.*, Case No. 07cv2328-LAB (CAB)

An appeal of an administrative law judge's ("ALJ") determination of whether the defendant provided the plaintiff's son with a "free and appropriate public education." The matter was referred by the District Judge for hearing and a report and recommendation regarding the parties' cross motions for reversal of the administrative decision. Defendant's counterclaim was dismissed with prejudice and plaintiff's claim was remanded for further determinations by the ALJ. Counsel for plaintiff was Ellen Jean Dowd, Esq., Law Offices of Ellen J. Dowd, 2658 Del Mar Heights Road, Suite 228, Del Mar, CA 92014, phone 858/342-8360. Counsel for defendant was Sharon A. Watt, Esq., of Filarsky and Watt LLP, 408 Bryant Circle, Suite C, Ojai, CA 93023, phone 805/640-2970. The R&R is reported at *Struble v. Fallbrook Union High School Dist.*, 2008 WL 8215426, S.D.Cal., August 29, 2008.

9. *Bal Seal Engineering Co. v. Huang*, Case No. 10cv0819-CAB

A patent infringement case involving springs used in latching and locking operations. A claim construction hearing was held on March 25, 2011 and the case is currently pending. Lead counsel for plaintiff is Tom H. Dao, Esq., of Klein, O'Neill & Singh LLP, 18200 Von Karman Avenue, Suite 725, Irvine, CA 92612, phone 949/955-1920. Lead counsel for defendants is Christopher D. Olszyk, Jr., Esq., of Pepper Hamilton LLP, 3000 Two Logan Square, 18th & Arch Street, Philadelphia, PA 19103, phone 215/981-4302.

10. *United States v. Nunez-Beltran*, Case No. 10cr0522-CAB

The defendant was charged with misdemeanor illegal entry. I held a bench trial on March 5, 2010, and found the defendant guilty. My decision was appealed and reviewed by District Judge Jeffrey Miller, who affirmed my judgment. An appeal of Judge Miller's order filed by defendant is pending in the Court of Appeals for the Ninth Circuit. Counsel for the United States was Sheila Nagaraj, Esq., U.S. Attorney's Office, Southern District of California, 880 Front Street, Room 6293, San Diego, CA 92101, phone 619/557-7733. Counsel for the defendant was Alysia D. Franklin, Federal Defenders of San Diego, Inc., 225 Broadway, Suite 900, San Diego, CA 92101, phone 619/234-8467.

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Mytee Products Inc. v. Harris Research, Inc.*, Case No. 06cv1854-CAB, 615 F. Supp. 2d 1163 (S.D. Cal. 2009); Order Denying Plaintiff's Motion for Summary Judgment of Non-Infringement of the '577 and '892 Patents.

Counsel for the plaintiff was Anthony Dain, Esq., of Procopio Cory Hargreaves & Savitch, 530 B Street, Suite 2100, San Diego, CA 92101, phone 619/238-1900. Counsel for the defendant was Shaun Peck, Esq., of Peck, Hadfield, Baxter & Moore, LLC, 399 North Main Street, Suite 300, Logan, UT 84321, phone 435/787-9700.

2. *Mytee Products Inc. v. Harris Research, Inc.*, Case No. 06cv1854-CAB; Order Regarding the Parties' Cross Motions for Summary Judgment of Invalidity supplied.

Counsel for the plaintiff was Anthony Dain, Esq., of Procopio Cory Hargreaves & Savitch, 530 B Street, Suite 2100, San Diego, CA 92101, phone 619/238-1900. Counsel for the defendant was Shaun Peck, Esq., of Peck, Hadfield, Baxter & Moore, LLC, 399 North Main Street, Suite 300, Logan, UT 84321, phone 435/787-9700.

3. *Mytee Products Inc. v. Harris Research, Inc.*, Case No. 06cv1854-CAB; Order Denying Motions for Attorneys' Fees supplied.

Counsel for the plaintiff was Anthony Dain, Esq., of Procopio Cory Hargreaves & Savitch, 530 B Street, Suite 2100, San Diego, CA 92101, phone 619/238-1900. Counsel for the defendant was Shaun Peck, Esq., of Peck, Hadfield, Baxter & Moore, LLC, 399 North Main Street, Suite 300, Logan, UT 84321, phone 435/787-9700.

4. *Mytee Products Inc. v. Harris Research, Inc.*, Case No. 06cv1854-CAB; Order Re: Permanent Injunction supplied.

Counsel for the plaintiff was Anthony Dain, Esq., of Procopio Cory Hargreaves & Savitch, 530 B Street, Suite 2100, San Diego, CA 92101, phone 619/238-1900. Counsel for the defendant was Shaun Peck, Esq., of Peck, Hadfield, Baxter & Moore, LLC, 399 North Main Street, Suite 300, Logan, UT 84321, phone 435/787-9700.

5. *Hartless v. Clorox Co.*, Case No. 06cv2705-CAB, 2011 WL 197542 (S.D. Cal. Jan. 20, 2011)

Counsel for the plaintiff class was Timothy Gordon Blood, Esq., of Blood Hurst & O'Reardon LLP, 600 B Street, Suite 1550, San Diego, CA 92101, phone 619/338-1100. Counsel for defendant was Adam G. Levine, Esq., of O'Melveny and Myers, 400 South Hope Street, Los Angeles, CA 90071, phone 213/430-6000.

6. *Wi-Lan Inc. v. Research in Motion Corp.*, Case No. 10cv859-W (CAB), 2010 WL 2998850 (S.D. Cal. July 28, 2010)

Counsel for Wi-Lan was John C. Briody, Esq., of McKool Smith PC, One Bryant Park, 47th Floor, New York, NY 10036, phone 212/402-9438. Counsel for Qualcomm was David Henry Dolkas, Esq., of McDermott Will & Emery, 275 Middlefield Road, Suite 100, Menlo Park, CA 94025, phone 650/815-7415.

7. *Lange v. CIR Law Offices*, Case No. 09cv1485-CAB, 2010 WL 2524089 (S.D. Cal. June 22, 2010)

Counsel for plaintiff was Todd M. Friedman, Esq., Law Offices of Todd M. Friedman, P.C., 369 South Doheny Drive, Suite 415, Beverly Hills, CA 90211, phone 877/206-4741. Counsel for defendant was Mandie Bullock, Esq., of CIR Law Offices LLP, 8665 Gibbs Drive, Suite 150, San Diego, CA 92123, phone 858/495-1817.

8. *Ins. Co. of State of PA v. City of San Diego*, Case No. 02cv0693-BEN (CAB), 2008 WL 926558 (S.D. Cal. Apr. 4, 2008)

Counsel for plaintiff was Stephen V. Kovarik, Esq., of Lewis Brisbois Bisgaard & Smigh, 221 North Figueroa Street, Suite 1200, Los Angeles, CA 90012, phone 213/250-1800. Counsel for defendant were Kristine L. Wilkes, Esq., of Latham and Watkins, 600 West Broadway, Suite 700, San Diego, CA 92101, phone 619/236-1234 and Harvey Levine, Esq., of Levine & Miller, 550 West C Street, Suite 1810, San Diego, CA 92101, phone 619/231-9449.

9. *Struble v. Fallbrook Union High School Dist.*, Case No. 07cv2328-LAB (CAB), 2008 WL 8215426 (S.D. Cal. Aug. 29, 2008)

Counsel for plaintiff was Ellen Jean Dowd, Esq., Law Offices of Ellen J. Dowd, 2658 Del Mar Heights Road, Suite 228, Del Mar, CA 92014, phone 858/342-8360. Counsel for defendant was Sharon A. Watt, Esq., of Filarsky and Watt LLP, 408 Bryant Circle, Suite C, Ojai, CA 93023, phone 805/640-2970.

10. *Lanum v. Astrue*, Case No. 07cv1948-JM (CAB); Report and Recommendation Regarding Cross Motions for Summary Judgment supplied.

Counsel for plaintiff was Steven G. Rosales, Esq., Law Office of Lawrence D. Rohlifing, 12631 East Imperial Highway, Suite C115, Sante Fe Springs, CA 90670, phone 562/868-5886. Counsel for defendant was Thomas C. Stahl, Esq., U.S. Attorney's Office, Southern District of California, 880 Front Street, Room 6293, San Diego, CA 92101, phone 619/557-7140.

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

Williams v. Harrison, 2007 WL 1110910 (S.D. Cal. Mar. 28, 2007), *rev'd*, 368 Fed. Appx. 764 (9th Cir. 2010), *cert. denied*, 130 S. Ct. 3414, 177 L. Ed. 2d 327 (2010), 2010 WL 15293964 (June 14, 2010).

- 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.

Renteria v. Williams, Case No. 05cv0516-JM (CAB).

Report and Recommendation Regarding Defendant's Motion for Summary Judgment, filed November 19, 2007, recommended dismissing plaintiff's Eighth Amendment claim of excessive force because plaintiff failed to establish more than de minimis injury and his retaliation claim for failure to exhaust. The District Judge adopted the recommendation on a *de novo* review. The order and recommendation are reported at *Renteria v. Williams*, 2008 WL 698463 (S.D. Cal. Mar. 14, 2008). The Ninth Circuit affirmed dismissal of the retaliation claim, but vacated and remanded the Eighth Amendment claim holding that the standard for an Eighth Amendment claim is whether the force is excessive, not the extent of the resulting injury, so summary judgment should not have been granted. Reported at *Renteria v. Williams*, 340 Fed. Appx. 386 (9th Cir. 2009).

Williams v. Harrison, Case No. 05cv2150-W (CAB).

Report and Recommendation to Deny Petitioner's Motion to Amend the Petition, filed January 31, 2007, recommending denial of petitioner's motion to amend his petition for writ of habeas corpus because he sought to add claims outside the statute of limitations. The District Judge adopted the recommendation on a *de novo* review. The order and recommendation are reported at *Williams v. Harrison*, 2007 WL 1110910 (S.D. Cal. Mar. 28, 2007). The Ninth Circuit reversed holding that petitioner's motion to recall the remittitur in state court may serve as a habeas petition and toll the statute of limitations and remanded for a determination as to whether the claims in petitioner's state motion to recall the remittitur should be treated as state habeas petitions. Reported at *Williams v. Harrison*, 368 Fed. Appx. 764 (9th Cir. 2010).

Hall v. Harrison, Case No. 05cv1261-W (CAB) .

Report and Recommendation Re Respondent's Motion to Dismiss the First Amended Petition for Writ of Habeas Corpus, filed January 26, 2007, recommending denial of respondent's motion to dismiss because petitioner presented colorable federal constitutional claims and exhausted his claims. The District Judge rejected the report in part, on a *de novo* review, finding the petitioner's claims did not raise a colorable federal issue and dismissed the First Amended Petition with prejudice. Reported at *Hall v. Harrison*, 2007 WL

1110918 (S.D. Cal. Mar. 29, 2007). A copy of my Report and Recommendation is supplied.

Stewart v. Tilton, Case No. 05cv1059-BTM (CAB).

Report and Recommendation Denying Petition for Writ of Habeas Corpus, filed February 28, 2008, recommending denial of the petition because it was untimely and because he failed to present a federal question, or show the state court denials were contrary to or an unreasonable application of federal laws and he did not make a truly persuasive demonstration he was actually innocent. Reported at *Stewart v. Tilton*, 2008 WL 2276158 (S.D. Cal. Feb. 28, 2008). The District Judge, on a *de novo* review, declined to adopt the recommendation and granted the petitioner's motion to amend. *Stewart v. Cate*, 2008 WL 2276209 (S.D. Cal. May 30, 2008).

United States v. Nunez-Beltran, Case No. 10cr0522-CAB.

I held a bench trial on March 5, 2010, and found the defendant guilty of misdemeanor illegal entry. My decision was appealed and reviewed *de novo* by District Judge Jeffrey Miller, who affirmed my judgment but found error in the admission of the defendant's birth certificate. 2010 WL 2985490 (S.D. Cal. July 26, 2010). An appeal of Judge Miller's order filed by defendant is pending in the Court of Appeals for the Ninth Circuit.

- 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.

My search for published opinions resulted in 176 issued opinions. This appears to be slightly more than 8% of my issued opinions. Since December 2005, the District Court's records reflect that I have issued over 160 Report and Recommendations and over 450 orders on non-dispositive motions for Habeas Corpus Petitions and in Prisoner Civil Rights cases; 11 Report and Recommendations and 18 orders on non-dispositive motions in Social Security Appeals; 20 Report and Recommendations on dispositive motions and over 610 orders on non-dispositive motions in other civil cases; and 85 orders on dispositive motions in civil consent cases. I have issued over 770 orders on non-dispositive motions in felony cases. The unpublished opinions are stored electronically in the District Court's records and can be searched by author, case names and number, and other parameters.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not issued any opinions that addressed any significant federal or state constitutional issues.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

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

I recuse from any matter in which I have a financial interest in accordance with the Code of Judicial Conduct. I also recuse if I have a relationship with counsel or a party such that it would be improper or create an appearance of impropriety for me to be a judge on the case. I do not take cases in which parties are represented by my former law firm or my former clerks and I have a short list of close friends and former clients on my recusal list. Our court has an automatic recusal system. A judge enters names of entities or individuals that will trigger a conflict hit. If that happens, the clerk's office either reassigns the case or sends a notice to the judge that there was a hit so the judge can determine if recusal is appropriate. It is my responsibility to update my list as needed.

There is no record of the cases that are automatically reassigned by the clerk's office resulting from a conflict hit at the time the case was filed.

I have recused sua sponte on the following cases because my former law firm or a personal friend was representing a party and I felt it was improper or would appear improper for me to be a judge on the case:

Hermanson v. Hunter, Case No. 07cv936-WQH (LSP)
Regional Water v. Bernal, Case No. 01cv270-BTM (BLM)
Smith v. Kraft Foods, Inc., Case No. 07cv2192-BEN (WMC)

Meyer v. Qualcomm Inc., Case No. 08cv655-WQH (LSP)
Oliver v. Bill Muncy Industries Inc., Case No. 08cv1940-WQH (NLS)
Lorenzo v. United States, Case No. 09cv1803-DMS (BGS)
SEC v. Khanna, Case No. 09cv1783-BEN (WVG)
SEC v. Khanna, Case No. 09cv1784-BEN (WVG)
Zeinali v. Raytheon Company, Case No. 09cv838-JLS (BLM)
Ivy Hotel San Diego v. Houston Cas. Co., Case No. 10cv2183-L (BGS)
Norris v. Berkowitz, Case No. 10cv2477-BEN (NLS)

I also recused sua sponte on the following cases:

Stewart v. California Dept. of Educ., Case No. 07cv971-MMA (WVG)
To v. Poway Unified Sch. Dist., Case No. 07cv1978-LAB (NLS)

At the time my children were students in the Poway Unified School District and I believed it could be perceived as a conflict of interest for me to be a judge on a matter in which their school district was a party.

In 2009, I inherited financial assets from my parent's estate. I had two matters pending before me from which I recused sua sponte due to a conflict that arose resulting from inherited stock (I sold the inherited stocks as soon as possible to avoid future conflicts):
Moutain v. Home Depot, Case No. 09cv1326-W (BGS)
Intel Corp. v. Procopio, Cory, Hargreaves & Savitch, Case No. 10cv264-JLS (BLM)

I also recused sua sponte from a case that involved disciplinary proceedings against a criminal defense attorney practicing in our District – *In Re: DeOlivas*, Case No. 08cv1575-BLM. I sanctioned the attorney and his conduct in my court was one of the instances that led to his disciplinary proceedings. When the case was assigned to me to supervise counsel's compliance with the disciplinary order, I did not feel it was proper and recused so one of my colleagues who had not had any similar instances with the attorney could supervise his compliance.

I have not had a litigant or party request directly to me that I recuse due to an asserted conflict of interest. I am aware of three cases in which a party requested by motion that I be recused from the case:

Luna v. Sears Life Ins. Co., Case No. 06cv2653-DMS (CAB). Counsel for plaintiff filed a motion with District Judge Dana Sabraw on February 7, 2007, requesting I be disqualified based on a perceived bias against plaintiff's case. Judge Sabraw denied the motion and I did not voluntarily recuse and I continued management of the litigation. I had no bias against Mr. Luna or his case. In light of the plaintiff's stated perception, however, I did refer the parties to another Magistrate Judge for settlement negotiations.

Klat v. Mitchell Repair Info. Co., Case No. 10cv0100-JM (CAB). Plaintiff Klat, a *pro se* litigant in an employment discrimination case, filed a motion with District Judge Jeffrey Miller on March 9, 2010, requesting Judge Miller and I both recuse from her matter based on a perceived bias against her case. Judge Miller denied the motion and I did not voluntarily recuse. I have no bias against Ms. Klat or her case.

Martinez v. Scribner, Case No. 06cv2613-JAH (CAB). Plaintiff Martinez, a *pro se* litigant in a prisoner civil rights action, filed a motion with District Judge John Houston on May 12, 2010, requesting the District Judge remove me as Magistrate Judge on the case because he believes I have issued orders that are biased and prejudicial against him. The request is pending before the District Judge, however, had plaintiff made the request directly to me, I would not have recused based on his dissatisfaction with the court's rulings. I have no bias or prejudice against Mr. Martinez.

15. Public Office, Political Activities and Affiliations:

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

I have held no public offices.

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

I have not been a member or held an office in any political party or election committee. I have never held a position or played a role in a political campaign.

16. Legal Career: Answer each part separately.

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

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

I did not serve as a clerk to a judge.

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

I have never practiced alone.

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

1988 – 2005

DLA Piper US, LLP

401 B Street, Suite 1700

San Diego, California 92101

Partner (1996 – 2005)

Associate (1988 – 1996)

(Note: From 1987 to 1994, the firm was known as Gray, Cary, Ames & Frye. From 1994 to 2005, it was known as Gray, Cary, Ware & Freidenrich. In 2005 it became DLA Piper Rudnick Gray Cary LLP. It is now known as DLA Piper US, LLP.)

- 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 not served as a mediator or arbitrator.

b. Describe:

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

I was a civil litigator. In the initial years of my practice, 1988 through 1992, approximately 50% of my practice was intellectual property litigation and 50% was insurance defense, business disputes and environmental tort litigation. From 1993 until I left practice my work was approximately 80% intellectual property litigation, mostly patent cases, and 20% breach of contract, trade secret and other business disputes. I was the National Co-Chair of Patent Litigation for DLA Piper US, LLP. As the firm's Patent Litigation Co-Chair, I managed a group of 70 patent litigators in six offices around the United States. In addition to my client work, I was responsible for the administration of the group, client intake, budgeting, marketing and recruiting.

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

During the initial years of my practice, I represented insureds of the Automobile Club of Southern California (AAA) in personal injury cases and local San Diego businesses in contract and intellectual property cases. I was a founding member of the law firm's patent litigation practice. From 1993 on my practice primarily involved representing both patent owners and accused infringers in patent cases involving a variety of technologies including computer hardware and software, semiconductor design and manufacturing, telecommunications devices, automotive parts, medical devices, immunology and consumer products. My clients ranged

from individuals and small startups to large international corporations. Starting in 1994 my copyright and trademark work was primarily for Dr. Seuss Enterprises, L.P.

- 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.

All my practice has been in litigation. I appeared in court two to three times a month during my early years of practice (1988-1992), mostly for motion practice. During the middle period (1993-2000), in addition to four patent jury trials, I appeared in court one to two times a month. During the last period (2001-2005), I appeared in court 6 to 8 times a year as my administrative responsibilities increased.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 75% |
| 2. state courts of record: | 25% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

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

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

I tried eleven civil cases to verdict. Eight were jury trials. I was sole counsel for one of those cases and second chair, associate or co-counsel for seven of those cases. I tried three civil bench trials. I was sole counsel for each of those cases.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 73% |
| 2. non-jury: | 27% |

- 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 am admitted to the Supreme Court of the United States and was co-counsel on one amicus brief filed in *Eldred v. Ashcroft*, 537 U.S. 186 (2003), on behalf of Dr. Seuss Enterprises, L.P., et al. Copy supplied.

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

- 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. *Magliaro v. Olmstead*, San Diego Superior Court Case No. N39406, December 1989.

This was a property damage and emotional distress case resulting from defendant's excessive pesticide application at plaintiffs' residence. Representing the plaintiffs, I handled discovery, motion practice, witness preparation, was second chair at trial and prepared the respondent's brief on appeal. The case was tried in the Vista Branch of the San Diego Superior Court before the Hon. Don Martinson. The jury returned a verdict for the plaintiffs, which was affirmed on appeal. I worked on the case from approximately July 1989 through the appeal in 1991.

Co-counsel for plaintiffs was Douglas Barker, Esq., of Barker Olmstead & Barnier, APLC, 2341 Jefferson Street, Suite 200, San Diego, CA 92110, phone 619/682-4801. Counsel for defendant was Susan Grady, Esq., 7855 Ivanhoe Avenue, Suite 408, La Jolla, CA 92037, phone 858/454-0744.

2. *IRT v. Four Pi Systems Corp.*, Case No. 92cv1575-G, November 1993.

This was a fraud and misappropriation case with a counterclaim for patent infringement involving an apparatus for three-dimensional imaging of solder connections on circuit boards. Representing defendant/counterclaimant Four Pi Systems, I handled discovery, motion practice, demonstrative exhibit preparation, jury instructions and verdict form, witness preparation, was second chair at trial and prepared post-trial motions. Trial in the U.S. District Court for the Southern District of California before the Hon. Earl B. Gilliam resulted in a hung jury. Plaintiff filed for bankruptcy during post-trial motion practice and the case was eventually dismissed for failure to prosecute. I worked on the case from approximately August 1992 to January 1995.

Co-counsel was John Allcock, Esq., DLA Piper US, LLP, 401 B Street, Suite 1700, San Diego, CA 92101, phone 619/699-2828. Counsel for plaintiff was Robert P. Cummins, Esq., Cummins & Cronin LLC, 77 West Wacker Drive, Suite 4800, Chicago, IL 60601, phone 312/578-0500.

3. *Cabinet Vision v. Cabnetware*, 129 F.3d 595 (Fed. Cir. 1997); 230 F.3d 1382 (Fed. Cir. 2000).

This was a patent infringement case involving computer software for the design and manufacture of custom cabinetry. Representing plaintiff, I handled discovery, motion practice, demonstrative exhibit preparation, jury instructions and verdict form, witness preparation, was second chair at trial and prepared post-trial motions and appeals. The case was tried in the U.S. District Court for the Southern District of California before the Hon. William B. Enright, who set aside a verdict for the plaintiff. On appeal, the case was reversed and remanded. On remand, JMOL was entered for the defendant. This decision was reversed in part and affirmed in part on a second appeal. I worked on the case from approximately January 1994 to February 2000.

Co-counsel was John Allcock, Esq., DLA Piper US, LLP, 401 B Street, Suite 1700, San Diego, CA 92101, phone 619/699-2828. Trial counsel for defendant was Chris Gibson, Esq., of Boutin Jones, Inc., 555 Capitol Mall, Suite 1500, Sacramento, California 95814, phone 916/321-4444. Appellate counsel for defendant was John Sganga, Jr., Esq., Knobbe, Martens, Olson & Bear, LLP, 2040 Main Street, 14th Floor, Irvine, CA 92614, phone 949/760-0404.

4. *Dr. Seuss Enterprises L.P. v. Penguin Books USA, Inc.*, 924 F. Supp. 1559 (S.D. Cal. 1996), *aff'd*, 109 F.3d 1394 (9th Cir. 1997).

This was a copyright and trademark infringement case involving unauthorized use of the "Cat in the Hat" and other Dr. Seuss properties in a book about the O.J. Simpson trial. Representing plaintiff, I briefed the motion for injunction at the District Court level and co-wrote the respondent's brief on appeal. The case was heard in the U.S. District Court for the Southern District of California before the Hon. Napoleon A. Jones, Jr. The court entered a preliminary injunction for Dr. Seuss prohibiting publication of the infringing work. That decision was affirmed on appeal, after which defendant abandoned the publication of the infringing book. I worked on the case from approximately February 1996 to March 1997.

Co-counsel was Alex H. Rogers, Esq., formerly with Gray Cary, now at Qualcomm Incorporated, 5775 Morehouse Drive, San Diego, CA 92121, phone 858/651-5861. Counsel for defendant was Vincent Cox, Esq., of Leopold, Petrich & Smith PC, 2049 Century Park East, Suite 3110, Los Angeles, CA 90067, phone 310/277-3333.

5. *BioGenex Labs. v. Biotek Solutions Inc.*, 152 F.3d 947 (Fed. Cir. 1998).

This was a patent infringement case involving a process for enhancing immunostaining for antigen retrieval. Representing plaintiff, I handled discovery, motion practice, demonstrative exhibit preparation, jury instructions and verdict form, witness preparation, was second chair at trial and prepared post-trial motions and respondent's brief on appeal. The case was tried in the U.S. District Court for the Northern District of California, San Jose Division, before the Hon. Edward A. Infante. The jury returned a verdict for plaintiff finding willful infringement and the court awarded enhanced damages. The judgment was affirmed on appeal. I worked on the case from approximately November 1996 to April 1998.

Co-counsel was John Allcock, Esq., DLA Piper US, LLP, 401 B Street, Suite 1700, San Diego, CA 92101, phone 619/699-2828. Trial counsel for defendant was Michael K. Plimack, Esq., of Covington & Burling LLP, One Front Street, San Francisco, CA 94111, phone 415/591-7002.

6. *In re Burke, Inc: Personal Mobility Vehicle Patent Litig.*, MDL Docket No. 809 KMW, Civ. No. 89-2613, September 1998.

This was a patent infringement case involving personal mobility vehicles for the disabled and the elderly. Representing defendant Everest & Jennings, I associated in as co-counsel at the request of the client shortly before trial to assist at trial with the defense and primarily to manage the damages aspect of the case. The case was tried in the U.S. District Court for the Central District of California before the Hon. Kim Wardlaw, resulting in a hung jury and settlement post-trial. I worked on the case from approximately March 1998 to October 1998.

Co-counsel was John Kelly, Esq., and John Bauersfeld, Esq., of Kelly Bauersfeld Lowery & Kelley, LLP, 6320 Canoga Avenue, Suite 1650, Woodland Hills, CA 91367, phone 818/347-7900. Counsel for plaintiff was James H. Wallace, Esq., of Wiley Rein & Fielding, 1776 K Street Northwest, Washington, DC 20006, phone 202/429-7000.

7. *Cambrian Consultants v. Maxtor Corp.*, Case No. CV-01-04580 R, February 2002.

This was a patent infringement case involving emergency retract systems for hard disk drives. Representing defendant, I handled discovery, expert witness depositions, and motion practice. The case was heard in the U.S. District Court for the Central District of California, before the Hon. Manuel Real. The Court granted defendant's motion for summary judgment of unenforceability due to inequitable conduct. I worked on the case from approximately May 2001 to February 2002.

Co-counsel was William Boggs, Esq., DLA Piper US, LLP, 401 B Street, Suite 1700, San Diego, CA 92101, phone 619/699-2758. Trial counsel for plaintiff were Roderick Dorman, Esq., and Larry Hadley, Esq., of Hennigan, Bennett & Dorman, 601 South Figueroa Street, Suite 3300, Los Angeles, CA 90017, phone 213/694-1200.

8. *Dri Mark Prods., Inc., v. Nat'l Ink, Inc. and Dixon Ticonderoga*, 2002 WL 550968 (S.D.N.Y. 2002), *aff'd*, 2003 WL 1194271 (Fed. Cir. 2003).

This was a patent infringement case involving ink formulations for capillary action markers. Representing defendant National Ink, I was lead trial and appellate counsel. I managed discovery, prepared and argued claim construction and a summary judgment motion in the District Court, and prepared respondent's brief and presented argument on appeal. The case was heard in the U.S. District Court for Southern District of New York before the Hon. Harold Baer. The Court granted defendant's motion for summary judgment of non-infringement, which was affirmed on appeal. I worked on the case from approximately July 2001 to April 2002.

Counsel for co-defendant Dixon Ticonderoga was Dominick Conde, Esq., of Fitzpatrick, Cella, Harper & Scinto, 30 Rockefeller Plaza, New York, NY 10012, phone 212/218-2100. Counsel for plaintiff was Max Moskowitz, Esq., of Ostrolenk, Faber, Gerb & Soffen, LLP, 1180 Avenue of Americas, New York, NY 10036, phone 212/382-0700.

9. *Maxtor Corp. v. Magnetic Media Dev.*, Case No. CV-00-04153 GAF, March 2001.

This was a declaratory relief case for patent non-infringement involving magnetic media for hard disk drives. Representing plaintiff Maxtor, I managed discovery and prepared claim construction briefing. The case was filed in the U.S. District Court for the Central District of California before the Hon. Gary A. Feess, and settled at the claim construction hearing. I worked on the case from approximately May 2000 to March 2001.

Co-counsel was William Boggs, Esq., DLA Piper US, LLP, 401 B Street, Suite 1700, San Diego, California 92101, phone 619/699-2758. Trial counsel for defendant were Paul F. McCaul, Esq., 1334 Park View Avenue, Suite 100, Manhattan Beach, CA 90266, phone 310/546-8100 and Joseph Price, Esq., and Michael Moffat, Esq., of Price & Gess, 2100 South East Main Street, Suite 250, Irvine, CA 92614, phone 494/261-8433.

10. *Northern Telecom Ltd. v. Samsung Electronics Co.*, 215 F.3d 1281 (Fed. Cir. 2000).

This was a patent infringement case involving a method of plasma etching conductive materials for semiconductor wafer production. Representing defendant Samsung Electronics, I worked on discovery, prepared and argued the summary judgment motion, and prepared respondent's brief on appeal. The case was heard in the U.S. District Court for the Northern District of California before the Hon. Martin J. Jenkins. The Court granted defendant's motion for summary judgment of invalidity finding the inventor failed to disclose the best way to practice the patented invention in violation of the patent disclosure rules. That decision was reversed on appeal and the case settled after remand. I worked on the case from May 2000 to March 2001.

Co-counsel were David Monahan, Esq., and John Allcock, Esq., DLA Piper US, LLP, 401 B Street, Suite 1700, San Diego, CA 92101, phone 619/699-2828. Trial counsel for

plaintiff was Jack London, Esq., of Morrison & Foerster LLP, 425 Market Street, San Francisco, CA 94104, phone 415/268-7000.

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

As a litigator my most significant cases are listed in responses to Question 17, above. As a patent litigator, many of the matters I worked on did not proceed to trial. Throughout my litigation practice, much of the legal work I did enabled me to settle litigation for intellectual property clients such as Maxtor Corporation, Samsung Electronics Co., and Hewlett-Packard on favorable terms without proceeding to trial. I also provided assessments to partners in my former firm of key intellectual property assets being acquired by clients in business mergers and acquisitions.

For Dr. Seuss Enterprises, L.P., in addition to copyright and trademark enforcement litigation, I assisted in coordinating with charitable and community organizations for the use of Dr. Seuss properties.

I became my former law firm's intellectual property practice group assistant chair in approximately 2000 and gradually took over the administration of the group, including associate and lateral partner hiring and retention, client intake, budgeting, marketing and training. I was the National Co-Chair of the 70-person DLA Piper US LLP Patent Litigation Practice Group, a position rarely held by a woman attorney with no science or engineering degree, when I was appointed a U.S. Magistrate Judge for the Southern District of California.

I have not performed any lobbying activities for any client or organization.

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.

Introduction to Intellectual Property Law, at University of San Diego School of Law, from June 7 through July 31, 1999.

The course was an introduction to copyright, trademark and patent law. It covered the types of intellectual property protected by each statutory provision, application procedures, enforcement proceedings, affirmative defenses and damages. I do not have a copy of the syllabus.

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

I have no anticipated receipts or other future benefits expected from previous business relationships of any nature.

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.

I have no plans, commitments, or agreements to pursue outside employment during my service with the court.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

The following entities are on my conflict list due to financial interest: ThermoFisher Scientific (my husband's employer), and JDS Uniphase (we own common stock shares). The following people are on my conflict list because they are personal friends and I have determined it would be an appearance of impropriety if they appeared before me: Assistant U.S. Attorney Cindy Cipriani; Randall E. Kay, Esq.; Nancy L. Stagg, Esq.; Michael Leggieri, Esq. (former law clerk); Olga May, Esq. (former law clerk). The following entities are on my conflict list because I have determined it may be an appearance of impropriety if they appeared before me: Dr. Seuss Enterprises, LP (former very significant

client); and DLA Piper US, LLP (my former law firm); Wilber & Associates (an Illinois firm in which my brother Joseph Palumbo is a principal).

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

I will continue to follow the federal recusal statutes and the Code of Conduct for United States Judges, just as I do in my current position. I will continue to recuse myself from cases I which I perceive there is any appearance of impropriety.

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.

Prior to becoming a judge, my pro bono contribution was primarily through Bar Association committee work. I was a committee member and chair of the San Diego County Bar Association's Lawyer Referral Service ("LRIS"), and worked to expand the Bar Association's Modest Means Program to help provide access to legal services for those in San Diego who need legal counsel but are financially unable to bear the expense. Also as chair of LRIS, I instituted the founding of an annual grant from LRIS, to be administered by the San Diego County Bar Foundation, to provide financial support to such groups as the San Diego Volunteer Lawyers Program and the Women's Resource Fair. I also served as a Judge Pro Tem in the San Diego Small Claims Court to assist the Superior Court in meeting the needs of the San Diego community. I served on the San Diego County Bar Foundation raising funds for grants to organizations and programs that provide access to justice, such as Voices for Children, Volunteers in Parole and Casa Cornelia Law Center.

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.

I was contacted in November 2010 by Senator Dianne Feinstein's Judicial Advisory Committee about the open District Judge position. On December 7, 2010, I met with David S. Casey, Jr., from the Senator's Committee, to discuss my interest in the position and again on December 24, 2010 to review my

application to Senator Feinstein's Committee. On December 28, 2010, I submitted my application and I was interviewed by the Senator's Committee, chaired by David J. Noonan, on January 25, 2011. On February 9, 2011, I received a call from Lane Dilg, Senator Feinstein's nominations counsel, informing me that the Senator recommended me to the President for appointment.

Since February 11, 2011, I have been in contact with pre-nomination officials at the U.S. Department of Justice. On March 21, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 11, 2011, the President submitted my nomination to the Senate.

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

No.

AO 10
Rev. 1/2011

**FINANCIAL DISCLOSURE REPORT
NOMINATION FILING**

*Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Bencivengo, Cathy A.	2. Court or Organization US District Court, Southern District of California	3. Date of Report 05/11/2011
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time) US District Judge	5a. Report Type (check appropriate type) ☒ Nomination, Date 05/11/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 05/08/2011
7. Chambers or Office Address U.S. Courthouse 940 Front Street San Diego, California 92101	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts,
checking the **NONE** box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ **NONE** (No reportable positions.)

POSITION

NAME OF ORGANIZATION/ENTITY

1. President	Poway High School Music Boosters
2. Member of Advisory Board	San Diego Chapter of Federal Bar Association
3. Member of Board of Governors	San Diego Chapter of the Association of Business Trial Lawyers
4. Director	Federal Magistrate Judges Association
5.	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

☒ **NONE** (No reportable agreements.)

DATE

PARTIES AND TERMS

1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bencivengo, Cathy A.

Date of Report

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III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☒ **NONE** *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1.		
2.		
3.		
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☐ **NONE** *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2010-11	Thermo Fisher Scientific - Salary & Commission
2.	
3.	
4.	

IV. REIMBURSEMENTS - *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ **NONE** *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bencivengo, Cathy A.

Date of Report

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V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐ NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1.	EXEMPT		
2.			
3.			
4.			
5.			

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☒ NONE *(No reportable liabilities.)*

	<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.			
2.			
3.			
4.			
5.			

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bencivengo, Cathy A.

Date of Report

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VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. IRA #2 (Edward Jones)	E	Dividend	N	T	Exempt				
2. -- Franklin Growth Fund (Y)									
3. -- Franklin Mutual Beacon Fund (Y)									
4. -- Franklin Mutual Discovery Fund (Y)									
5. -- Franklin Small Mid Cap Growth (Y)									
6. -- Growth Fund of America (Y)									
7. -- Oppenheimer Develop Mkts (Y)									
8. -- Oppenheimer Select Value (Y)									
9. -- Edward Jones Cash Reserves									
10. -- Capital World Grw & Inc Fund									
11. -- Columbia Marsico Growth Fund									
12. -- Columbia Small Cap Value II									
13. --Dodge & Cox Income Fund									
14. -- Dodge & Cox Stock Fund									
15. -- Federated Kaufmann Small Cap									
16. -- Fundamental Investors Fund									
17. -- Hartford Cap Appreciation Fund									

1. Income Gain Codes:

(See Columns B1 and D4)

2. Value Codes

(See Columns C1 and D3)

3. Value Method Codes

(See Column C2)

A = \$1,000 or less

F = \$50,001 - \$100,000

J = \$15,000 or less

N = \$250,001 - \$500,000

P3 = \$25,000,001 - \$50,000,000

Q = Appraisal

U = Book Value

B = \$1,001 - \$7,500

O = \$100,001 - \$1,000,000

K = \$15,001 - \$50,000

O = \$500,001 - \$1,000,000

R = Cost (Real Estate Only)

V = Other

C = \$2,501 - \$5,000

I11 = \$1,000,001 - \$5,000,000

L = \$50,001 - \$100,000

P1 = \$1,000,001 - \$5,000,000

P4 = More than \$50,000,000

S = Assessment

W = Estimated

D = \$5,001 - \$15,000

I12 = More than \$5,000,000

M = \$100,001 - \$250,000

P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bencivengo, Cathy A.

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VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. -- Hotchkis & Wiley Mid Cap Val I									
19. -- JPMorgan Core Bond Fund Select									
20. -- Lomis Sayles Invst Grade Bd									
21. -- MFS Value Fund									
22. -- Munder Mid Cap Core Growth									
23. -- Mutual Global Discovery Fund									
24. -- Oppenheimer Intl Growth Fund									
25. -- Van Kempen Comstock Fund									
26. --JPM Fed Money Market Inst CI									
27. 401K #2 (Thermo Fisher)	A	Dividend	N	T					
28. -- Dodge & Cox Stock									
29. -- T. Rowe Price Retirement 2040 Fund									
30. -- Thermo Fisher Scientific Inc.									
31. -- Western Asset CR PL Bond I									
32. Brokerage Acct. #1									
33. -- New World Growth Fund of America	A	Dividend	K	T					
34. -- U.S. Govt. Securities Fund	A	Dividend	K	T					

1. Income Gain Codes
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000
I = More than \$5,000,000

E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P1 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

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VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset except from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. Brokerage Acct. #2									
36. -- Fundamental Investors	A	Dividend	L	T					
37. -- New World Growth Fund of America	A	Dividend	K	T					
38. Palomar Pomerado Health Muni Bonds	A	Interest	K	U					
39. Money Market Charles Schwab	A	Interest	L	T					
40. Brokerage Acct. #4 (Schwab)									
41. --Columbia Seligman Comm & Info Fund	A	Dividend	J	T					
42. -- Matthews Asian Growth & Inc Fund	A	Dividend	J	T					
43. -- Munder Index 500 Fund	C	Dividend	K	T					
44. --Oakmark Equity Income Fund	A	Dividend	J	T					
45. -- Pamassus Equity Income	A	Dividend	J	T					
46. -- Permanent Portfolio	A	Dividend	J	T					
47. -- Reynolds Blue Chip	A	Dividend	K	T					
48. -- Yacktman Focused Fund	A	Dividend	K	T					
49. IRA #1	A	Dividend	J	T					
50. -- JDS Uniphase Corp. Common Stock									
51. -- Fidelity Intl Discovery Mutual Fund									

1. Income Gain Codes:
(See Columns B1 and D4)

2. Value Codes
(See Columns C1 and D3)

3. Value Method Codes
(See Column C2)

A = \$1,000 or less
F = \$50,001 - \$100,000
J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000
Q = Appraisal
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000
R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
H = \$1,000,001 - \$5,000,000
L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000
S = Assessment
W = Estimated

D = \$5,001 - \$15,000
I2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

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VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-40 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
52. Union Bank of California (Y)	A	Interest							
53. IRA #3 (Schwab)	A	Dividend	K	T					
54. -- Deposit Account/Cash Reserves									
55. -- AIG Common Stock (Y)									
56. -- GE Common Stock (Y)									
57. -- Home Depot Common Stock (Y)									
58. -- IBM Common Stock (Y)									
59. -- J&J Common Stock (Y)									
60. -- Microsoft Common Stock (Y)									
61. -- Parnassus Equity Income									
62. Brokerage #3 (Wells Fargo)									
63. -- Intel Common Stock (Y)	A	Dividend							
64. -- Microsoft Common Stock (Y)	A	Dividend							
65. -- Munder Mutual Fund (Y)	A	Dividend							
66. -- Cash Reserves (Y)		None							
67.									
68.									

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000

E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bencivengo, Cathy A.

Date of Report

05/11/2011

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

Page 9 of 9

Name of Person Reporting

Bencivengo, Cathy A.

Date of Report

05/11/2011

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature



NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		45	000	Notes payable to banks-secured			
U.S. Government securities – see schedule		9	333	Notes payable to banks-unsecured			
Listed securities – see schedule	1	216	074	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		287	329
Real estate owned – personal residence		900	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		37	000	Home equity line of credit		131	000
Cash value-life insurance		5	429				
Other assets itemize:							
				Total liabilities		418	329
				Net Worth	1	794	507
Total Assets	2	212	836	Total liabilities and net worth	2	212	836
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, co-maker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT NET WORTH SCHEDULES

U.S. Government Securities

Series EE bonds	\$2,650
FERS – G Fund	6,683
Total U.S. Government Securities	<u>\$9,333</u>

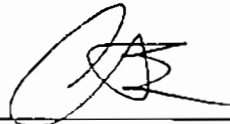
Listed Securities

Charles Schwab Money Market Funds	\$96,640
Edward Jones Money Market Funds	25
JP Morgan Money Market Funds	1,747
American U.S. Gov't Securities Fund CL C-529	36,331
Capital World Growth & Income Fund CL F1	25,747
Columbia FDS Ser Tr Small Cap Value II Fund CL Z	14,183
Columbia FDS Ser Tr Marisco Growth Fund CL Z	31,532
Columbia Seligman Comm'n's & Information Fund	5,900
Dodge & Cox Stock Fund	181,436
Dodge & Cox Income Fund	28,054
Federated Kaufmann Small Cap Fund Class A	14,415
Fidelity Intl Discovery Mutual Fund	3,310
Fundamental Investors Fund CL A-529	24,409
Fundamental Investors Fund CL C-529	25,777
Fundamental Investors Inc CL F1	30,829
Hartford Cap Appreciation Fund CL I	29,567
Hotchkis & Wiley FDS Mid Cap Value Fund CL I	18,747
Invesco Van Kampen Comstock Fund Class Y	26,787
JDS Uniphase Corp Common Stock	43
JP Morgan TR II Core Bd FD Select CL	31,891
Loomis Sayles Investment Grade Bond Fund Class Y	12,564
Matthews Asian Growth & Income Fund	5,872
MFS Ser Tr I Value Fund CL I	30,140
Munder Index 500 FD CL A	30,342
Munder Mid Cap Core Growth Fund CL Y	18,860
Mutual Global Discovery Fund CL Z	38,114
New World Fund CL C-529	67,567
Oakmark Equity Income Fund	11,064
Oppenheimer International Growth Fund CL Y	40,554
Parnassus Equity Income	39,198
Permanent Portfolio	6,074
Reynolds Blue Chip	24,656
Thermo Fisher Scientific Inc. Stock	7,032
T.Rowe Price Retirement 2040 Fund	163,124
Western Asset CR PL Bond	53,661
Yacktman Focused Fund	23,102
Palomar Pomerado Health CA Municipal Bonds	16,780
Total Listed Securities	<u>\$1,216,074</u>

AFFIDAVIT

I, Cathy Ann Bencivengo, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

5/9/11
(DATE)


(NAME)

Brenda K. Seyler
(NOTARY)

