UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

   Mark Robert Filip.

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

   Deputy Attorney General, U.S. Department of Justice.

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

   United States District Court for the Northern District of Illinois
   219 S. Dearborn, 19th Floor, Chicago, Illinois 60604.

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

   1966; Chicago, Illinois.

5. **Marital Status**: (include name of spouse, and name of spouse pre-marriage, if different). List spouse's occupation, employer's name and business address(es). Please, also indicate the number of dependent children.

   I am married to Bethann Frances Moritz Filip (nee Moritz). My wife is not employed outside the home. We have four dependent children.

6. **Education**: List in reverse chronological order, listing most recent first, 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.

   Harvard Law School, Cambridge, MA (September 1990 to June 1992), J.D., *magna cum laude*, June 1992.

   University of Oxford, Christ Church College, Oxford, England (September 1988 to June 1990), Honors B.A. in Law, First Class Honors, June 1990.

   University of Illinois, Urbana-Champaign, IL (August 1984 to June 1988), B.A. in Economics and B.A. in History, *summa cum laude*, June 1988.

7. **Employment Record**: List in reverse chronological order, listing most recent first, 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 job description where appropriate.

Employment (all dates approximate):

United States District Court for the Northern District of Illinois
219 S. Dearborn, 19th Floor
Chicago, Illinois 60604
United States District Judge, March 2004 to the present.

University of Chicago Law School
1111 E. 60th Street
Chicago, Illinois 60657
Lecturer in Law, March 1999 to present.

Skadden Arps Slate Meagher and Flom (Illinois)
333 W. Wacker Drive, Suite 2100
Chicago, Illinois 60606
Partner, April 2001 to March 2004.
Counsel, May 2000 to March 2001.
Associate, September 1999 to May 2000.

United States Attorney's Office
219 S. Dearborn, 5th Floor
Chicago, Illinois 60604
Assistant United States Attorney,
Criminal Division, February 1995 to August 1999.

Northwestern University School of Law
357 E. Chicago Avenue
Chicago, Illinois 60611
Adjunct Professor, 1998-99.

Kirkland & Ellis
200 E. Randolph
Chicago, Illinois 60601
Litigation Associate, August 1994 to February 1995.

Chambers of Hon. Antonin Scalia
United States Supreme Court
One First Street, N.W.
Washington, D.C. 20543
Judicial Law Clerk, August 1993 to July 1994.

Chambers of Hon. Stephen F. Williams
United States Court of Appeals, D.C. Circuit
333 Constitution Avenue, N.W.
Washington, D.C. 20001
Judicial Law Clerk, August 1992 to August 1993.

Sidley & Austin
10 S. Dearborn
Chicago, Illinois 60603
Returning Summer Associate, August 1992.

United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Intern, June 1992 to August 1992.

United States Department of Justice
Criminal Division, Public Integrity Unit
1400 New York Avenue, N.W. (Bond Building)
Washington, D.C. 20005
Summer Intern, July 1991 to August 1991.

Wachtell Lipton Rosen & Katz
51 W. 52nd Street
New York, New York 10019
Summer Associate, June 1991 to July 1991.

United States Attorney's Office
219 S. Dearborn
Chicago, Illinois 60604
Summer Intern, June 1990 to August 1990.

Professor Charles Fried
Harvard Law School
Cambridge, Massachusetts 02138
Research Assistant, Fall 1990 to Spring 1992.

Sidley & Austin
10 S. Dearborn
Chicago, Illinois 60603
Summer Associate, June 1989 to September 1989.

Michael J. Curry Internship Program
Office of Governor James R. Thompson
100 W. Randolph
Chicago, Illinois 60601
Summer Intern (Curry Program), June 1988 to August 1988.

Non-Paid Organizations/Positions

University of Illinois Alumni Association
University of Illinois – Alice Campbell Alumni Center
Urbana, IL 61801

During virtually all of the last ten years, I have been active as a member of the University of Illinois Alumni Association. I served as a board member of the University of Illinois Urbana-Champaign Alumni Council starting in 1996, and served as chair of that group from 2000-2002. I have also served, starting in 2000, as a board member of the University of Illinois Alumni Association, and have served as a member of various committees of the Board. The University of Illinois Alumni Association is a group that attempts, on behalf of the 550,000 alumni of the University of Illinois, to work with the University Administration to promote the welfare and future of the University.

Marshall Scholarship Selection Committee
Midwest Region, Chicago, Illinois

Since 2001, I have served as a member of the Marshall Scholarship Selection Committee, which evaluates applicants from the Midwestern part of the United States.

Catholic Charities of the Archdiocese of Chicago
Chicago, Illinois

Since 2006, I have served as one of several hundred members of the Board of Advisors to the Catholic Charities of the Archdiocese of Chicago, which is an organization that has been providing charitable assistance to the needy in and around Chicago, without regard to religion, race, or ethnicity, since 1917. Catholic Charities of the Archdiocese of Chicago is, as I understand it, the largest private charitable social service organization in the Midwest, and each year it provides assistance to some 875,000 needy people in and around Northern Illinois. Since joining in 2006, I have been a member of the advisory committee looking in particular at the social service needs of the elderly.

Harvard Law Society of Illinois

In 1996, I was asked to join the board of the Harvard Law Society, which is the local chapter of the Harvard Law School alumni group. I served as president of the Society in 2000-01, and previously served as vice-president (1999-2000) and secretary (1998-99).

Office of the Middlesex County, Massachusetts, District Attorney
Cambridge, Massachusetts 02141

During my final year of law school (1991-92), I worked without pay and for academic credit at the Office of the Middlesex County, Massachusetts, District Attorney. I worked as a "student district attorney" helping to prosecute and process small criminal cases.

8. **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.

I have never served in the military.

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

Post-Graduate Scholarship: George C. Marshall Scholarship, United Kingdom Marshall Aid Commemoration Trust (for post-graduate studies after college)

College Scholarships: I received various scholarships and fellowships in college, including: a National Merit Scholarship (paid for by Jewel Food Corporation); academic and amateur athletic scholarship, University of Illinois, Avery Brundage Scholarship & Trust; Phi Beta Kappa Outstanding Student Fellowship; and the Class of 1941 Scholarship (awarded to two juniors at the University of Illinois at Champaign). I was also named to Bronze Tablet, the University of Illinois's highest academic honor, and was a member of various other honorary societies (*e.g.*, Phi Beta Kappa).

Harvard Law School: At Harvard, I received a Joseph A. Sears prize after finishing the 1990-91 academic year as one of the two students with the highest grade point averages. I also was named to the *Harvard Law Review* for 1991-92, and served as one of its editors.

U.S. Attorney's Office in Chicago: I received various commendations from various law enforcement authorities while serving as an Assistant United States Attorney. These included the U.S. Department of Justice's "Director's Award" for superior performance as an Assistant United States Attorney. I also received the Chicagoland Chamber of Commerce's 1999 Excellence in Law Enforcement Award, along with fellow prosecutors and law enforcement officers, in connection with the *United States v. Edward Jackson, et al.*, prosecution discussed in response to Question 16, *infra.*

United States District Judge: In a 2005 survey of some 1,000 attorneys who actively practice in the federal courts in Chicago—as conducted by the Chicago Council of Lawyers, a non-partisan public interest bar association dedicated to the improvement of the bench and bar—I tied for first, among some twenty judges, in response to the question of whether the individual was a good district judge. Based on the Council's investigations and interviews with those practicing attorneys, I also was noted for being "impartial" and "open-minded."

10. **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.

Federal Advisory Committee on Civil Rules, as convened by the United States Judicial Conference: member since September 2007.

Member, Planning Committee of the Seventh Circuit Bar Association for the 2008 Annual Meeting in Chicago: Since September 2007, I have been one of several members of the Seventh Circuit Bar Association's Planning Committee for the Association's 2008 Annual Meeting in Chicago. I was appointed to the Committee by Chief Judge Frank Easterbrook of the Seventh Circuit, along with other judicial colleagues from various federal courts within the Seventh Circuit. Several practicing attorneys also are on the committee. The Annual Meeting each year hosts various academic, judicial, and professional leaders, who discuss various issues, often in a panel format. There also typically is a keynote address by Associate Justice John Paul Stevens, who is the Circuit Justice for the Seventh Circuit.

Magistrate Judge Selection Committee, Northern District of Illinois: Each district judge in the Northern District of Illinois is a member of the Magistrate Judge Selection Committee. I have been a member of this group, which meets when there is a vacancy, since March 2004.

Rules Committee, Northern District of Illinois: Since approximately the Summer of 2006, I have been a member of the Rules Committee of the United States District Court for the Northern District of Illinois. There are approximately eight members—various district judges and magistrate judges. The Committee makes recommendations to the judges of the Northern District of Illinois concerning any possible amendments or revisions to the local rules or internal operating procedures of the Northern District of Illinois, in consultation with members of the local bar.

Harvard Law Society of Illinois: As discussed above in response to Question 7.

Chicago Inn of Court: member, approximately 1997 to present (professional bar society in Chicago, comprised of several hundred practicing attorneys and state and federal judges). The Chicago Inn of Court is a group dedicated to promoting civility, ongoing legal education, and dialogue between the bench and bar.

White Collar Criminal Law Committee, ABA: I served, along with one of my former colleagues from the United States Attorney's Office who is now in private practice, as one of the midwest co-chairs of this committee in 2003-04. (*See also* response to Question 13.d, discussing appearance on ABA-sponsored panel on criminal law developments.)

Harvard Law School Chapter, Federalist Society: While in law school, I was a member of the Harvard Chapter of the Federalist Society, and served as one of the chapter's vice-presidents my final year (1991-92).

11. **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.

Bar Member, State of Illinois — February 1995 to present.

Bar Member, State of Pennsylvania — May 1993 to present. Voluntary inactive status, June 1993 to present (never practiced there; never subject to any allegation of misconduct or impropriety there).

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

United States District Court, Northern District of Illinois, General & Trial Bars — February 2000 to present.

United States Court of Appeals, Seventh Circuit — December 1995 to present.

United States Court of Appeals, Eleventh Circuit — February 2001 to present.

12. **Memberships**

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 10 and 11 to which you belong, or to which you have belonged, or in which you have significantly participated, since graduation from law school. Please 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.

Saints Faith Hope and Charity Roman Catholic Church: My family and I are parishioners at Saints Faith Hope and Charity Roman Catholic Church in Illinois, and have been since approximately 1998. We also have variously been involved over the years in charitable activities that the church sponsors, such as food drives, clothing drives, tuition fundraisers, etc., for sister parishes and food pantries in other parts of the Chicago Archdiocese.

Economics Club of Chicago (civic group): I was one of several hundred, if not thousands, of members of the Economics Club of Chicago from 2000 to 2004. It is a non-partisan group that brings speakers to Chicago to discuss current events and economic matters. The group has hosted, for example, Omar Bradley, Joseph Califano, Bill Gates, Newt Gingrich, Katharine Graham, Alan Greenspan, Vernon Jordan, John F. Kennedy, and Ronald Reagan, among many others, during its eighty year history.

To the extent any of the activities listed in response to Question 9 are covered here, as opposed to simply items listed in response to Questions 10 and 11, those activities, as described in detail above, are respectfully incorporated by reference herein.

Finally, to the extent this qualifies, please know that I have been involved in various community activities relating to my children. By far and away, the greatest of these activities in terms of frequency and time commitment has been service as a youth athletic coach (football, lacrosse, and baseball) on numerous different teams over the last several years. I have also assisted, as possible, in various other capacities (PTO school clean-up/service project volunteer, volunteer helper for the scouting "pinewood derby," etc.), with my wife and neighbors for community youth/school activities.

b. Please indicate whether any of these organizations listed in response to 12(a) above currently discriminate or formerly discriminated on the basis of race, sex, or religion – either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above does or has so discriminated.

13. **Published Works 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. Please supply four (4) copies of all published material to the Committee.

In April 2007, I signed a "letter to the editor" of a local paper, along with several other fathers of children in the local schools, in support of a local tax referendum designed to provide funding for capital projects at local elementary schools. The requested copies are attached.

Note, Why Learned Hand Would Never Consult Legislative History Today, 105 Harv. L. Rev. 1005 (1992). The requested copies are attached.

Case Comment, The Supreme Court 1990 Term: *Chambers v. Nasco*, 105 Harv. L. Rev. 349 (1991). The requested copies are attached.

b. Please 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, please give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have not been involved in the preparation of any such report, memoranda, etc.

c. Please supply four (4) copies of any testimony, official statement 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.

I have not provided any such testimony, issued such official statements, etc.

d. Please supply four (4) copies, transcripts or tape recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Please indicate 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 tape recording of your remarks, please 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, please furnish a copy of any outline or notes from which you spoke.

I do not generally give "speeches," in the sense that the term is typically used. Nonetheless, listed below are public speaking engagements of mine, as that term appears to be broadly defined above.

In November 2007, I spoke at a local elementary school in connection with its "Readers are Leaders Day," which is an event in which adults of diverse professions variously speak to school children about why reading is important in their professional and personal lives. I did not use any prepared remarks or notes. The general subject was how people in the judicial system, legal system, and criminal justice system all use reading and writing to communicate and to perform their jobs. I also participated in a similar event, at a different elementary school in a neighboring town, during the Fall of 2006, at the invitation of one of my judicial colleagues.

In November 2007, I spoke as part of a panel in Chicago, along with various other attorneys and judges, for a criminal law class from Notre Dame Law School. The panel was organized by a former AUSA in Chicago and present partner at Sidley Austin who is an adjunct faculty member at Notre Dame. The panel members addressed how they became interested in the law, and also generally discussed various topics concerning criminal law and law enforcement administration. To the extent my comments were substantive, my principal statement was that, in my view at least, the area of sentencing in the federal courts has been the subject of the most change in recent years, and that it will be important for students to pay particular attention to such issues if they serve as either prosecutors or defense attorneys. I did not use any transcript or outline for the remarks.

In September 2007, I spoke with incoming law clerks in the Northern District of Illinois at the request of Chief Judge Holderman. The talk addressed, *inter alia*: the judge-law clerk relationship and some of the Local Rules of the District Court for the Northern District of Illinois. I did not have any prepared speech; I believe I had a one-page set of handwritten notes, which I did not retain. Chief Judge Holderman also had an outline traditionally presented to new law clerks in the district which covers some of the more common issues faced by new law clerks and collects some precedent that may be helpful in analyzing those issues. My staff and I reviewed the outline, added to and revised it as appropriate in light of the issuance of new precedent, and gave out copies to this year's clerks. Copies are attached.

In June 2007, I spoke with a group of attorneys from Israel (prosecutors, defense attorneys, and government attorneys) who were in Chicago as part of, as I understand it, a graduate legal education program sponsored by Northwestern Law School and Tel Aviv University. Two Assistant U.S. Attorneys from Chicago (one of whom was a graduate of Northwestern) also spoke. I did not have a prepared text or outline. We discussed the basic processes of the American criminal justice system, including the grand jury, the Fifth Amendment, and the *Brady/Giglio* doctrines.

In May 2007, I spoke informally with a group of lawyers and government officials from Pakistan who were hosted by a consumer rights attorney in Chicago in connection with, as I understand it, a trip sponsored by the U.S. government. Various other attorneys and a state judge also participated. I did not have a prepared text or outline. The general tenor of the discussion was that an adversarial format in which consumer rights issues could be aired—via government enforcement mechanisms, private lawsuits, and private defense attorneys—seemed to be doing a reasonably good job of reaching fair outcomes in the United States. The Pakistani officials and attorneys listened to our presentations and thought that some of our respective ideas might be worth considering for their country.

In May 2007, I spoke at a "bench/bar luncheon" sponsored by the Chicago Chapter of the Federal Bar Association at the request of one of my judicial colleagues who is a board member for the FBA. I did not use a prepared text or notes. About fifteen attorneys came to the luncheon, and we discussed "nuts-and-bolts" sorts of litigation issues such as the difficulty of deciding what discovery is appropriate and productive in a case.

In May 2007, I appeared on a judicial panel at the 2007 Convention of the International Trademark Association in Chicago, along with two of my judicial colleagues on the district court. We spoke about how trademark issues are best presented in courtrooms and we answered a few questions from the attorneys in the audience (there were several hundred lawyers in attendance) about trademark litigation in America. I had no prepared text; I may have had a one-page handwritten outline, but if I did, I did not keep it.

In April 2007, I spoke at a dinner hosted by the Loyola Law School of Chicago for its students participating in advocacy programs and legal clinics. I did not have prepared remarks, but I had a fairly detailed outline—I believe because I was asked to speak relatively shortly before the event itself. The requested copies of the outline are attached. The remarks focused on the opportunities lawyers have to make a positive impact on the world though their work. The talk also included a few brief practice pointers. Copies of the outline are attached.

In May 2006, I spoke to a group of corporate litigation counsel who were in town for a professional association meeting, after one of my colleagues, who used to work as a counsel for a local corporation, could not speak to the group as planned. I did not have a prepared speech, and, to the extent I used brief notes, I did not retain them. The speech addressed the general topic of whether there were any issues that corporate counsel needed to be particularly mindful of in litigating in federal courts. As best I can recall, I stated that there were no particular issues or pitfalls unique to the federal courts, but that typical rules of thumb for any litigant (try to retain counsel who is broadly respected in the local bar and courthouse; make sure your arguments are well-grounded, so as to establish and maintain credibility; make sure you consider any overtures about settlement in good faith, etc.) applied. I also believe I discussed the broader topic of settlement of civil cases in the federal courts, and how the vast majority of such civil cases do not go to trial. In this regard, I believe I discussed how alternative dispute resolution classes, and classes in settlement and negotiation, are now quite popular at most law schools, and how the recognition of the importance of such subjects is a notable change in law school curriculums over the last couple of decades.

In January 2006, I moderated a panel sponsored by the Chicago Chapter of the Federalist Society held in honor of the late Chief Justice of the United States, William H. Rehnquist.

The panel included the Solicitors General of the States of Illinois and Texas, who both had clerked at the Supreme Court and who were serving, respectively, under a Democratic and a Republican Attorney General in their States. The panel also included a former law clerk to Chief Justice Rehnquist who was a law professor at Notre Dame Law School. I typed a one-page outline of the introduction/biography of the late Chief Justice Rehnquist that I used that evening. Copies are attached.

In the Winter of 2005 (I believe), I appeared on a panel sponsored by the Illinois Association of Criminal Defense Lawyers, along with one of my judicial colleagues and a law professor from The Ohio State University. I did not have a prepared text; if I had any hand-written notes, I did not retain them. As best I can recall, we discussed the recent Supreme Court developments concerning sentencing in federal courts, and we discussed how the area of sentencing is one in which defense attorneys often can make substantial gains on behalf of their clients.

In the summer of 2005 (I believe it was August), I appeared on a panel at an ABA conference in Chicago about recent Supreme Court decisions concerning criminal law. The panel was assembled by a professor from the University of California at Hastings Law School, and it also included a federal prosecutor and a criminal defense attorney. I did not have prepared remarks; I believe I had some notes written on print-outs of some Supreme Court cases, which I did not retain.

Finally, on a handful of occasions over the years since taking the bench, the specific dates for which I cannot recall, I have agreed, typically at the request of the Chief Judge or an officer of a local bar association, to "swear in" new attorneys to the local bar for the Northern District of Illinois or to speak with groups of young attorneys. On those occasions, I have typically been asked to offer brief words of advice. I have not used prepared texts; to the extent I have made brief notes or one-page handwritten outlines, I have not retained them. The remarks typically address the same concerns: the need for young attorneys to work hard and appreciate that cases typically do not turn on nuanced intellectual issues but rather on the basis of hard work and dedication to one's task as an attorney. Relatedly, I always try to emphasize that while the professional demands on young lawyers are heavy and often compelling, young attorneys also need to draw lines so that the attorneys do not cease to be the sorts of spouses, parents, children, and community members that they want to be.

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

In the Fall of 2004, I was interviewed for *The University of Chicago Law School Record.* I do not have a copy of the publication as it ran, but the law student/reporter sent me a final copy of his article in typewritten form. Copies are attached.

In June 2004, I was interviewed by the Chicago Bar Association for the *CBA Journal*, as is the CBA's practice when a new district judge takes the bench. I do not have a copy of the publication as it ran, but the attorney/reporter sent me a copy of the questions and answers in final draft form. Copies are attached.

In May 2004, I was interviewed by the *Chicago Lawyer*, upon taking the bench. Copies of the article are attached.

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

a. List chronologically any public offices you have held, 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 served as a federal district judge in the Northern District of Illinois since March 2004. I was nominated to this position by President George W. Bush, and thereafter confirmed by the Senate 96-0.

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

I worked for a few days in November 2000 as a Republican volunteer during the Florida recount at the conclusion of the 2000 Presidential election. I was sent to Broward County, Florida, and I worked with local officials and with Democratic volunteer counterparts in the effort to manually recount ballots there.

15. **Legal Career:** Please answer each part separately.

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

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

I served as a judicial law clerk from 1992-93 for the Honorable Stephen F. Williams, Circuit Court Judge, United States Court of Appeals for the D.C. Circuit. I served as a judicial law clerk from 1993-94 for the Honorable Antonin Scalia, Associate Justice, United States Supreme Court.

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

I 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.

Law Firms:

From September 1999 to March 2004, I was with Skadden Arps Slate Meagher & Flom (Illinois), 333 W. Wacker Drive, Suite 2100, Chicago, Illinois 60606. I was an associate from September 1999 to May 2000, a counsel from May 2000 to March 2001, and a partner from April 2001 to March 2004.

From August 1994 to February 1995, I was a litigation associate at Kirkland & Ellis, 200 E. Randolph, Chicago, Illinois 60601.

For a week or two in August 1992, I worked as a "returning summer associate" at Sidley & Austin in Chicago, 10 S. Dearborn, Chicago, Illinois 60603. I had previously worked as a summer associate at the firm during the summer of 1989 when I was in law school.

Judicial Service:

From March 2004 to the present, I have served as an United States District Court Judge, United States District Court for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois 60604.

Government Offices:

From February 1995 to August 1999, I worked at the U.S. Attorney's Office in Chicago, 219 S. Dearborn, 5th Floor, Chicago, Illinois 60604. I was an Assistant United States Attorney in the Criminal Division.

I was a summer intern at the United States Department of Justice, Office of the Solicitor General, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, from approximately June 1992 to August 1992.

b. Describe:

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

At Skadden Arps, I principally represented American publicly held companies in commercial litigation. I also performed internal investigations for corporations, and I did some criminal defense work. At Kirkland & Ellis, I was a young attorney helping to represent American publicly held companies in commercial litigation.

At the United States Attorney's Office, I spent virtually 100% of my time prosecuting federal criminal offenses on trial and on appeal in the federal courts in Chicago.

ii. your typical clients and the areas, if any, in which you have specialized.

As mentioned, at law firms, I typically worked for American corporations and their subsidiaries in commercial litigation. My work involved representations in both the trial and appellate courts. At the United States Attorney's Office, I specialized in the prosecution of white collar and violent crimes; I also spent a significant amount of time representing the United States in appellate litigation in the United States Court of Appeals for the Seventh Circuit.

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

I have been involved in litigation my entire career, whether as a trial judge, trial lawyer or law firm litigator.

During the time I worked at Kirkland & Ellis (1994-95), I rarely appeared in court, if at all. When serving as an Assistant United States Attorney (1995-99), I appeared in court frequently—typically on multiple occasions each week and often daily. I was in court for many reasons—trials, appellate arguments, motion hearings, etc. At Skadden Arps (1999 to 2004), I appeared in court occasionally, given the relative infrequency in which commercial litigation matters require court hearings.

i. Indicate the percentage of your practice in:

1. federal courts;
2. state courts of record;
3. other courts.

Virtually 100% of my work at each stage of my legal career has been in the federal courts. I rarely, if ever, appeared in a state court (except when serving as a "student assistant district attorney" during law school—see response to Question 7, above), and I do not believe I ever appeared in another type of court.

ii. Indicate the percentage of your practice in

1. civil proceedings;

2. criminal proceedings.

While working in law firms, virtually 100% of my court appearances related to civil matters (*i.e.*, every court appearance other than those made in connection with *pro bono* criminal cases). At the United States Attorney's Office, virtually 100% of my court appearances related to criminal matters (*i.e.*, every court appearance other than those made in *habeas corpus* proceedings or extradition cases, which are civil matters).

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

   i. What percentage of these trials were:

      1. jury;
      2. non-jury.

I tried approximately twelve jury trials at the U.S. Attorney's Office. All cases at the U.S. Attorney's Office in Chicago (at least at that time) were tried by at least two prosecutors (large cases sometimes had three prosecutors), who divided up the witness examinations and arguments equally. I also participated in numerous contested evidentiary proceedings and sentencings in the U.S. District Courts as an Assistant United States Attorney. At Skadden Arps, I had various contested evidentiary and legal hearings in civil matters —principally in connection with breach of trust litigation, bankruptcy confirmation litigation, and other civil litigation relating to Washington Group International, Inc.—a large engineering and construction company headquartered in Boise, Idaho, in 2001-02. There were many attorneys from Skadden Arps who worked on Washington Group's reorganization and related litigation; I was the lead litigation partner and, along with some of my other partners, handled the company's litigation in court.

At Skadden Arps, I also appeared in court on occasion in connection with *pro bono* criminal representations.

All of the trials in which I participated were jury trials. In the civil litigation for Washington Group discussed immediately above, a United States Bankruptcy Court was the factfinder.

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

I have never argued a case before the Supreme Court of the United States. In a pro bono capacity while working in private practice, colleagues from Skadden Arps and I drafted an amicus brief in *Connecticut Dept. of Public Safety, et al. v. Doe, et al.* (No. 01-1231). That case examined (and rejected certain challenges to) the constitutionality of so-called "Megan's Laws," which are laws designed to protect children against convicted sex-offenders through community notification. *See Connecticut Dept. of Public Safety, et al. v. Doe*, 538 U.S. 1 (2003). We assisted the Center for the Community Interest, a non-profit group headquartered in New York City, in the preparation of the brief, which argued in support of the viability of such "Megan's Laws." Copies of the brief are attached as requested.

16. **Litigation**

Describe the ten (10) most significant litigated matters which you personally handled. 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 the 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 principal counsel for each of the other parties.

United States v. James E. Washington, et al.: James E. Washington was the first defendant in the Northern District of Illinois against whom the government elected to invoke 18 U.S.C. 3559(c), which provides for a mandatory life sentence for violent felons who have previously been convicted of two serious violent felonies. Mr. Washington had previously murdered a teenage robbery victim, and, after his release from prison, Mr. Washington was convicted of the attempted murder and robbery of his own father. Mr. Washington became involved in the federal criminal justice system after he started recruiting homeless men to commit bank robberies at his direction. Mr. Washington was convicted by jury of involvement in three bank robberies. On appeal, Mr. Washington alleged that 18 U.S.C. 3559 was unconstitutional on various grounds. I represented the United States on appeal before the United States Court of Appeals for the Seventh Circuit, which rejected the constitutional challenges to the statute.

I initiated the case and oversaw the investigation, and then served as one of the two Assistant United States Attorneys who tried the case for the federal government. My co-counsel was Sheila Finnegan, now a partner at Mayer Brown LLP, 71 S. Wacker Drive, Chicago, IL 60606, (312) 782-0600. Mr. Washington was represented by Frank Lipuma, 33 N. Dearborn, Suite 600, Chicago, IL 60602, (312) 551-9112. I worked on the case from the Spring of 1995 through the Spring of 1997, and worked on it again during *habeas corpus* proceedings in the Fall of 1998. The case was tried before the Hon. Charles P. Kocoras, District Judge, United States District Court for the Northern District of Illinois.

Opinions in the Case: *United States v. Washington*, 109 F.3d 335 (7th Cir. 1997) (Judges

Easterbrook, Ripple, and Manion affirming conviction and sentence and rejecting various constitutional challenges to 18 U.S.C. 3559); *United States v. Washington*, No. 98 C 5062, No. 95 CR 302, 1999 WL 59974 (N.D. Ill. Feb. 3, 1999) (Kocoras, J.).

United States v. Phillip Ishola, et al.: Phillip Ishola and eighteen codefendants were charged with various offenses in connection with a large-scale international heroin importation conspiracy that operated in Thailand, Nigeria, England, and the United States. All of the defendants who were apprehended (a couple remained fugitives) were convicted by guilty plea or trial. I joined the prosecution team shortly after the initial arrests, and assisted Assistant United States Attorneys Patrick Layng and George Jackson (who were the prosecutors during the investigation stage). I assisted in the government's defense of the lawfulness of the wiretaps, search warrants, and arrests, which were subjected to various statutory and constitutional challenges. I also was involved in negotiating various plea agreements. Patrick Layng and I prepared the case for trial—which ultimately, after numerous guilty pleas—involved only one defendant. U.S. District Judge Harry Leinenweber of the Northern District of Illinois presided over the jury trial.

Patrick Layng now serves as the Regional Coordinator of the Criminal Enforcement Unit, Office of the United States Trustee for the Northern District of Illinois, 227 W. Monroe Street, Suite 3350, Chicago, IL 60606, (312) 353-9257; George Jackson is now at Bryan Cave LLP and can be reached at 161 N. Clark St., Suite 4300, Chicago, IL 60601, (312) 602-5000. There were numerous defense attorneys in the case, including Scott Frankel, Frankel & Cohen, 77 W. Washington, Suite 1720, Chicago, IL 60602, (312) 759-9600; and Jim Graham, 53 W. Jackson Blvd., Suite 703, Chicago, IL 60604, (312) 922-3777. I worked on the case from the Fall of 1996 through the Summer of 1997.

Opinions in the Case: *United States v. Phillip Ishola, et al.*, No. 96 CR 523, 1996 WL 197461 (N.D. Ill. Apr. 19, 1996) (Leinenweber, J.); *United States v. Akanni Hamzat, et al.*, 217 F.3d 494 (7th Cir. 2000) (Judges Diane Wood, Posner, and Bauer affirming convictions and sentences).

United States v. Thomas J. Maloney, et al.: Thomas Maloney and his codefendant were variously convicted of racketeering, extortion, and obstruction of justice in connection with a series of judicial bribes. Mr. Maloney was a criminal judge in the Circuit Court of Cook County who was convicted of accepting bribes to fix various types of cases, including murder cases. I served as the lead attorney on appeal after joining the U.S. Attorney's Office in 1995, after Mr. Maloney's trial took place. The appeal was complicated by allegations of serious prosecutorial misconduct leveled against one of the trial attorneys. The allegations related to purportedly undisclosed benefits given to members of the El Rukn street gang who were cooperating witnesses in this and other cases, and the allegations had previously resulted in reversals of numerous convictions of other defendants in various narcotics and gang-related prosecutions. The appeal raised the disclosure/misconduct allegations, as well as various other claims of error concerning jury instructions, evidentiary rulings, and RICO issues.

I argued the case on appeal in the United States Court of Appeals for the Seventh Circuit, which affirmed the conviction 2-1. I also helped to write the government's response to Mr. Maloney's petition for certiorari that he filed in the U.S. Supreme Court.

The prosecutor most familiar with my work is Barry Rand Elden, 219 S. Dearborn, Chicago, IL 60604, (312) 353-5300. Scott Mendeloff, now at Sidley Austin LLP, 1 S. Dearborn, Chicago, IL 60603, (312) 853-7000, also was extensively involved in the preparation of the government's brief on appeal. Opposing counsel were Jeffrey Cole, who is now one of my judicial colleagues, 219 S. Dearborn, 18th Floor, Chicago, Illinois 60604, (312) 435-5601; and Mr. Andrews Staes, of Staes & Scallan, P.C., 111 W. Washington, Suite 1310, Chicago, IL 60602, (312) 201-8969. I worked on the case from April 1995 through the Summer of 1996.

Relevant Opinions in the Case: *United States v. Thomas Maloney*, 71 F.3d 645 (7th Cir. 1995) (Judges Cummings and Eschbach affirming convictions, and Judge Ripple dissenting); *Thomas Maloney v. United States*, 519 U.S. 927 (1996) (denying certiorari).

United States v. Edward Jackson, et al.: Edward Jackson and six other Chicago police officers from the Austin Police District were variously convicted of racketeering, extortion, bribery, narcotics trafficking, and firearms offenses relating to acts of police corruption. The defendants released police intelligence to members of street gangs, protected narcotics operations and purported narcotics operations being run by undercover law enforcement agents, and robbed homes and drug houses. Members of Chicago street gangs who conspired with the officers also were prosecuted and convicted.

I was involved in the case from its early stages. Along with Assistant United States Attorney Brian Netols, the senior prosecutor on the case, we supervised and helped to plan the investigation, which included undercover FBI operations and numerous court-approved wiretaps. We also conducted plea negotiations and interviews of defendants and numerous civilian witnesses, some of whom were immunized pursuant to court order and forced to testify before the grand jury. Along with our colleague Ryan Stoll, we presented the case to the jury at trial. The lead undercover officer in the case received the FBI's highest award for bravery in the line of duty, and each of the prosecutors received the U.S. Department of Justice's "Director's Award" for Superior Performance as an Assistant United States Attorney.

The case was tried before U.S. District Judge Ann Williams in Chicago; after Judge Williams was elevated to the Seventh Circuit, District Judge Charles Kocoras assumed responsibility for the case. Co-counsel were Assistant United States Attorney Brian

Netols, 219 S. Dearborn, Chicago, IL 60604, (312) 353-5300; and Ryan Stoll, now a partner at Skadden, Arps, Slate, Meagher & Flom LLP (Illinois), 333 W. Wacker Drive, Suite 2100, Chicago, IL 60606, (312) 407-0700. There were numerous defense lawyers involved in the case, including: Robert Clarke, 30 W. Monroe, Suite 710, Chicago, IL 60603, (312) 332-3101; and Stan Hill, 10 S. La Salle St., Suite 1301, Chicago, IL 60603, (312) 917-8888. I worked on the prosecution of this case from the Spring of 1996 to the Summer of 1999, when I left the U.S. Attorney's Office.

Relevant Opinions in the Case: *United States v. Young*, No. 96 CR 815, 1997 WL 321754 (N.D. Ill. June 10, 1997) (Williams, J.) (bail ruling); *United States v. Crittleton*, No. 96 CR 815, 1997 WL 797661 (N.D. Ill. Dec. 24, 1997) (Williams, J.) (bail ruling); *United States v. Jackson, et al.*, No. 96 CR 815, 1998 WL 149582 (N.D. Ill. March 23, 1998) (Williams, J.) (denying severance and suppression motions); *United States v. Jackson, et al.*, No. 96 CR 815, 1998 WL 149586 (N.D. Ill. March 24, 1998) (Williams, J.) (ruling on pretrial motions); *United States v. Ramos*, No. 96 CR 815, 1998 WL 155932 (N.D. Ill. April 3, 1998) (Williams, J.) (ruling on pretrial motions); *United States v. Jackson, et al.*, No. 96 CR 815, 1998 WL 187285 (N.D. Ill. April 15, 1998) (Williams, J.) (ruling on pretrial motions); *United States v. Ramos*, No. 96 CR 815, 1998 WL 214737 (N.D. Ill. April 27, 1998) (Williams, J.) (denying defendant's motion to revoke proffer agreement); *United States v. Moore & Young*, No. 96 CR 815, 1998 WL 265077 (N.D. Ill. May 15, 1998) (Williams, J.) (pretrial rulings); *United States v. Jackson*, 2000 WL 174284 (N.D. Ill. Nov. 28, 2000) (Williams, J.) (denying defendant's motions for new trial and/or judgment of acquittal); *United States v. Moore, et al.*, 363 F.3d 631 (7th Cir. 2004) (affirming convictions and sentences); *United States v. Young*, 160 Fed. Appx. 518 (7th Cir. Dec. 22, 2005) (further affirming certain sentences after consideration of potential issues under *United States v. Booker*, 543 U.S. 220 (2005), following remand for that purpose, 543 U.S. 1100 (2005)).

United States v. Shawntell Curry, et al.: Shawntell Curry and four co-conspirators committed a series of armed robberies of banks and motels in the Chicago suburbs during 1996 and 1997. I was involved in this case throughout the investigation and trial phases, and was the lead prosecutor during the investigation and plea negotiations. Along with my colleague, Assistant United States Attorney Bennett Kaplan, I tried the case before U.S. District Judge Charles Norgle of the Northern District of Illinois. Defendant Shawntell Curry, the only defendant who went to trial, was convicted of all but one charge, and he received a sentence of some twenty-five years' imprisonment. The investigation also led to the prosecution of related crack cocaine dealing in the south suburbs of Chicago.

Bennett Kaplan can be reached at Axium Consulting, 180 N. LaSalle Street, Chicago, IL 60601, (312) 606-3020. Mr. Washington was represented at trial by Frank Lipuma, 33 N. Dearborn, Suite 600, Chicago, IL 60602, (312) 551-9112. I worked on the case from February 1997 to August 1999, although I was not particularly involved in the case at the appellate level.

Opinion in the Case: *United States v. Shawntell Curry*, 187 F.3d 762 (7th Cir. 1999) (Judges Posner, Easterbrook, and Diane Wood affirming conviction).

United States v. Palumbo Bros., Inc., et al.: Palumbo Bros., Inc., and related corporate defendants were road construction companies owned and controlled by the Palumbo family. These corporations, along with various Palumbo family members, their employees, and an Illinois Department of Transportation inspector, were indicted for racketeering and acts of fraud directed against state and local governments, trade unions, and company employees.

I joined the prosecution team after the indictment issued and, along with Assistant United States Attorneys John Podliska and John Newman, who had led the investigation for many years, worked on the government's pretrial motions and responses to the defendant's pretrial motions. United States District Judge Elaine Bucklo of the Northern District of Illinois subsequently dismissed approximately 70% of the indictment after concluding that, as a matter of law, the racketeering and labor fraud charges were preempted by other federal legal regimes, including federal labor laws.

I was appointed to be the government's lead appellate counsel, and argued the government's appeal of the indictment dismissal in the United States Court of Appeals for the Seventh Circuit. The Seventh Circuit reversed the District Court's ruling and reinstated the indictment. Subsequent to the reversal, the defendants pleaded guilty to various charges. I was not extensively involved in plea discussions, principally because I was working on the *Jackson* prosecution described above.

Co-counsel in the case included: Assistant United States Attorney Barry Rand Elden, John Newman, and John Podliska. Mr. Newman has since retired, and Messrs. Podliska and Elden can be reached at 219 S. Dearborn, 5th Floor, Chicago IL 60604, (312) 353-5300. There were numerous defense attorneys involved in the case, including James Streicker, Cotsirilos Tighe & Streicker, Ltd., 33 N. Dearborn, Suite 600, Chicago, IL 60602, (312) 263-0345; and Robert Michels, Winston & Strawn, 35 W. Wacker Drive, Chicago, IL 60601, (312) 558-5255. I also worked and interacted with Professor Robert Blakey, Notre Dame Law School, Notre Dame, Indiana 46556, (574) 631-5717; and with Marc Martin, 53 W. Jackson Blvd., Suite 1420, Chicago, IL 60604, (312) 408-1111. Professor Blakey and Mr. Martin briefed and argued the case for various defendants on appeal. I worked on the *Palumbo* case from the Spring of 1997 through the Spring of 1998.

Relevant Opinions in the Case: *United States v. Palumbo Bros., Inc. et al.*, No. 96 CR 613, Docket Entry 172, Mem. Op. (Aug. 21, 1997) (Bucklo, J.) (dismissing most of the indictment); *United States v. Palumbo Bros., Inc., et al.*, No. 96 CR 613, 1997 WL 643618 (Oct. 9, 1997) (Bucklo, J.) (denying government's motion for reconsideration of dismissal order); *United States v. Palumbo Bros., Inc., et al.*, 145 F.3d 850 (7th Cir. 1998) (Judges Bauer, Coffey, and Rovner reversing the District Court and reinstating the indictment in the entirety).

United States v. Bruce Farley, et al.: Illinois State Senator Bruce Farley, Illinois State Representative Miguel Santiago, and officials at the Cook County Treasurer's Office were variously charged with fraud, tax offenses, and obstruction of justice in connection with an alleged ghost-payrolling scheme. All but Representative Santiago pleaded guilty to various offenses, and Representative Santiago was acquitted following a jury trial. One of the defendants, then-Cook Country Treasurer Edward Rosewell, died prior to his conviction becoming final. As I understand it, his conviction therefore was vacated as a matter of law upon his death.

I joined the prosecution team after the case was investigated and indicted. I participated, along with fellow Assistant United States Attorneys John Bunge and Bennett Kaplan, in the pretrial phases of the case and took the guilty plea from Mr. Farley. Messrs. Kaplan, Bunge, and I tried the case against Representative Santiago before U.S. District Judge Joan Gottschall of the Northern District of Illinois.

Co-counsel were Bennett Kaplan, Axium Consulting, 180 N. LaSalle Street, Chicago, IL 60601, (312) 606-3020; and John Bunge, Kirkland & Ellis, 200 E. Randolph Drive, Chicago, IL 60601, (312) 861-2256. There were several defense attorneys in the case, but the lead trial attorneys for Representative Santiago were Edward Genson, Genson & Gillespie, 53 W. Jackson Blvd., Suite 1420, Chicago, IL 60604, (312) 726-9015; and Marc Martin, 53 W. Jackson Blvd., Suite 1420, Chicago, IL 60604, (312) 408-1111. Senator Farley, who pleaded guilty shortly before trial, was represented by Thomas M. Breen, Thomas M. Breen & Assocs., 53 W. Jackson Blvd., Suite 1460, Chicago, IL 60604, (312) 360-1001. I worked on the case from the Summer of 1998 to the Spring of 1999.

Opinions in the Case: *United States v. Bruce Farley, et al.*, No. 97 CR 441, 1997 WL 695680 (N.D. Ill. Oct. 31, 1997) (Gottschall, J.); *United States v. Bruce Farley, et al.*, No. 97 CR 441, 1998 WL 684220 (N.D. Ill. Sept. 11, 1998) (Gottschall, J.)

United States v. Jesse Evans: Mr. Evans was a Chicago alderman who was convicted in 1997 of racketeering (including acts of extortion, bribery, mail fraud, and official misconduct), filing false tax returns, and obstruction of justice. I was asked by the lead trial attorney, Assistant United States Attorney David Rosenbloom, to handle the case on appeal. I served as lead attorney on appeal and argued the case in the Seventh Circuit, where Mr. Evans unsuccessfully alleged that his constitutional rights were violated during jury selection. David Rosenbloom is the person most familiar with the case as co-counsel: Mr. Rosenbloom is currently a partner at McDermott, Will & Emery, 227 W. Monroe Street, Chicago, IL 60606, (312) 984-7759. Mr. Evans was represented on appeal by Professor Richard Kling of the Chicago-Kent College of Law, 565 W. Adams Street, Chicago, IL 60661, (312) 906-5050. I worked on the case during the Summer and Fall of 1998.

Relevant Opinion: *United States v. Jesse Evans*, 192 F.3d 698 (7th Cir. 1999) (Judges Coffey, Easterbrook, and Diane Wood affirming conviction).

Washington Group International Litigation: Along with a team of other attorneys from Skadden Arps, I represented Washington Group International, Inc., in litigation regarding its corporate reorganization and issues that related to the corporate reorganization. The litigation occurred in federal bankruptcy court in Nevada as well as in the U.S. District Court in Nevada.

There were various parts to the litigation. The first involved a suit filed by Mitsubishi and Mitsubishi Heavy Industries of America (collectively, Mitsubishi) against Washington Group, in which Mitsubishi alleged that Washington Group had violated provisions of the New York Lien Law as well as various trust doctrines in its handling of various monies relating to two large power plant projects in Massachusetts; Mitsubishi alleged that Washington Group owed it approximately $190 million as a result of the claimed violations. I led the litigation effort on behalf of Washington Group and argued the summary judgment motion that led to dismissal of the case by the Hon. Gregg Zive, United States Bankruptcy Judge, District of Nevada. Mitsubishi appealed Judge Zive's ruling to the Hon. Roger L. Hunt, United States District Judge, District of Nevada. The appeal was withdrawn as part of a broad, global settlement, discussed below.

The other main parts of the litigation concerned Washington Group's corporate reorganization and related disputes that stemmed from Washington Group's corporate acquisition in 2000 of Raytheon Engineers & Constructors, International, from Raytheon Company. Washington Group contended that it was the victim of fraud in connection with this acquisition, a charge Raytheon vigorously disputed. The two parties (Washington Group and Raytheon) claimed hundreds of millions and billions of dollars in recoveries from each other. These disputes were eventually resolved following litigation before Judge Zive as part of a global settlement that was part of Washington Group's reorganization. I served as the lead litigation partner from Skadden Arps in connection with that litigation. The litigation relating to Washington Group's reorganization confirmation also involved various objectors and objections to the reorganization plan — the most significant being M.D. Sass Corporate Resurgence Partners, L.P., and Durham Asset Management Corporation, (collectively, Resurgence), two secured creditors of Washington Group. Judge Zive rejected all of the various objections to confirmation, and Resurgence as well as another unsecured creditor took appeals from Judge Zive's

Confirmation Order, both of which were rejected on appeal by Hon. Roger L. Hunt, United States District Judge, District of Nevada. I worked on the case from May of 2000 to January of 2003.

There were hundreds of attorneys involved in the cases and in the corporate reorganization. Principle co-counsel were Jennifer A. Smith, Lionel Sawyer & Collins, 1100 Bank of America Plaza, 50 W. Liberty Street, Reno, NV 89501, (775) 788-8666; Timothy Pohl, Skadden Arps Slate Meagher & Flom (Illinois), 333 W. Wacker Drive, Chicago, IL 60606, (312) 407-0700; and David Kurtz, now a managing director with Lazard Freres & Co. Investment Bank, 200 W. Madison Street, Suite 2200, Chicago, IL 60606, (312) 407-6615. The opposing counsel with whom I interacted most included: Patrick Murphy (lead counsel for the unsecured creditors committee), now at Winston & Strawn LLP, 101 California Street, San Francisco, CA 94111, (415) 591-1000; Julia Frost-Davis (counsel for Raytheon), Bingham McCutchen LLP, 150 Federal Street, Boston, MA 02110, (617) 951-8422; P. Sabin Willett (counsel for Raytheon), Bingham McCutchen LLP, 150 Federal Street, Boston, MA 02110, (617) 951-8775; Richard H. Epstein (counsel for Mitsubishi), Sills Cummis & Gross, One Riverfront Plaza, Newark, NJ, (973) 643-5372; and David M. Stern (counsel for Resurgence), Klee Tuchin Bogdanoff & Stern LLP, 1999 Avenue of the Stars, Thirty-Ninth Floor, Los Angeles, California 90067, (310) 407-4025.

Relevant Opinions in the Case: *In re Washington Group International, et al.*, BK-N-01-3167 (Bankr. D. Nev.) (Zive, J.) (Docket No. 693, June 20, 2001) (granting summary judgment to Washington Group on Mitsubishi claims); *In re Washington Group International, et al.*, BK-N-01-31627 (Bankr. D. Nev.) (Zive, J.) (Docket No. 820, June 13, 2001) (transcript of summary judgment proceeding and findings of Judge Zive relating to order listed immediately above regarding Mitsubishi claims); *In re Washington Group International, et al.*, BK-N-01-31627 (Bankr. D. Nev.) (Zive, J.) (Docket No. 3169, December 21, 2001) (findings of fact and conclusions of law regarding confirmation of second amended joint plan of reorganization of Washington Group International, Inc., et al., as modified); *In re Washington Group International, et al.*, BK-01-31627 (Bankr. D. Nev.) (Zive, J.) (Docket No. 3170, December 21, 2001) (order confirming second amended joint plan for reorganization of Washington Group International, Inc., et al., as modified); *Consorcio DSD/Somor v. Washington Group International, et al.*, CV-N-02-0032 & 0083 (RLH), Docket No. 76 (D. Nev., October 18, 2002 (Hunt, J.) (dismissing appeal from confirmation as equitably moot); *M.D. Sass Corporate Resurgence Partners, L.P., et al. v. Washington Group International, et al. (In re Washington Group International, et al.)*, CV-N-02-0044 (RLH) Docket No. 63 (D. Nev., October 23, 2002) (Hunt, J.) (dismissing appeal from confirmation as equitably moot); *Consorcio DSD/Somor v. Washington Group International, et al. (In re Washington Group international, et al.)*, CV-N-02-0032 & 0083 (RLH), Docket No. 85 (D. Nev., January 7, 2003) (Hunt, J.) (denying motion for reconsideration).

In re Managed Care Multidistrict Litigation, MDL No. 1334 (S.D. Fla., Moreno, J.): I was one of the three partners from Skadden Arps who represented Health Net, Inc. (f/k/a Foundation Health, Inc.) and various of its subsidiaries in a series of cases that were filed against Health Net and most of the other members of the managed care industry (Aetna, United HealthCare, etc.). The Judicial Panel on Multidistrict Litigation consolidated the cases for coordinated pretrial proceedings in the United States District Court for the Southern District of Florida. The cases alleged that the delivery and operation of managed health care in the United States violated many state and federal statutes, both as to the physicians who practiced under managed care arrangements and as to those persons insured under managed care programs such as PPOs and HMOs.

I was involved principally in the briefing in the cases—at the motion to dismiss stage, and also in relation to the class certification issues. I also was involved in two interlocutory appeals that the case generated—the first relating to arbitration issues, and the second relating to the propriety of class certification of a nationwide class of physician-plaintiffs. I argued the latter of those two appeals. I also was involved, with my colleagues from Skadden Arps and other counsel for Health Net, in advising our client and in developing the client's overall legal strategy. I worked on the litigation from the Spring of 2000 to February 2004.

There were several dozen, if not hundreds, of attorneys involved in the case. The plaintiffs and defendants typically dealt with each other through liaison counsel that the court appointed to speak on behalf of the groups, so I did not communicate with any of the dozens of lawyers representing the plaintiffs. There also were dozens, if not hundreds, of attorneys who were representing the defendant companies. The co-counsel I interacted with most included: Edward Soto (counsel for United HealthCare), Weil Gotshal & Manges, 1395 Brickell Avenue, Miami, FL 33131, (305) 577-3177; Richard J. Doren (counsel for Aetna), Gibson, Dunn & Crutcher, 333 S. Grand Avenue, Los Angeles, CA 90071, (213) 229-7038; and William E. Grauer (counsel for Pacificare), Cooley, Godward Kronish LLP, 4401 Eastgate, San Diego, CA 92121, (858) 550-6050.

Relevant Opinions in the Case: *In re Managed Care Litigation*, MDL No. 1334, 132 F. Supp. 2d 989 (S.D. Fla. 2000) (granting motions to compel arbitration in part, and denying motions in part), *aff'd sub nom., In re Humana Inc. Managed Care Litigation*, 285 F.3d 971 (11th Cir. 2002) (Barkett, Fay, and Winter, JJ.), *cert granted in part sub nom., Pacificare Health Systems, Inc. v. Book*, 123 S.Ct. 409 (U.S. Oct. 15, 2002), and *rev'd in part sub nom., Pacificare Health Systems, Inc. v. Book*, 123 S.Ct. 1531 (U.S. April 7, 2003); *In re Managed Care Litigation*, MDL No. 1334, 135 F. Supp. 2d 1253 (S.D. Fla. 2001) (granting in part and denying in part motions to dismiss); *In re Managed Care Litigation*, MDL No. 1334, 143 F. Supp. 2d 1371 (S.D. Fla. 2001) (granting in part motion to compel arbitration and modifying in part prior order); *In re Managed Care Litigation*, MDL No. 1334, 2001 WL 1400245 (S.D. Fla. May 9, 2001) (order lifting stay of discovery); *In re Managed Care Litigation*, MDL No. 1334, 150 F. Supp. 2d 1330 (S.D. Fla. 2001) (granting in part and denying in part motions to dismiss); *In re Managed*

Care Litigation, MDL No. 1334, 2001 WL 664391 (S.D. Fla. June 12, 2001) (order staying certain discovery); *In re Managed Care Litigation*, MDL No. 1334, 185 F. Supp. 2d 1310 (S.D. Fla. 2002) (granting in part and denying in part motions to dismiss); *In re Managed Care Litigation*, MDL No. 1334, 2002 WL 1359736 (S.D. Fla. March 25, 2002) (order certifying question for interlocutory review petition); *In re Managed Care Litigation*, MDL No. 1334, 2002 WL 1359734 (S.D. Fla. June 11, 2002) (order denying plaintiffs' and defendants' motions for reconsideration); *In re Managed Care Litigation*, MDL No. 1334, 209 F.R.D. 678 (granting class certification as to physicians; denying class certification as to subscribers) (S.D. Fla. 2002), *interlocutory review granted sub nom. Aetna, Inc. et al. v. Klay, et al.*, No. 02-90032-B (11th Cir. November 20, 2002), *aff'd Klay v. Humana, Inc.*, 382 F.3d 1241 (11th Cir. 2004) (Tjoflat, Birch, Goodwin, JJ.). Finally, please know that this litigation continued on for multiple years after I took the bench, even for the client of Skadden Arps alone; in that regard, I have not included opinion(s) concerning developments after I left the bench (*e.g.*, any opinions approving the eventual settlements in the case).

17. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).

Because I worked in the litigation area both while serving as an Assistant United States Attorney and while in private practice, most of my legal efforts related to filed cases—whether on behalf of the federal government, law firm clients, or *pro bono* clients. Those activities are discussed extensively in other responses, so I will focus my answer on non-litigation activities and/or matters that did not progress to trial.

From time to time in private practice, I advised corporations concerning general legal issues—for example, issues relating to potential corporate mergers, acquisitions or transactions, such as questions about how a transaction might be structured to best protect the client against litigation risks. I also conducted internal investigations for clients. In addition, I did criminal defense work for an individual associated with a corporate client which did not result in any public action on the case. I also was one of dozens of attorneys from Skadden Arps who represented Enron and its subsidiaries in connection with various governmental investigations of Enron's conduct after Enron had declared bankruptcy. At that time, I principally worked on issues relating to pension and ERISA matters. I never worked on any matters concerning any of the underlying substantive actions or conduct of Enron which was the subject of later investigation and review; I became involved in the representation only after the underlying actions had been completed and were the subject of governmental investigation.

While serving as a practicing attorney—whether as an Assistant United States Attorney or partner at Skadden, Arps—I also was called upon, as appropriate, to manage large groups of attorneys and non-attorneys who were involved in the efforts on a case. These responsibilities also required appropriate reporting and communication with clients and superiors or supervisory personnel. In these situations, as an Assistant United States Attorney, I worked cooperatively with a wide variety of law enforcement agencies, including the FBI, DEA, U.S. Customs Service, Chicago Police Department, and other state and local law enforcement agencies, as well as with appropriate arms of the U.S. Department of Justice in Washington, D.C. While serving as a district judge, I also have actively managed a full docket of criminal and civil cases.

I have taught at the University of Chicago Law School and at the Northwestern University School of Law over the past several years. During this time, I have taught (at times with a colleague) a seminar that looked at legal issues raised by the prosecution and defense of complex federal criminal cases. For the past four years, I have also taught a first-year civil procedure class at the University of Chicago. It is entitled Civil Procedure II, and it covers a traditional array of civil procedure topics taught at an American law school.

18. **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, please provide four (4) copies to the committee.

During the Spring Quarter each year from 2004 to 2007, I taught a first-year course called Civil Procedure II at the University of Chicago Law School. Civil Procedure II at the University of Chicago addresses topics such as: subject matter jurisdiction of courts, including, in particular, the diversity of citizenship and federal question jurisdiction of the federal courts; personal jurisdiction; choice of law questions under *Erie R.R.Co. v. Tompkins*, 304 U.S. 64 (1938); collateral estoppel and res judicata doctrines; and certain procedural questions typically arising in multi-party litigation contexts. The most recent syllabus is attached, as requested.

From 1999 to 2007, I taught a seminar each year at the University of Chicago Law School that examines legal issues involved in the prosecution and defense of complex criminal cases. The seminar looks at various procedural issues (*e.g.*, joinder and severance), various substantive issues (*e.g.*, the law concerning the federal criminal RICO statute), various evidentiary doctrines (*e.g.*, the *Bruton* doctrine), and issues of prosecutorial discretion and sentencing. I also taught this seminar from 1998 to 1999 at the Northwestern University School of Law. A copy of the most recent syllabus is attached.

19. **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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

I will have no such arrangements or expected future income of the sort listed above. I have an interest in the Skadden Arps Meagher & Flom Retirement Plan. I have no access to any such monies until I am at least 55 years old, I have no knowledge of the composition of the holdings of the Retirement Plan, and I have no control over the Plan or its assets.

20. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service in the position to which you have been nominated? If so, explain.

No.

21. **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, patents, 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.)

Please see SF-278 filed in connection with my nomination.

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

See attached Net Worth Statement.

23. **Potential Conflicts of Interest**:

    a. Identify any affiliations, pending litigation, financial arrangements, or other factors that are likely to present potential conflicts-of-interest during your initial service in the position to which you are nominated. Explain how you would address any such conflict if it were to arise.

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

In the event of a potential conflict of interest, I would consult with personnel at the Department of Justice (and/or the Office of Government Ethics, as appropriate), who are experts on such issues, and I will follow their advice.

24. **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. If you are not an

attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I was actively involved in pro bono work throughout the time I was in practice at Skadden Arps, as are most attorneys there. In 2000, my first full year at the firm, I devoted approximately 141 hours to pro bono work; in 2001, approximately 148 hours; in 2002, approximately 260 hours; and in 2003 and the first two months of 2004 (as I left in early 2004 to become a judge), approximately 185 hours.

My pro bono work was focused in three main areas: indigent criminal defense work; a pro bono Supreme Court brief that argued in favor of the constitutionality of "Megan's Laws," which allow for community notification regarding convicted sex offenders; and the representation of a state inmate in Illinois who alleged that Cook County law enforcement officers subjected him to unlawful use of force and thereby violated his constitutional rights.

My pro bono criminal defense work was principally done through the Federal Defender Office in Chicago, which represents indigent criminal defendants, subjects, and witnesses in federal criminal cases in Chicago. Although the office has several full-time attorney-employees, outside attorneys (often, but not always, former Assistant United States Attorneys from Chicago) also respectively serve certain days of the month as the "duty attorney" taking on representation of new clients who contact the office to seek legal representation on that particular day. As a "duty day attorney," I took on representation of a variety of indigent individuals accused of diverse crimes, including financial frauds, narcotics offenses, and other crimes. When I first started working with the Federal Defender program, I involved more junior attorneys at Skadden Arps in the cases, to help with research and to help prepare briefs. As those attorneys gained experience, I encouraged and allowed them to take more central roles in the representations and to appear in court on behalf of our clients.

The second area of pro bono representation involved the drafting of an amicus brief, along with other colleagues at Skadden Arps, in *Connecticut Dept. of Public Safety, et al. v. Doe, et al.* (No. 01-1231). In that case, as explained above in response to Question 15.e, the Supreme Court examined (and rejected certain challenges to) the constitutionality of so-called "Megan's Laws." *See Connecticut Dept. of Public Safety v. Doe*, 123 S.Ct. 1160 (2003). The amicus brief, along with others, urged such a ruling.

My third area of pro bono involvement concerned the representation of a state inmate, James T. Lockhart, who alleged that he was unlawfully beaten by Cook County law enforcement officers in a racial incident. I received this representation as the result of a court appointment by the Hon. Elaine Bucklo of the United States District Court for the Northern District of Illinois. I was involved supervising junior attorneys who took a number of depositions in the case, and also oversaw the preparation of various court filings. I also was involved in the negotiation of the settlement of the case.

1. **Supplement to Questionnaire for Non-Judicial Nominees**

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

I believe I have presided over approximately seventeen cases that were resolved via trial or contested evidentiary hearing.

i. Of these, approximately what percent were:

jury trials:	53%
bench trials:	47%
civil proceedings:	76%
criminal proceedings:	24%

b. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number (if not reported).

***United States v. National Association of Realtors*, No. 05 C 5140 (N.D. Ill.)**: In this Sherman Act antitrust case, the government alleged that the National Association of Realtors adopted two policies that unreasonably restrained competition in real estate brokerage service markets throughout the United States. I denied the National Association of Realtors's motion to dismiss for lack of subject matter jurisdiction and failure to state claims upon which relief could be granted. I held that the government had adequately established standing with regard to the two policies in question and that the government had sufficiently pleaded a Sherman Act claim for purposes of Fed. R. Civ. P. 12(b). *See United States v. Nat'l Ass'n of Realtors*, No. 05 C 5140, 2006 WL 3434263 (N.D. Ill. Nov. 27, 2006). The case is ongoing; it was reassigned to Judge Matthew Kennelly when the President indicated his intent to nominate me for the position of Deputy Attorney General.

Government's counsel:

Craig W. Conrath (for the United States)
U.S. Department of Justice, Antitrust Division
325 Seventh Street, NW, Suite 300
Washington, DC 20530
(202) 307-5779

Defendant's counsel:

Jack R. Bierig (for National Association of Realtors)
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7614

***Crosby v. Bowater Inc. Retirement Plan for Employees of Great Northern Paper, Inc.*, No. 05 C 3478 (N.D. Ill.):** In this case, Plaintiff Frank Crosby, on behalf of himself and others similarly situated, sued Bowater, Inc., and Bowater Incorporated Retirement Plan for Salaried Employees of Great Northern Paper, Inc., under the Employee Retirement Income Security Act of 1974 ("ERISA"). Mr. Crosby alleged that the defendants incorrectly applied a "pre-retirement mortality discount" when he elected to receive a lump sum pre-retirement benefit from the Plan. I denied the defendants' motion to dismiss on *res judicata* and estoppel grounds. *See Crosby v. Bowater Incorporated Retirement Plan for Employees of Great Northern Paper, Inc.*, No. 05 C 3478, 2006 WL 2578928 (N.D. Ill. Sept. 1, 2006). I also orally denied a motion by the defendants to have that ruling be the subject of a certification for an interlocutory appeal. The case was later settled. I entered an order approving class certification, designating the class representative, appointing class counsel, and, ultimately, approving the class settlement agreement.

Plaintiff's counsel:

Eva T. Cantarella (for Crosby individually and on behalf of all others similarly situated)
Hertz, Schram & Saretsky, P.C.
1760 Telegraph Rd., Suite 300
Bloomfield Hills, MI 48302
(248) 335-5000

Defendant's counsel:

Ian H. Morrison (for the Bowater Entities)
Seyfarth Shaw LLP
131 S. Dearborn Street, Suite 2400
Chicago, IL 60603
(312) 460-5000

***United States v. Stratievsky*, No. 05 CR 483 (N.D. Ill.):** Defendants Boris Stratievsky, Lev Stratievsky, and Alex Shlosberg were indicted on several criminal charges involving money laundering and furnishing false passports. I denied Boris and Lev Stratievsky's motion to dismiss Counts One and Two of the pending criminal indictment, concluding that the Government had sufficiently alleged the elements of violations of 18 U.S.C. § 1956(h) (conspiracy to commit money laundering) and 18 U.S.C. § 1956(a)(3)(B) (attempt to commit money laundering within the scope of the conspiracy). *See United States v. Stratievsky*, 430 F. Supp. 2d 819 (N.D. Ill. 2006). I accepted a plea agreement from Mr. Alex Shlosberg and sentenced him after hearing arguments from the prosecution and his counsel. Presently, counsel for Mr. Boris Stratievsky are attempting to arrange the deposition of various putative defense witnesses located in the Russian Federation, and I have granted defense motions to attempt to procure such evidence. The case was reassigned to Judge Ruben Castillo when the President indicated his intent to nominate me for the position of Deputy Attorney General.

Government's counsel:

Charles E. Ex (for the United States)
United States Attorney's Office
219 S. Dearborn St., Suite 500
Chicago, IL 60604
(312) 353-5300

Defendant's counsel:

Edward M. Genson (for Mr. Boris Stratievsky)
Genson & Gillespie
53 W. Jackson Blvd., Suite 1420
Chicago, IL 60604
(312) 726-9015

Marc W. Martin (for Mr. Lev Stratievsky)
Marc W. Martin, Ltd.
53 W. Jackson Blvd., Suite 1420
Chicago, IL 60604
(312) 408-1111

Cynthia L. Giacchetti (for Mr. Alex Shlosberg)
Law Office of Cynthia Giacchetti
53 W. Jackson Blvd., Suite 1460
Chicago, IL 60604
(312) 939-6440

***REP MCR Realty, L.L.C. v. Lynch*, No. 02 C 399 (N.D. Ill.):** In this case, the plaintiffs alleged that the defendant, an entrepreneur who had engaged in hundreds of millions of dollars in business transactions, was liable under a personal guaranty he made on behalf of a limited liability company that later defaulted on its loan obligations. The case was first brought before Judge Robert Gettleman; I inherited the case on March 3, 2004, upon taking the bench. In 2005, after holding an evidentiary hearing, I issued a published opinion dismissing with prejudice a third-party complaint filed by the defendant and finding that the defendant engaged in sanctionable conduct by fabricating three critical documents related to the litigation and by repeatedly perjuring himself in connection with the investigation of the authenticity *vel non* of those three documents. *See REP MCR Realty, L.L.C. v. Lynch*, 363 F. Supp. 2d 984 (N.D. Ill. 2005), *aff'd*, 200 Fed. App'x 592 (7th Cir. Aug. 3, 2006). In that opinion, I granted summary judgment for the plaintiffs. *See* 363 F. Supp. 2d 984 (N.D. Ill. 2005), *aff'd*, 200 Fed. App'x 592 (7th Cir. Aug. 3, 2006).

Plaintiff's Counsel:

C. Vincent Maloney (for REP MCR Realty L.L.C.)
Perkins Coie LLP
131 South Dearborn Street, Suite 1700
Chicago, IL 60603
(312) 324-8400

Defendant's Counsel

Eugene Murphy, Jr. (for Mr. Lynch)
Murphy & Hourihane LLC
77 W. Wacker Dr., Suite 4800
Chicago, IL 60601
(312) 606-9300

Third Party Defendant's Counsel

Stephen Novack (for Seyfarth Shaw and Edward J. Karlin)
Novack and Macey LLP
100 North Riverside Plaza
Chicago, IL 60606
(312) 419-6900

***Talton v. Unisource Network Services, Inc.*, No. 00 C 7967 (N.D. Ill.):** In this case, Sheila Talton, the founder and former CEO of a corporation sued the corporation and various individual defendants, alleging securities fraud violations and other claims. In September 2004, I issued an opinion denying in part and granting in part the defendants' motions for summary judgment. *See Talton v. Unisource Network Servs., Inc., et al.*, No. 00 C 7967, 2004 WL 2191605 (N.D. Ill. Sept. 27, 2004). In December 2004, I issued an opinion denying the defendants' motion for leave to amend their answer and add new affirmative defenses. *See Talton v. Unisource Network Servs., Inc., et al.*, No. 00 C 7967, 2004 WL 3119007 (N.D. Ill. Dec. 21, 2004). Thereafter, the parties and court prepared extensively for trial; at the same time, the parties engaged in extensive settlement discussions, some of which my colleague, Magistrate Judge Michael Mason, and I, variously moderated. Eventually the case settled shortly before trial.

Plaintiff's Counsel:

Kathleen H. Klaus (for Ms. Talton)
Maddin, Hauser, Wartell, Roth & Heller, P.C.
28400 Northwestern Highway, Third Floor
Southfield, Michigan 48034
(248) 354-4030

Defendant's Counsel:

Michael A. Reiter (for Unisource Network Services, Inc.)
Duane Morris LLC
227 West Monroe Street, Suite 3400
Chicago, IL 60606
(312) 499-6700

Catherine E. Isley (for Polestar Capital, Inc.; Polestar Capital Fund II, L.P.; Polestar Capital Fund III, L.P.; Atlantic Coastal Investors, L.P.)
Butler Rubin Saltarelli & Boyd LLP
70 West Madison Street, Suite 1800
Chicago, IL 60602
(312) 444-9660

***Cortez ex rel. Cortez v. Calumet Pub. Sch. Dist. # 132*, No. 01 C 8201 (N.D. Ill.):** This case was transferred to me on June 7, 2004, after pending before one of my colleagues. The case was a class action, in which the plaintiffs challenged the manner in which Calumet Public School District #132, various local school officials, and the Superintendent of the Illinois State Board of Education and the Members of the Illinois State Board of Education had administered bilingual education programs. Specifically, the plaintiffs alleged that the defendants variously violated their rights under the Equal Protection Clause, Title VI, and the Equal Education Opportunities Act. After receiving the case, I moderated over extensive settlement negotiations between the parties and their counsel. These ultimately culminated in a settlement agreement between the parties. *See Christian Cortez, et al. v. Calumet Public School District #132, et al.*, No. 01 C 8201, D.E. 74 (Jan. 9, 2006) (order of final approval of settlement, certification and approval of MALDEF as class counsel, and certification of class). Pursuant to the settlement agreement, the defendants implemented various measures designed to help ensure that bilingual education would be administered properly in the school district.

Plaintiff's Counsel:

Alonzo Rivas, now at:
Jacobs Burns Orlove Stanton & Hernandez
122 South Michigan Avenue, Suite 1720
Chicago, IL 60603
(312) 327-3450; (773) 415-3955

Defendant's Counsel

Darcy L. Proctor (for Calumet Public School District #132 and individual defendants)
Ancel, Glink, Diamond, Bush, DiCianni & Rolek, P.C.
140 South Dearborn Street, 6th Floor
Chicago, IL 60603
(312) 782-7606

***Miller v. Lewis*, No. 03 C 297 (N.D. Ill.):** In this § 1983 action, a patron of Harrah's Casino sued the casino and Chris Lewis, a special agent of the Illinois Gaming Board, for alleged violations of the patron's constitutional rights after he was detained in the casino and forced to return money to the casino. I denied Mr. Lewis's motion for summary judgment on the false arrest claim and held that Mr. Lewis was not entitled to qualified immunity on the evidentiary record assembled. I granted Mr. Lewis's motion for summary judgment on the excessive force claim, and granted summary judgment for Harrah's on claims of false imprisonment, fraud, and extortion. *See Miller v. Lewis*, 381 F. Supp. 2d 773 (N.D. Ill. 2005). The false arrest claim proceeded to a jury trial, and the jury issued a verdict in favor of special agent Lewis.

Plaintiff's counsel:

Gregory E. Kulis
Gregory E. Kulis and Associates, Ltd.
30 North LaSalle Street Suite 2140
Chicago, IL 60602
(312) 580-1830

Defendant's counsel:

Rachel Jana Fleischmann (for Mr. Lewis)
Illinois Attorney General's Office
100 West Randolph Street
Chicago, IL 60601, (312) 814-6122

***Walden v. City of Chicago*, No. 04 C 47 (N.D. Ill.):** In 1952, Oscar Walden, Jr., was arrested, prosecuted, and convicted of rape in the Illinois courts. He served approximately fourteen years in prison, was paroled, and was eventually granted a general pardon in 1978 by then-Illinois Governor James R. Thompson and an innocence pardon in 2003 from then-Illinois Governor George Ryan. In 2004, Mr. Walden brought numerous federal and state law claims against individual defendants and the City of Chicago, including claims of false arrest, torture and physical abuse, wrongful conviction, and violation of the Equal Protection Clause. I denied in part and granted in part a defense motion to dismiss. *See Walden v. City of Chicago*, 391 F. Supp. 2d 660 (N.D. Ill. 2005). The parties have since engaged in various unsuccessful settlement discussions while also pursuing discovery. The parties are presently involved in various expert discovery, and if the case does not settle, it likely will need to be resolved via a trial.

Plaintiff's counsel:

John L. Stainthorp (for Mr. Walden)
People's Law Offices
1180 North Milwaukee Avenue
Chicago, IL 60622
(312) 235-0070

Defendant's counsel:

Penelope M. George (for the City of Chicago)
City of Chicago, Department of Law
30 North LaSalle Street, Suite 900
Chicago, IL 60602
(312) 744-9010

***Fields v. Maram*, No. 04 C 174 (N.D. Ill.):** Several residents of Illinois nursing homes brought suit under 42 U.S.C. § 1983, the ADA, and the Rehabilitation Act, alleging that the Illinois Department of Healthcare and Family Services had an unlawful policy of refusing medically necessary motorized wheelchairs to disabled nursing home residents who received Medicaid. I initially granted plaintiffs' motion to certify the case as a class action. *See Fields v. Maram*, No. 04 C 0174, 2004 WL 1879997 (N.D. Ill. Aug. 17, 2004). I also moderated extensive settlement discussions, which culminated in a consent decree, under which the Department agreed to adopt various procedures to evaluate and ensure that all nursing home residents who receive Medicaid and who have a medical need for a motorized wheelchair will, in fact, receive such a wheelchair. *See Jackson, et al. v. Maram*, No. 04 C 174, D.E. 65 (consent decree).

Plaintiff's counsel:

Max P. Lapertosa (for Mr. Fields and other plaintiffs)
Access Living
614 West Roosevelt Road
Chicago, IL 60607
(312) 253-7000

Stephen F. Gold (for Mr. Fields and other plaintiffs)
Attorney at Law
125 South Ninth Street, Suite 700
Philadelphia, PA 19107
(215) 627-7100

Defendant's counsel:

Karen E. Konieczny (for Mr. Maram, in his official capacity as the Director of the Illinois Department of Public Aid)
Illinois Attorney General's Office
160 North LaSalle Street, Suite N-1000
Chicago, IL 60601
(312) 793-2380

***Ramos v. Ashcroft*, No. 02 C 8266 (N.D. Ill.):** I inherited this case from Judge David Coar on March 3, 2004, upon taking the bench. Plaintiffs challenged the manner in which the Chicago District Office of the Immigration and Nationality Service handled thousands of applications for adjustment of status from 1997 to 2001, arguing that the Office violated the Immigration and Nationality Act, the applicable regulations, national policy, and the Constitution. After receiving the case, I moderated an extensive series of negotiations, which ultimately culminated in a comprehensive settlement agreement. *See Ramos, et al. v. Ashcroft*, et *al.*, No. 02 C 8266, D.E. 65 (parties' agreed motion for preliminary approval of settlement agreement).

Plaintiff's counsel:

Mary Meg McCarthy (for the plaintiffs)
Director, National Immigrant and Human Rights Center
208 South LaSalle Street, Suite 1818
Chicago, IL 60604
(312) 660-1351

Steven I. Saltzman (for the plaintiffs)
Attorney at Law

122 South Michigan Avenue, Suite 1850
Chicago, IL 60603
(312) 427-4500

Defendant's counsel:

Craig Oswald (for Attorney General Ashcroft, in his official capacity)
United States Attorney's Office
219 South Dearborn Street, Suite 500
Chicago, IL 60604
(312) 886-9080

c. 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. *United States v. National Association of Realtors*, No. 05 C 5140, 2006 WL 3434263 (N.D. Ill. Nov. 27, 2006)—counsel as listed immediately above in response to Question 14.b.

2. *Crosby v. Bowater Inc. Retirement Plan for Employees of Great Northern Paper, Inc.*, No. 05 C 3478, 2006 WL 2578928 (N.D. Ill. Sept. 1, 2006)—counsel as listed immediately above in response to Question 14.b.

3. *Miller v. Lewis*, 381 F. Supp. 2d 773 (N.D. Ill. 2005)—counsel as listed immediately above in response to Question 14.b.

4. *Walden v. City of Chicago*, 391 F. Supp. 2d 660 (N.D. Ill. 2005)—counsel as listed immediately above in response to Question 14.b.

5. *REP MCR Realty, L.L.C. v. Lynch*, 363 F. Supp. 2d 984 (N.D. Ill. 2005)—counsel as listed immediately above in response to Question 14.b.

6. *Talton v. Unisource Network Services, Inc.*, No. 00 C 7967, 2004 WL 2191605 (N.D. Ill. Sept. 27, 2004)—counsel as listed immediately above in response to Question 14.b.

7. *Fields v. Maram*, No. 04 C 0174, 2004 WL 1879997 (N.D. Ill. Aug. 17, 2004)—counsel as listed immediately above in response to Question 14.b.

8. *Holden v. Deloitte and Touche LLP*, 390 F. Supp. 2d 752 (N.D. Ill. 2005)

Plaintiff's counsel:

Harvey J. Barnett (for Mr. Holden)
Sperling & Slater
55 West Monroe Street, Suite 3200
Chicago, IL 60603
(312) 641-3200

Defendant's counsel:

Linton Childs and Charles W. Douglas (for Deloitte & Touche)
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000

9. *O'Reily v. Ashcroft*, No. 04 C 3610, 2004 WL 2877321 (N.D. Ill. Dec. 13, 2004)

Plaintiff:

Vasallo S. O'Reily (pro se litigant)
formerly at:
Tri-County Detention Center
1026 Shawnee College Road
Ulin, IL 62992

Since released on grant of habeas relief; whereabouts unknown.

Defendant's Counsel

Sheila McNulty
United States Attorney's Office
219 South Dearborn Street, Suite 500
Chicago, IL 60604
(312) 353-5300

10. *Freedom Mortgage Corp. v. Burnham Mortgage, Inc.*, 03 C 6508, 2006 WL 695467 (N.D. Ill. Mar. 13, 2006)

Plaintiff's counsel:

Dennis A. Dressler (for Freedom Mortgage Corporation)
Dressler & Peters, LLC
111 West Washington Street, Suite 1900

Chicago, IL 60602
(312) 637-9378

Defendant's counsel:

Daniel M. Purdom
Hinshaw & Culbertson
222 N. LaSalle Street
Chicago, IL 60601
(312) 704-3000

Thomas B. Underwood (for Exeter Title Company)
Purcell & Wardrope, Chtd.
10 South LaSalle Street, Suite 1200
Chicago, IL 60603
(312) 427-3900

Gregory R. Meeder (for Ticor Title Insurance Company)
Holland & Knight LLP
131 South Dearborn, 30th Floor
Chicago, IL 60603
(312) 928-6022

d. Provide a brief summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings.

As of the date of completing this Questionnaire, I have not had an opinion or decision that was reversed on appeal.

In *Williams Electronics Games, Inc. v. Garrity*, No. 97 C 3743, 2005 WL 2284280 (Sept. 15, 2005), I relinquished jurisdiction, and thus effectively sent to Illinois state court, a civil suit in which all of the federal claims had dropped out of the case. That decision was affirmed on appeal. *See Williams Electronics Games, Inc. v. Garrity*, 479 F.3d 904 (7th Cir. 2007). In the course of affirming, the Seventh Circuit stated: "We are troubled . . . by the judge's invocation of a 'presumption' in favor of relinquishing supplemental jurisdiction." *Id.* at 907; *compare Williams* 2005 WL 2284280 at *1 (discussing presumption issue). The Seventh Circuit proceeded to affirm, stating: "But it is clear from the district judge's detailed discussion that he would have reached the same result on proper grounds without reference to the presumption, instead relying on section 1367(c)(1) [of Title 28 of the United States Code] ("the claim raises a novel or complex issue of State law—in fact, issues"). Therefore his exercise of discretion, which was otherwise reasonable, was not fatally contaminated by the reference. This dismissal of the suit is therefore affirmed." *Williams*, 479 F.3d at 907-08.

e. 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, please provide copies of the opinions.

1. *O'Reily v. Ashcroft*, No. 04 C 3610, 2004 WL 2877321 (N.D. Ill. Dec. 13, 2004).

2. *Walden v. City of Chicago*, 391 F. Supp. 2d 660 (N.D. Ill. 2005).

3. *Miller v. Lewis*, 381 F. Supp. 2d 773 (N.D. Ill. 2005).

4. *Beary Landscaping, Inc. v. Ludwig*, 479 F. Supp. 2d 857 (N.D. Ill. 2007).

5. *Access 4 All, Inc. v. Chicago Grande, Inc.*, No. 06 C 5250, 2007 WL 1438167 (N.D. Ill. May 10, 2007).

f. 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.

None.

Mark Filip
12/2/2007

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		5	400	Notes payable to banks-secured			0
U.S. Government securities-add schedule			0	Notes payable to banks-unsecured			0
Listed securities-add schedule		347	000	Notes payable to relatives			0
Unlisted securities--add schedule			0	Notes payable to others			0
Accounts and notes receivable:			0	Accounts and bills due			0
Due from relatives and friends			0	Unpaid income tax			0
Due from others			0	Other unpaid income and interest			0
Doubtful			0	Real estate mortgages payable-add schedule		189	800
Real estate owned-add schedule		975	000	Chattel mortgages and other liens payable			0
Real estate mortgages receivable			0	Other debts-itemize:			
Autos and other personal property		137	500	Credit Card		7	800
Cash value-life insurance			0	Car Loan		27	200
Other assets itemize:							
Retirement Account		97	500				
Children Trust Accounts		2	000				
				Total liabilities		224	800
				Net Worth	1	339	600
Total Assets	1	564	400	Total liabilities and net worth	1	564	400
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor			0	Are any assets pledged? (Add schedule)			No
On leases or contracts			0	Are you defendant in any suits or legal actions?			No
Legal Claims			0	Have you ever taken bankruptcy?			No
Provision for Federal Income Tax			0				
Other special debt			0				

Listed Securities
Mutual Funds – Mark Filip

Northern Fixed Income Fund	$	50,900
Northern High Yield Fixed Income Fund	$	27,800
Northern Small Cap Index Fund	$	13,000
Northern Stock Index Fund	$	251,300
Northern Money Market Fund	$	4,000

Itemized Asset One is a retirement account at the law firm at which I was formerly a partner – Skadden Arps Slate Meagher & Flom. I have no control over such funds; I am unaware of how they are invested; and I do not have any access to such funds until I am at least 55 years of age.

Itemized Asset Two lists two children's trust accounts. They hold Northern Stock Index and Northern Money Market Fund shares.

Real Estate Owned

Residence in Illinois	$	975,000

Real Estate Mortgages Payable

First Mortgage on Residence	$	189,800