

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Michael Walter Fitzgerald

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

United States District Judge for the Central District of California

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

Corbin, Fitzgerald & Athey LLP
601 West Fifth Street, Suite 1150
Los Angeles, California 90071

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

1959; Los Angeles, California

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

1982 – 1985, University of California, Berkeley School of Law (Boalt Hall); J.D., 1985
1977 – 1981, Harvard University; A.B. (*magna cum laude*), 1981

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1998 – present
Corbin, Fitzgerald & Athey LLP/Corbin & Fitzgerald LLP
601 West Fifth Street, Suite 1150
Los Angeles, California 90071
Partner

1995 – 1998

Law Offices of Robert L. Corbin, P.C.
601 West Fifth Street, 12th Floor
Los Angeles, California 90071
Associate

1991 – 1995

Heller, Ehrman, White & McAuliffe (no longer in existence)
601 South Figueroa Street, 40th Floor
Los Angeles, California 90017
Associate

1988 – 1991

United States Attorney's Office, Criminal Division
United States Courthouse
312 North Spring Street, 12th Floor
Los Angeles, California 90012
Assistant United States Attorney

1986 – 1987

O'Donnell & Gordon (later merged with Kaye Scholer)
601 West Fifth Street, 12th Floor
Los Angeles, California 90071
Associate

1985 – 1986

The Hon. Irving R. Kaufman
U.S. Court of Appeals for the Second Circuit
40 Foley Square
New York, New York 10007
Law Clerk

1983 – 1984, 1984 – 1985

University of California, Berkeley School of Law
215 Boalt Hall
Berkeley, California 94720
Research Assistant to Professor Paul J. Mishkin

Summer 1984

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Summer Associate

Summer 1983
Rogers & Wells (later merged with Clifford Chance)
201 North Figueroa Street
Los Angeles, California 90071
Summer Associate

1982
Anaheim High School
811 West Lincoln Avenue
Anaheim, California 92805
Teacher

1981 – 1982
ABC, Bellflower, Long Beach, Norwalk, Paramount School Districts
Substitute Teacher

Other Affiliations (uncompensated):

2007 – present
Federal Bar Association, Los Angeles Chapter
210 North Glenoaks Boulevard, Suite C
Burbank, California 91502
Board of Directors

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

I have not served in the military. I did not register for selective service because men born between March 29, 1957 and December 31, 1959 were not required to register.

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

Southern California “Super Lawyer,” *Los Angeles Magazine* (2006 – 2011) (limited to 5% of Southern California lawyers, excluding San Diego)

Richard E. Guggenheimer Pro Bono Award from Heller, Ehrman, White & McAuliffe, (1994)

Maynard Toll Pro Bono Associate Award from the Legal Aid Foundation of Los Angeles (1994)

Order of the Coif, University of California, Berkeley School of Law (Boalt Hall) (1985)

American Jurisprudence Award, Criminal Law (1982)

Two fellowships from Harvard University for research in Spain for my senior honors thesis (1980)

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

American Bar Association

White Collar Crime Committee, Criminal Justice Section (1995 – present)

White Collar Crime Southern California Regional Subcommittee (1995 – present)

Association of Business Trial Lawyers

Federal Bar Association

Board of Directors, Los Angeles Chapter (2007 – present)

Irish-American Bar Association

Lawyer Representative for the Ninth Circuit (2006 – 2008)

Lesbian and Gay Lawyers Association of Los Angeles

Los Angeles County Bar Association

Advisory Committee for the Office of the District Attorney (1994)

Ninth Circuit Attorney Admission Fund Committee (2001 – 2003)

State Bar of California

Committee on Federal Courts (2002 – 2005)

Trial Practice Inn of Court for the Los Angeles Superior Court

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

California, 1987

There has been no lapse in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse

in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Ninth Circuit, 1988

United States District Court for the Central District of California, 1987

United States District Court for the Northern District of California, 1992

United States District Court for the Southern District of California, 2011

There have been no lapses in membership.

11. **Memberships:**

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

City Club on Bunker Hill (2008 – 2011)

Harvard Club of New York City (2005 – present)

Harvard-Radcliffe Gay and Lesbian Caucus (2006 – present)

Los Angeles Gay and Lesbian Center

Leadership Task Force of the Center (2007 – 2008)

Stonewall Democratic Club (approx. late-1990s)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

12. Published Writings and Public Statements:

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

Letter to the editor, "Worked with Schiff," San Gabriel Valley Tribune (Sept. 15, 2010). Copy supplied.

In 1984-85, I served as managing editor of the Industrial Relations Law Journal.

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

During 2000, I served on a pro bono basis as a Deputy General Counsel for the Rampart Independent Review Panel, which examined the Los Angeles Police Department in the wake of the Rampart scandal, which involved a corrupt gang task force. Because of my work at the United States Attorney's Office, I examined the Narcotics Division. I drafted the section of the Report presented to the Police Commission in November 2000 that described the Narcotics Division, at pp. 185-92. Copy supplied.

In 1994, as a member of the Advisory Committee for the Office of the District Attorney for the Los Angeles County Bar Association, I conducted interviews and reviewed documents. The Committee released a report on the Los Angeles District Attorney's Office, and I drafted a small portion of it entitled "Computer Generated and Other Visual Aids," at pp. 81-84. A copy of the report is supplied.

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

I have not provided any such testimony, statements or other communications.

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

the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

On November 16, 1994, I made very brief remarks upon accepting the Maynard Toll Pro Bono Associates Award. The remarks were addressed to the annual luncheon of the Legal Aid Association of Los Angeles. I thanked the partners of Heller Ehrman for giving me the opportunity to work on the *Buttino* and *Wharton* cases. I have no notes, transcript or recording. The address of the Legal Aid Foundation is 1550 West Eighth Street, Los Angeles, California 90017.

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

Jean Eaglesham, "U.S. Sets 50 Bank Probes – FDIC Steps Up Investigations at Failed Lenders," Wall Street Journal (Nov. 17, 2010). Copy supplied.

Marcy Gordon, "FDIC Sues 4 Former IndyMac Execs," Associated Press (July 15, 2010) [re-printed in multiple outlets]. Copy supplied.

E. Scott Reckard, "FDIC Sues 4 IndyMac Executives," Los Angeles Times (July 14, 2010) [re-printed in multiple outlets]. Copy supplied.

Kevin Smith, "FDIC Sues Former IndyMac Executives," San Gabriel Valley Tribune (July 14, 2010) [re-printed in multiple outlets]. Copy supplied.

E. Scott Reckard, "FDIC Sues Former Executives at IndyMac's Homebuilding Loan Division," Los Angeles Times (July 12, 2010). Copy supplied.

Karen W. Arenson, "Columbia to Pay \$1.1 Million to State Fund in Loan Scandal," New York Times (June 1, 2007). Copy supplied.

Jennifer English, "Witness in DWP Overbilling Trial Labeled Hostile," City News Service (Apr. 18, 2006). Copy supplied.

Matt Krasnowski, "A Bit of Drama at Fleishman Overbilling Trial as Witness Deemed Hostile," Copley News Service (Apr. 18, 2006). Copy supplied.

James Nash, "15 Face Fines in City Hall Corruption," The Daily News of Los Angeles (Oct. 15, 2004). Copy supplied.

Anna Gorman, "Casden Exec, Others Plead No Contest," Los Angeles Times (Oct. 15, 2004). Copy supplied.

Kim Nguyen and Peggy Lowe, "Fresh Face May Be Too Fresh: Walsh's Run for DA Requires Overcoming Overly Youthful Look," Rocky Mountain News (July 23, 2004). Copy supplied.

Leslie Wayne, "3rd Person Charged in Boeing-Lockheed Case," International Herald Tribune (May 13, 2004). Copy supplied.

Peter Pae, "Another Boeing Employee Charged," Los Angeles Times (May 12, 2004). Copy supplied.

Leslie Wayne, "More Charges in Theft of Lockheed Files," New York Times (May 12, 2004). Copy supplied.

Andrew Galvin, "Boeing Retiree Charged in Lockheed Theft," The Orange County Register (May 12, 2004). Copy supplied.

Jennifer English, "Untitled," City News Service (May 11, 2004). Copy supplied.

Jean Guccione, "Woman Gets Fine, Probation in Scam," Los Angeles Times (Dec. 17, 2003). Copy supplied.

"Sizemore's Sentencing in Abuse Case Postponed," Globe and Mail (Oct. 2, 2003). Copy supplied.

Linda Deutsch, "Sizemore in Rehab, Sentencing for Abusing Heidi Fleiss is Delayed," Associated Press (Sept. 30, 2003) [re-printed in multiple outlets]. Copy supplied.

"Tom Sizemore's Sentencing Postponed," City News Service (Sept. 30, 2003). Copy supplied.

David K. Li, "Blame the Accuser," New York Post (June 7, 2003). Copy supplied.

"Carson Plea," City News Service (Mar. 12, 2003). Copy supplied.

"Carson's Ex-Mayor Agrees to Plead Guilty to Corruption Charges," Associated Press (Jan. 29, 2003) [re-printed in multiple outlets]. Copy supplied.

Jennifer English, "Ex-Carson Mayor to Plead Guilty in Corruption Probe," City News Service (Jan. 29, 2003). Copy supplied.

E. Scott Reckard, "SEC Files Fraud Suit against Dealers," Los Angeles Times (Jan. 14, 2003). Copy supplied.

Sharon McNary, "Home Confinement Sentence in Bribery," Press Enterprise (Riverside, CA) (Feb. 22, 2002). Copy supplied.

Chris T. Nguyen, "No Federal Jurisdiction, Judge Rules," San Bernardino Sun (Jan. 29, 2002). Copy supplied.

Bob Page, "Two Businessman Pleaded Guilty to Federal Bribery Charges," San Bernardino Sun (Sept. 18, 2001). Copy supplied.

Sharon McNary, "Eaves Pleads Not Guilty 14 Times," Press Enterprise (Riverside, CA) (Sept. 18, 2001). Copy supplied.

Gina Piccalo, "Beverly Hills Off the Hook in Racial Profile Suit," Los Angeles Times (Oct. 12, 2000). Copy supplied.

Sanford Nax, "Is the End Near for Royal Management?," Fresno Bee (Aug. 11, 1996). Copy supplied.

"Profile: Sandra Brown Armstrong," Los Angeles Daily Journal (Sept. 8, 1995). Copy supplied.

Jesse Katz, "Few Get Rich, Most Struggle in Crack's Grim Economy," Los Angeles Times (Dec. 20, 1994). Copy supplied.

December 10, 1993: Following the settlement of *Buttino v. FBI, et al.*, which involved a certified class of gay and lesbian FBI special agents, employees and applicants, I issued a statement, spoke at a press conference, and perhaps spoke directly to a few reporters. A highly edited version of my remarks was broadcast on CNN and, perhaps, other networks. I do not have a copy of the broadcast, a transcript of my remarks, or a copy of my statement, but I am quoted in the following articles:

"Gay Former FBI Agent Wins Settlement," 1994 Daily Labor Report (BNA) 17 (Jan. 27, 1994). Copy supplied.

"Attorneys for FBI, Gay Former Agent To Present Settlement Details in January," 1993 Daily Labor Report (BNA) 238 (Dec. 14, 1993). Copy supplied.

Dennis J. Opatrny, "FBI Ends Policy Banning Gay Agents," San Francisco Examiner (Dec. 11, 1993). Copy supplied.

Jennifer Warren, "FBI Settles Gay Agent's Suit, Vows Reforms," Los Angeles Times (Dec. 11, 1993). Copy supplied.

Jim Doyle, "FBI Agrees to End Policy against Gays," San Francisco Chronicle (Dec. 11, 1993). Copy supplied.

Mark Sauer, "Gay FBI Agent's Suit to be Settled," San Diego Union-Tribune (Dec. 10, 1993). Copy supplied.

Dennis J. Opatrny, "FBI Won't Bar Gay Agents," San Francisco Examiner (Dec. 10, 1993). Copy supplied.

"Fired Gay Agent, FBI Settle Suit, Lawyers Say," San Jose Mercury News (Dec. 10, 1993). Copy supplied.

"Homosexual FBI Agent Fights for His Job in Court," NPR Weekend Edition (Dec. 4, 1993). Transcript supplied.

Maura Dolan, "FBI Policy on Homosexuals at Issue in Ex-Agent's Suit," Los Angeles Times (Nov. 26, 1993). Copy supplied.

Kristina Lindgren, "Drug Kingpin Draws Life in Prison," Los Angeles Times (June 5, 1991). Copy supplied.

"Convict Sentenced Again," Daily News of Los Angeles (May 7, 1991). Copy supplied.

Linda Deutsh, "Columbian Pair, Arrested at Sea, Held in Medellin Money Laundering Case," Associated Press (Feb. 22, 1991) [re-printed in multiple outlets]. Copy supplied.

John Polich, "Two Face Money-Laundering Charges," Daily News of Los Angeles (Feb. 21, 1991). Copy supplied.

John Polich, "Pair Facing Conspiracy, Tax Charges," Daily News of Los Angeles (Aug. 22, 1990). Copy supplied.

Staff, "Dade Men Indicted on Drug Charges," Miami Herald (Aug. 21, 1990). Copy supplied.

"Man Sentenced in Tax Case," Daily News of Los Angeles (Feb. 27, 1990). Copy supplied.

"Tax Preparer Indicted," Daily News of Los Angeles (May 10, 1989). Copy supplied.

Staff, "Guilty Plea Entered," Orange County Register (Mar. 15, 1988). Copy supplied.

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

I have not served as a judge, except as a Judge Pro Tem pursuant to the Temporary Judge Program of the Los Angeles Superior Court. This program allows experienced lawyers to assist the court by handling extremely low-level cases. After completing training and receiving certification as a Judge Pro Tem, I have presided over four calendars of small claims cases, for a total of between 30 to 40 cases. Pursuant to California law, small claims cases are limited to \$7,500 in claimed damages, are not subject to the Evidence Code, and cannot involve lawyers. No opinions are written.

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

- i. Of these, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

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

I have not been a judge, except on the extremely limited basis of the Temporary Judge Program. Pursuant to that program, I have volunteered to preside without pay over small claims calendars. I have presided over between 30 to 40 small claims cases, in which the damages are limited to \$7,500 and lawyers are forbidden to participate. I have not recused myself from any small claims case.

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

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

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

I have not held any public offices. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

I have not held any such memberships or offices. I have not had any supervisory roles in any campaigns. As a volunteer, I have made telephone calls or knocked on doors for the following campaigns:

Jack Weiss's campaign for City Attorney of Los Angeles in 2009;

Then-Senator Obama's Presidential campaign in 2008;

"No on Proposition 8" campaign in 2008;

Adam Schiff's Congressional campaigns for the 27th California district in 2000 and the 29th California district in 2002;

Rick Zbur's Congressional campaign for the 38th California district in 1996.

16. Legal Career: Answer each part separately.

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

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

From 1985 to 1986, I clerked for the Honorable Irving R. Kaufman of the United States Court of Appeals for the Second Circuit.

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

I have not 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.

1986 – 1987

O'Donnell & Gordon (later merged with Kaye Scholer)
601 West Fifth Street, 12th Floor
Los Angeles, California 90071
Associate

1988 – 1991

United States Attorney's Office, Criminal Division
United States Courthouse
312 North Spring Street, 12th Floor
Los Angeles, California 90012
Assistant United States Attorney

1991 – 1995

Heller, Ehrman, White & McAuliffe (no longer in existence)
601 South Figueroa Street, 40th Floor
Los Angeles, California 90017
Associate

1995 – 1998

Law Offices of Robert L. Corbin, P.C.
601 West Fifth Street, 12th Floor
Los Angeles, California 90071
Associate

1998 – present

Corbin, Fitzgerald & Athey LLP/Corbin & Fitzgerald LLP
601 West Fifth Street, Suite 1150
Los Angeles, California 90071
Partner

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

I have not served as a mediator or arbitrator.

b. Describe:

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

My practice has always consisted entirely of civil and criminal litigation, with "litigation" construed to include appeals, government investigations, and corporate internal investigations.

While an associate at O'Donnell & Gordon from 1986 to 1991, I worked on complex civil litigation, including serving as associate counsel at a two-week bench trial involving trade secrets.

From 1988 to 1991, as an Assistant United States Attorney, my practice consisted entirely of handling federal criminal trials, appeals and investigations. I served in the Organized Crime and Drug Enforcement Task Force/Major Narcotics Section. The focus of my practice was on prosecuting cocaine trucking rings. My cases included the seizure of over two tons of cocaine, at that time the second-largest seizure in California history; the lead defendant was sentenced to life in prison without parole. I also worked with a money-laundering task force of IRS criminal agents and narcotics officers from the Los Angeles Police Department. The task force investigated, prosecuted, and forfeited money-laundering fronts that posed as legitimate businesses.

From 1991 to 1995, while at Heller, Ehrman, White & McAuliffe LLP, my practice consisted of working as one of a team of lawyers handling extremely large and complicated commercial litigation.

At Corbin, Fitzgerald & Athey LLP, a four-lawyer firm, we handle criminal and civil cases in the federal and state courts, internal investigations, grand jury investigations, and investigations by the United States Securities and Exchange Commission ("SEC"). The majority of my firm's matters are federal cases and investigations.

For the last six years, the focus of my firm's practice has been the representation of clients during investigations by federal government agencies, such as the United States Attorney's Offices and the SEC. These investigations have been in the areas of securities, defense contracting, environmental law, health care, antitrust, tax, and the financial crisis. In these cases, our clients are individuals who are typically employees of corporations or financial institutions.

In addition to federal investigations, my firm also represents individuals and corporations in complicated federal civil litigation. My firm also conducts internal investigations into potential corporate wrongdoing; for example, I have been retained as counsel for the special litigation committee or audit committee of boards of directors.

Prior to six years ago, my practice also included numerous small-to-medium-sized civil cases and a variety of criminal cases in the Los Angeles Superior Court, in which the clients were individuals and small businesses. My practice also typically included more medium-sized federal civil cases and federal criminal cases in which an indictment had been returned.

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

At O'Donnell & Gordon from 1986 to 1987, my practice consisted of representing individuals and small companies in civil litigation.

As an Assistant United States Attorney from 1988 to 1991, my client was the United States of America. I handled solely criminal cases.

At Heller Ehrman from 1991 to 1995, my clients were typically large corporations or financial institutions in civil litigation, such as the Bank of America. I also represented individuals in pro bono matters, including *Buttino v. FBI* (involving a class action of gay and lesbian FBI employees and applicants) and *Wharton v. Calderon* (court-appointed counsel for a habeas corpus petition for a death row inmate).

At Corbin & Fitzgerald LLP/Corbin, Fitzgerald & Athey LLP, I have represented individuals and companies in criminal and administrative investigations. I have represented individuals who are defendants in criminal cases. I have also represented individuals and companies in civil litigation and I have conducted internal investigations on behalf of companies.

- 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.

The entirety of my practice has always been in litigation. I have appeared frequently in court during the course of my practice. As an Assistant United States Attorney from 1988 to 1991, I appeared in court constantly. At Heller Ehrman from 1991 to 1995, I appeared less than once a month. At Corbin & Fitzgerald LLP/Corbin, Fitzgerald & Athey LLP through 2003, I typically appeared roughly once a month. From 2004 to the present, I have appeared occasionally.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 60% |
| 2. state courts of record: | 20% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 20% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 40% |
| 2. criminal proceedings: | 60% |

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

I have tried 26 cases tried to verdict: 22 as sole counsel, 2 as chief counsel, and 2 as associate counsel.

- i. What percentage of these trials were:
- | | |
|--------------|-----|
| 1. jury: | 80% |
| 2. non-jury: | 20% |

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

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

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

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Diaz-Sanchez*, No. CR 90-851-MRP (Central District of California); Hon. Mariana R. Pfaelzer

While serving as an Assistant United States Attorney, I investigated and tried several cases arising from the shipment of cocaine in produce trucks from Mexico to California and New York. In particular, I led an investigation arising from the seizure of 2,241 pounds of cocaine in 1989, at that time the second-largest seizure of cocaine in California. The investigation culminated in the identification, indictment, trial and conviction of Diaz-Sanchez, a trucking kingpin. I was the lead counsel at the jury trial of the defendant in 1991. The defendant was sentenced to life in prison.

Counsel for defendant Diaz-Sanchez:	Donald I. Bierman, Esq. Bierman, Shohat, Loewy & Klein, P.A. Penthouse Two Miami, FL 33131 (305) 358-7000
Counsel for defendant Espinosa:	Edward I. Gritz, Esq. (deceased)
Counsel for defendant Castillo:	Morton H. Boren, Esq. (deceased)
Co-counsel:	Peter S. Spivack, Esq. (former Assistant United States Attorney) Hogan Lovells 500 13th Street, N.W., Suite 800E Washington, D.C. 20004 (202) 637-5631

2. *United States v. Velasquez*, No. CR 90-772-JGD (Central District of California); Hon. John G. Davies

While serving as an Assistant United States Attorney, I provided leadership to a joint task force of IRS criminal agents and narcotics officers from the Los Angeles Police Department. The task force investigated several cases from 1989 to 1991. The most significant case was the seizure of Unimex, a money laundering front masquerading as a legitimate casa de cambio, i.e., a business for wiring money abroad. I was sole counsel at the trial of the principal of Unimex, defendant Velasquez, who was convicted on money-laundering and narcotics charges.

Counsel for defendant Velasquez:	Stanley I. Greenberg, Esq. 6080 Center Drive, Suite 800 Los Angeles, CA 90045 (310) 215-7509
Counsel for defendant Arias:	Richard A. Hamar, Esq. Hamar & Hamar 9454 Wilshire Boulevard, Penthouse Beverly Hills, CA 90212 (310) 550-0460
Counsel for defendant Bury:	Michael N. Pancer, Esq. 104 F Street, 4th Floor San Diego, CA 92101 (619) 236-1826

3. *United States v. Affinito*, 873 F.2d 1271 (9th Cir. 1989) (Circuit Judges Tang, Norris and Hall)

While serving as an Assistant United States Attorney, I handled numerous appeals. Some of these appeals were from convictions that I obtained in my own trials, but many were appeals in other cases for which I volunteered. One of these appeals was a rare government appeal in which the Ninth Circuit reversed the post-verdict granting of a motion for judgment of acquittal under Federal Rule of Criminal Procedure 29. The jury convicted the defendant in a government contracting case. Subsequent to the verdict, the Supreme Court handed down its decision in *McNally v. United States*, 482 U.S. 350 (1987). The district court granted a motion for judgment of acquittal and the government appealed on the ground that, despite the label used, the motion in fact should be understood as a motion for a new trial. The Ninth Circuit agreed with the government and held that the Double Jeopardy Clause did not prevent the retrial of the defendant.

Opposing counsel:

Bruce I. Hochman, Esq. (deceased)

Co-counsel:

Laurie L. Levenson, Esq. (former Assistant United States Attorney)
William M. Rains Fellow
Director, Center for Ethical Advocacy
Loyola Law School
919 Albany Street
Los Angeles, CA 90015
(213) 736-1149

4. *Buttino v. Federal Bureau of Investigation*, No. C-90-1639 (SBA) (Northern District of California); Hon. Sandra Brown Armstrong

Buttino was a gay FBI special agent who was anonymously “outed” to his Special Agent-in-Charge, which ultimately resulted in the removal of his security clearance and concomitant firing as an FBI special agent. Believing his firing was pretextual, Mr. Buttino filed a class action on behalf of all gay and lesbian FBI employees and applicants. At my request, Heller Ehrman decided to represent Mr. Buttino at trial on a pro bono basis. I obtained class certification and then represented Mr. Buttino and the class at trial. After several days of trial in December 1993, the case settled on the following basis: (a) the FBI renounced its prior policy of viewing homosexuality as a “negative factor” in regard to security clearances; (b) the FBI agreed to hire an openly lesbian special agent; and (c) Special Agent Buttino’s pension was restored.

Opposing counsel:

John A. Rogovin, Esq. (former Deputy Assistant Attorney General, Civil Division)
Executive Vice President & General Counsel
Warner Bros.
4000 Warner Boulevard
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(818) 977-8700

Mr. Kevin M. Simpson (former Trial Attorney, Civil Division)
Principal Deputy General Counsel
United States Department of Transportation
451 Seventh Street, S.W.
Room 10110
Washington, DC 20410
(202) 708-2244

Co-counsel:

Richard L. Gayer, Esq.
525 West Wilshire Drive
Phoenix, AZ 85003
(602) 229-8954

5. *In re Student Loan Cases (Dai-Ichi Kangyo Bank, et al. v. Bank of America National Trust & Savings Association, et al.)*, No. CV 89-2286-HLH (Central District of California); Hon. Harry L. Hupp

In the late 1980s and early 1990s, there were defaults projected over \$1 billion in federally guaranteed student loans. Certain loan servicers had allowed the federal guarantees to lapse. Therefore, a group of the world's leading banks had to make good on letters of credit that backed bonds collateralized by the student loans. The resulting litigation over this potential \$1 billion loss was the largest civil case in the Central District of California. Raymond Fisher led a large team of Heller Ehrman lawyers in representing Bank of America, which was the trustee on the bonds. From 1991 to 1993, I assisted Mr. Fisher and other lawyers in drafting the many motions in the case, including analyzing the applicability of California contract law under *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938). In particular, I analyzed the role of the jury under California law in interpreting a written contract. The case settled before trial with an initial settlement between the plaintiff banks and Bank of America, and then a subsequent settlement between Bank of America and the accounting firm that had audited the loan servicers.

Opposing counsel:

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Richard B. Kendall, Esq.
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Los Angeles, CA 90067
(310) 272-7900

Co-counsel:

The Honorable Raymond C. Fisher (formerly at
Heller Ehrman)
U.S. Court of Appeals for the Ninth Circuit
Richard H. Chambers Courthouse
125 South Grand Avenue
Pasadena, CA 91109
(626) 229-7110

6. *Wharton v. Ayers*, No. SACV-92-3469-CJC (formerly *Wharton v. Calderon*) (Central District of California); Hon. David V. Kenyon, Hon. Gary L. Taylor

In 1991, Heller Ehrman decided to represent a capital habeas corpus petitioner as a pro bono project. Along with Roger Teich, I represented Mr. Wharton for over a decade, both while I was at Heller Ehrman and after I joined Robert Corbin in 1995. I handled extremely complex discovery disputes and wrote the voluminous pleadings that the case required, including opposing an interlocutory appeal to the Ninth Circuit filed by the Attorney General's Office. *Wharton v. Calderon*, 127 F.3d 1201 (9th Cir. 1996). Through diligent investigation, Mr. Teich and I obtained a memorandum in which the prosecutor admitted that there was little or no evidence to prove first-degree murder. On the basis of this memorandum, I obtained the right to depose the prosecutor. In 1997, I obtained summary judgment from Judge Kenyon in Mr. Wharton's favor. After Judge Kenyon retired, the case was assigned to Judge Taylor, who reversed the grant of summary judgment. I obtained a ruling from Judge Taylor that the Antiterrorism and Effective Death Penalty Act ("AEDPA") did not apply to Mr. Wharton's case. In 2003, I substituted out of the case in favor of Marcia Morrissey, a well-respected criminal defense attorney. The case is now before Judge Cormac J. Carney.

Opposing counsel:

Sonja K. Berndt, Esq.
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Richard S. Moskowitz, Esq.
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Co-counsel:

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177 Pfeiffer Street, No. 7
San Francisco, CA 94133
(415) 948-0045

Marcia Ann Morrissey, Esq.
2115 Main Street
Santa Monica, CA 90405
(310) 399-3259

7. EchoStar Satellite Corp. v. NDS Group PLC, No. SACV 93-950-DOC (ANx) (Central District of California); Hon. David O. Carter

This case arose from a dispute between two satellite television providers, DISH Network and DIRECTV. Plaintiff EchoStar provided the security system for DISH Network for the purpose limiting the satellite signal to paying customers. EchoStar alleged that defendant NDS, the security provider for DIRECTV, hacked the EchoStar system with assistance from three individual defendants (Menard, Wilson and Main). The case involved interesting issues arising under the Digital Millennium Copyright Act, 17 U.S.C. § 1201(a)(1)(A), (a)(2), (b)(1), and civil RICO, 18 U.S.C. § 1962(c). In 2005, I successfully moved for dismissal of the case against Menard for failure to state a claim. I also successfully moved for dismissal of the case against Wilson and Main for lack of personal jurisdiction. I later represented Menard and Main as witnesses, including handling litigation in the Central District regarding letters rogatory and hiring counsel for them in Canada.

Opposing counsel:

Chad M. Hagan, Esq.
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(713) 343-0478

T. Wade Welsh, Esq.
T. Wade Welsh & Associates
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Counsel for
co-defendant NDS:

Darin Snyder, Esq.
David R. Eberhart, Esq.
O'Melveny & Myers LLP
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Nathaniel L. Dilger, Esq.
One LLP
4000 MacArthur Boulevard
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(949) 502-2870

Counsel for
co-defendant Bruce:

Mark E. Beck, Esq.
Anthony A. DeCorso, Esq.
Eric A. Gressler, Esq.
Orrick, Herrington & Sutcliffe
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Counsel for
Co-defendant Frost:

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Law Offices of Anthony B. Gordon
5550 Tponga Canyon Boulevard, Suite 200
Woodland Hills, CA 91367
(818) 887-5155

8. *Lockheed Martin Corp. v. The Boeing Co.*, No. 6:03-CV-0796-Orl-28 KRS (Middle District of Florida); Hon. John Antoon, II, Hon. Karla R. Spaulding; *United States v. Satchell*, No. 04-1067M (Central District of California)

Lockheed accused three Boeing employees of stealing valuable trade secrets that allegedly gave Boeing an unfair advantage in a competition for missile launches of Air Force satellites. Lockheed filed a civil action in the Middle District of Florida (Orlando). The claimed damages, after trebling pursuant to the antitrust laws and civil RICO statute, would have been over \$3 billion. The United States Attorney's Office for the Central District of California launched a grand jury investigation into the alleged theft.

From 2003 to 2005, my law partner Robert Corbin and I represented Satchell, the most senior Boeing manager involved in the case and one of the employees accused of the theft. I prepared the pleadings in the civil case and participated in numerous depositions. The civil case against Mr. Satchell was dismissed as part of a global settlement between Lockheed and Boeing. Mr. Corbin and I also represented Mr. Satchell in the criminal investigation. The government filed a criminal complaint against Mr. Satchell, which the

government later dismissed. After additional investigation, the government decided not to seek an indictment against Mr. Satchell.

Opposing counsel
(civil): Terry C. Young, Esq.
Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
P.O. Box 2809
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Co-counsel (civil): Darryl M. Bloodworth, Esq.
Dean, Mead P.A.
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Counsel for co-
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Los Angeles, CA 90071
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David B. King, Esq.
Thomas A. Zehnder, Esq.
King, Blackwell, Downs & Zehnder, P.A.
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Counsel for co-
defendant Branch: Richard M. Steingard, Esq.
Lightfoot, Steingard & Sadowsky LLP
800 Wilshire Boulevard, Suite 1050
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Counsel for co-
defendant Erskine: Steven G. Madison, Esq.
Quinn Emanuel Urquhart Oliver & Hedges, LLP
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Los Angeles, CA 90017
(213) 443-3000

Opposing counsel
(criminal): The Hon. Jacqueline Chooljian
(former Assistant United States Attorney)
United States Magistrate Judge
312 North Spring Street, 3rd Floor
Los Angeles, CA 90012
(213) 894-2921

9. *United States v. Newman*, No. CR 00-974-DT (Central District of California); Hon. Dickran M. Tevrizian

In 2001, I handled the sentencing of Newman after his guilty plea to securities violations. I obtained a significant downward departure from the sentence suggested by the Sentencing Guidelines. Mr. Newman received a sentence of eight months in community confinement instead of the 18 to 36 months in prison mandated by the Sentencing Guidelines. This departure occurred before the Supreme Court's ruling in *United States v. Booker*, 543 U.S. 220 (2005).

Mr. Newman had been the CEO of a clothing company and was a respected figure in the garment industry. He pled guilty to conspiring with his CFO to manipulate the amount of revenues in a particular quarter, in violation of the securities laws. I persuaded the district court to depart downward for two reasons. First, I hired an expert economist to opine on the lack of loss arising from Mr. Newman's specific misconduct. Because I handle both civil and criminal cases, I realized that the measure of loss in this case was analogous to damages in a civil case, and that an economist familiar with civil securities class actions would be helpful. The expert persuasively testified that the loss to the company did not result directly from Mr. Newman's misconduct, but rather from the underlying business pressures that led Mr. Newman to manipulate the revenue. Second, I stressed that Mr. Newman's life apart from his conviction had been consistent with the highest ethics, both as a businessman and an officer in the United States Army.

Opposing counsel: Gregory J. Weingart, Esq. (former Assistant United States Attorney)
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
(213) 683-9571

10. *City of Hawthorne ex rel. Wohlner v. H&C Disposal Co.*, No. BC 213338 (Los Angeles Superior Court); on appeal at 109 Cal. App. 4th 1668, 1 Cal. Rptr. 3d 312 (2003); Hon. Mel Red Recana

In addition to my federal cases, I have also handled a number of civil and criminal cases in the California courts, including trials, direct appeals and petitions for writ of prohibition or mandate. This was a case in which I represented a qui tam relator, former City Treasurer Wohlner, from 1991 to 1994. Wohlner alleged that certain payments by the City of Hawthorne were improper and resulted from a culture of corruption tolerated by the City Council. This case was one of the first cases under the California False Claims Act, Gov't Code §§ 12650-52, a statute patterned on the federal False Claims Act, 31 U.S.C. §§ 3729-33.

I was retained as trial counsel in the Los Angeles Superior Court. In preparation for trial, I conducted depositions and filed or opposed several motions. The defendants

successfully moved for judgment on the pleadings. On appeal, I obtained a reversal of that ruling, which resulted in a published opinion. On remand, I conducted more discovery and wrote additional motions and oppositions. Ultimately, the Superior Court granted summary judgment to the defendants. The client chose not to appeal a second time.

Opposing counsel:

Jean-Paul Menard, Esq.
Law Offices of Jean-Paul Menard
904 Silver Spur Road, No. 502
Rolling Hills Estates, CA 90274
(424) 224-7620

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

In 1992, I served as a counsel to the Special Advisor to the Board of Police Commissioners (the "Webster Commission"), which investigated the response of the Los Angeles Police Department to the 1992 civil unrest.

In 1994, I served on the Advisory Committee for the Office of the District Attorney of the Los Angeles County Bar Association. The Advisory Committee was formed at the request of District Attorney Gil Garcetti to provide an independent analysis of certain aspects of the District Attorney's Office. The Report of the Advisory Committee was presented in September 1994.

During 2000, I served as a Deputy General Counsel for the Rampart Independent Review Panel, which examined the Los Angeles Police Department in the wake of the Rampart scandal. Because of my work at the United States Attorney's Office, I examined the Narcotics Division.

During 2010 and 2011, I have participated in the Temporary Judge program of the Los Angeles County Superior Court. Volunteer lawyers who complete a training program are certified to serve without remuneration as Judges Pro Tem over small claims calendars. The program is viewed as a service to the Superior Court. I have presided over four small claims calendars. Small claims cases are civil matters that are limited to damages of \$7,500. The California Evidence Code does not apply. Lawyers are not allowed to represent the parties and, as a Judge Pro Tem, I am not allowed to hear a case in which a lawyer appears as a party.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe

briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

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

I have no deferred income or future benefits.

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

No.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

The family member who would present a potential conflict of interest would be my twin brother Patrick Raymond Fitzgerald, who is an Assistant United States Attorney for the Central District of California and Chief of the National Security Section. I would address this potential conflict by recusing myself from cases in which my brother had participated, and I would follow the established procedures in the Central District of California for family members of a district judge serving

as Assistant United States Attorneys. In that court, there currently are two district judges who have family members serving as Assistant United States Attorneys.

The other persons who would present a potential conflict of interest would be my law partners, Robert L. Corbin and Joel M. Athey, and a handful of other lawyers practicing in the Central District of California with whom I have close friendships. I would address these potential conflicts by recusing myself from cases in which they served as counsel.

I do not believe that other persons, parties, categories of litigation, or financial arrangements are likely to present any potential conflicts of interest

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

In regard to potential conflicts, I would (a) be alert to potential conflicts pursuant to 28 U.S.C. § 455 and the Code of Conduct for United States Judges, especially Canon 3(c); (b) consult the regulations and advisory opinions promulgated by the Judicial Conference of the United States and its Code of Conduct Committee; (c) rigorously examine my conscience to determine whether a case potentially presented a conflict, or whether there might reasonably appear to be a conflict to lawyers, parties, and the public; (d) consult with the Code of Conduct Committee, the Federal Judicial Center, and the Administrative Office of the United States Courts, as appropriate, if I were in doubt about a particular matter; (e) consult with the Chief Judge of the Central District of California; and (f) scrupulously obey the requirements of the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364.

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

From 1992 through 1994, I served pro bono as co-counsel and trial counsel to the plaintiffs and class members in *Buttino v. FBI, et al.*, in the Northern District of California. The case resulted in a settlement pursuant to which the FBI renounced its prior policy of viewing homosexuality as a security concern, which made it extremely unlikely that any openly gay or lesbian applicant would be hired. I spent hundreds of hours on this case.

While at Heller Ehrman, I served as court-appointed counsel to a death row inmate for his federal habeas corpus petition. *Wharton v. Ayers*, No. SACV-92-3469-CJC (formerly *Wharton v. Calderon*) (Central District of California). Although Heller Ehrman received remuneration pursuant to the Criminal Justice Act, it was far below the firm's usual rates,

and the firm's motivation in taking the case was to perform a pro bono service. I spent hundreds of hours on this case.

In 1997, I volunteered to handle an appeal in the Ninth Circuit as part of its pro bono program. I was asked to represent the appellant in *Marroquin v. Prunty*, No. 96-55996. An indigent prisoner had appealed the denial in the district court of his petition for writ of habeas corpus. The Ninth Circuit affirmed the denial of Mr. Marroquin's petition. I do not recall how much time I spent on this appeal, but I am sure it was at least 75 hours.

In 2004 and 2006, I served as an attorney advisor for the moot court of the Program for Law and Technology of the California Institute of Technology and Loyola Law School. The moot courts involved topics under the Digital Millennium Copyright Act. The moot court teams were comprised of a student at Loyola Law School and an undergraduate at Caltech. I twice volunteered to serve as the "coach" for one of the moot court teams.

26. Selection Process:

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

Senators Feinstein and Boxer have appointed bipartisan Judicial Advisory Committees for the Central District of California. For Senator Feinstein, I submitted an application to her Committee on February 9, 2009, and I was interviewed on March 17, 2009. For Senator Boxer, I submitted an application to her Committee on March 10, 2009, and was interviewed on June 19, 2009. It is my understanding that Senator Boxer's Committee recommended my name to her.

Since May 3, 2011, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 31, 2011, I met with representatives of the White House Counsel's Office and the Department of Justice in Washington, D.C. On July 20, 2011, the President submitted my nomination to the Senate.

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

No.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Fitzgerald, Michael W.	2. Court or Organization U.S. District Court, Central District of California	3. Date of Report 07/20/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge, Active	5a. Report Type (check appropriate type) ☒ Nomination, Date 07/20/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 07/15/2011
7. Chambers or Office Address Corbin, Fitzgerald & Athey LLP 601 West Fifth Street, Suite 1150 Los Angeles, CA 90027-2024	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

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

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Partner	Corbin, Fitzgerald & Athey LLP
2. Director	Federal Bar Association, Los Angeles Chapter
3.	
4.	
5.	

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

☒ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Fitzgerald, Michael W.

Date of Report

07/20/2011

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2009	self-employed lawyer	\$580,265.00
2. 2010	self-employed lawyer	\$428,929.00
3. 2011	self-employed lawyer	\$160,002.27
4.		

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	
2.	
3.	
4.	

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

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Fitzgerald, Michael W.

Date of Report

07/20/2011

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

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

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

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

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Fitzgerald, Michael W.

07/20/2011

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

1. Income Gain Codes: (See Column B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P1 = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Column C1 and D3)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	
3. Value Method Codes (See Column C2)					

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Fitzgerald, Michael W.

Date of Report

07/20/2011

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. -- Schwab Govt Money Fund (SWGXX)	A	Dividend	J	T					
19. -- Selected American Shares CL S (SLASX)	A	Dividend	L	T					
20. -- UBS AB Jersey 2040F (MLPI)	A	Dividend	K	T					
21. Brokerage account #2					Exempt				
22. -- Aberdeen Emrg Mkets Instl (ABEMX)		None	J	T					
23. -- Allianz OCC Opportunity Fund Instl CL (POFIX)		None	J	T					
24. -- Artisan Intl Fund (ARTIX)	A	Dividend	J	T					
25. -- Blackrock Equity Dividend (MADVX)	A	Dividend	K	T					
26. -- Dodge & Cox Intl Stock (DODFX)	A	Dividend	K	T					
27. -- Fidelity Contrafund (FCNTX)	A	Dividend	K	T					
28. -- ICM Small Cap Company Portfolio Inst CL (ICSCX)	A	Dividend	J	T					
29. -- JPMorgan Mid Cap Value (FLMVX)	A	Dividend	J	T					
30. -- JPMorgan Strategic Incm SEL SHR (JSOSX)	A	Dividend	J	T					
31. -- Marketfield Fund (MFLDX)		None	J	T					
32. -- Merger Fund (MERFX)	A	Dividend							
33. -- Morgan Stanley Mid Cap Growth CL 1 (MPEGX)	A	Dividend							
34. -- Oakmark Intl Small Cap Fund CL (OAKEX)	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P1 = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,500 G = \$100,001 - \$100,000 K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000 S = Assessment W = Estimated	D = \$5,001 - \$15,000 H2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other			
3. Value Method Codes (See Column C2)				T = Cash Market	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Fitzgerald, Michael W.

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. -- Permanent Portfolio (PRPFX)	A	Dividend	J	T					
36. -- RiverNorth Core Opportunity Fund (RNCOX)		None	J	T					
37. -- RS Emrg Mkts Fund CL Y (RSENX)	A	Dividend	J	T					
38. -- Schwab Aml Tf Mmf (SWFXX)	A	Dividend	K	T					
39. -- Selected American Shares CL S (SLASX)	A	Dividend	K	T					
40. -- Steelpath MLP Alpha Fund I (MLPOX)	A	Dividend	J	T					

1. Income Gain Codes:

(See Columns B1 and D4)

2. Value Codes

(See Columns C1 and D3)

3. Value Method Codes

(See Column C2)

A = \$1,000 or less

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

J = \$15,000 or less

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

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

Q = Appraisal

U = Book Value

B = \$1,001 - \$2,500

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

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

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

R = Cost (Real Estate Only)

V = Other

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

H1 = \$1,000,001 - \$5,000,000

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

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

P4 = More than \$50,000,000

S = Assessment

W = Estimated

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

H2 = More than \$5,000,000

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

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

T = Cash Market

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

FINANCIAL DISCLOSURE REPORT

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

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Name of Person Reporting

Fitzgerald, Michael W.

Date of Report

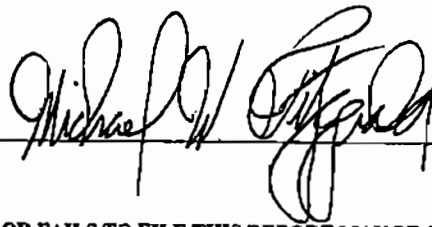
07/20/2011

IX. CERTIFICATION.

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

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

Signature



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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		8	069	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	036	009	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends		38	449	Unpaid income tax			
Due from others		3	100	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		187	998
Real estate owned – personal residence	1	147	300	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		85	000	Car lease		8	395
Cash value-life insurance							
Other assets itemize:							
Tax Refunds for 2010		13	570				
				Total liabilities		196	393
				Net Worth	2	135	104
Total Assets	2	331	497	Total liabilities and net worth	2	331	497
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

ABEMX	\$ 22,237
ARTIX	71,122
DODFX	70,974
FCNTX	102,399
FLMVX	36,509
ICSCX	35,060
JSOSX	57,138
MADVX	100,543
MFLDX	57,733
MLPI	44,673
MLPOX	5,511
MPEGX	35,617
OAKEX	56,765
POFIX	38,333
PRPFX	58,396
RNCOX	60,688
RSENX	61,963
SLASX	81,543
SWFXX	38,233
SWGXX	572
Total Listed Securities	\$1,036,009

Real Estate Mortgages Payable

Personal residence	\$ 147,949
Home equity line of credit	40,049
Total Real Estate Mortgages Payable	\$ 187,998

AFFIDAVIT

I, Michael Walter Fitzgerald, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

July 18, 2011
(DATE)

Michael Walter Fitzgerald
(NAME)

Barbara J. Laughon
(NOTARY)

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-6 to be completed only by document signer[s], not Notary)

1
2
3
4
5
6

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

State of California

County of LOS ANGELES

Subscribed and sworn to (or affirmed) before me

on this 18TH day of JULY, 2011
by Date Month Year

(1) MICHAEL WALTER FITZGERALD
Name of Signer

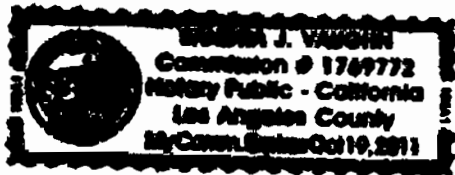
proved to me on the basis of satisfactory evidence
to be the person who appeared before me (.) (.)

(and

(2) XXX
Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me.)

Signature [Signature]
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: AFFIDAVIT

Document Date: 7-18-11 Number of Pages: 1

Signer(s) Other Than Named Above: N/A

RIGHT THUMBPRINT
OF SIGNER #1
Top of thumb here

RIGHT THUMBPRINT
OF SIGNER #2
Top of thumb here