

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Dawn Elizabeth Johnsen

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

Assistant Attorney General for the Office of Legal Counsel

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.

Indiana University Maurer School of Law-Bloomington, 211 S. Indiana Ave.,
Bloomington, IN 47405

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

August 14, 1961; Manhasset, New York

5. **Marital Status:** (include name of spouse, and names 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.

John Mark Hamilton
President (community development finance executive)
City First Enterprises
1436 U St. NW
Washington, DC 20009

We have two 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.

Yale Law School, J.D., 1986, attended 1983-1986

Yale University, B.A., 1983, attended 1979-1983

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.

Indiana University Maurer School of Law-Bloomington, 211 S. Indiana Ave., Bloomington, IN, Professor of Law, 1998-present

U.S. Department of Justice, Office of Legal Counsel, 950 Pennsylvania Ave., NW, Washington, D.C., Acting Assistant Attorney General, 1997-1998; Deputy Assistant Attorney General, 1993-1996

NARAL Pro-Choice America, 1156 15 St., NW, Suite 700, Washington, D.C., Legal Director, 1988-1993

American Civil Liberties Union, Reproductive Freedom Project, 125 Broad St., New York, NY, Staff Counsel Fellow, 1987-1988; Legal Intern July-August 1984

United States Court of Appeals for the Seventh Circuit, 219 S. Dearborn St., Chicago, Illinois, Law Clerk to the Honorable Richard D. Cudahy, 1986-1987

Marshall Beil, Esq., 575 Madison Ave., New York, NY, legal assistance on brief, May-June 1986

Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, NY, Summer Associate, June-August 1985

Becton Engineering Library, Yale University, 15 Prospect St., New Haven, CT, Library Assistant (part-time during school year), 1979-1985

Rosenman & Colin, 575 Madison Ave., New York, NY, Summer Associate, May-July 1984

Unpaid member of board of directors:

American Constitution Society for Law and Policy, 1333 H. St, NW, 11th floor, Washington, DC, 2004 to 2008

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.

None

9. **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.

Indiana University Trustees Teaching Award, 2004

U.S. Department of Justice, Edmund J. Randolph Award for Distinguished Service, 1998

Yale Law School: Article and Book Review Editor, Yale Law Journal

Yale College: Summa Cum Laude, Phi Beta Kappa, Distinction in Major (Economics and Political Science), Commencement Student Marshal, National Merit Scholar, Panhellenic Scholarship, New England Society in the City of Brooklyn Scholarship

Carle Place High School, Carle Place, New York, class salutatorian

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.

American Bar Association

District of Columbia Bar

Indiana Bar Association (by virtue of law school group membership)

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.

New York, 1987

District of Columbia, January 12, 1990

- 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.

U.S. Supreme Court, October 30, 1990

12. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 10 or 11 to which

you belong, or to which you have belonged, or in which you have significantly participated, 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.

From 1998 to the present I have been a member of the congregation of First United Methodist Church, Bloomington, Indiana, where I currently teach three-year-olds Sunday School and in the past have taught first/second grade and fifth/sixth grade Sunday School. Prior to that I was a member of other congregations of the United Methodist Church, including Foundry United Methodist Church in Washington, D.C.

I served as a member of the Board of Directors of the American Constitution Society for Law and Policy (ACS) from 2004 to 2008. I completed my service on the board at the close of 2008 but continue to be a member of ACS, to serve as the faculty advisor of the chapter at Indiana University Maurer School of Law-Bloomington, and to serve as a cochair of the Separation of Powers/Federalism Issue Group. I served as a member of the Community Action Board of Planned Parenthood of Indiana from 2007 to 2008.

I believe I am a member, just by virtue of contributions, of the following organizations for various periods of time since law school (but no additional positions served): Sierra Club, Nature Conservancy, American Civil Liberties Union, Planned Parenthood, Indiana Historical Society, NAACP, WFIU & WTIU (local public broadcasting stations in Bloomington and prior to that those in other cities in which I have lived), Monroe County Democratic Women's PAC, Indiana Equality, NARAL Pro-Choice America, Human Rights Campaign, and Wonderlab Science Museum. I do not believe the other organizations to which I have made contributions are membership organizations, but I am not certain. I have not held any formal positions in these organizations, but on occasion have received from a few of them requests to provide informal advice on discrete questions on matters within my expertise.

- 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 these organizations discriminate or have discriminated on any of the listed bases (with the exception of the United Methodist Church).

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

I have done my best to identify all books, articles, reports, letters to the editors, editorials and other published material, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Department of Justice: Restoring Integrity and the Rule of Law, CHANGE FOR AMERICA: A PROGRESSIVE BLUEPRINT FOR THE 44TH PRESIDENT (Green & Jolin, eds., Basic Books, 2009)

Hamdan v. Rumsfeld: *Trying Enemy Combatants by Military Commission*, PRESIDENTIAL POWER STORIES (Schroeder & Bradley, eds., Foundation Press, 2009)

What's a President to Do? Interpreting the Constitution in the Wake of the Bush Administration's Abuses, 88 BOSTON UNIVERSITY LAW REVIEW 395 (2008)

The Progressive Political Power of Balkin's "Original Meaning," 24 CONSTITUTIONAL COMMENTARY 417 (2008)

Faithfully Executing the Laws: Internal Legal Constraints on Executive Power, 54 UCLA LAW REVIEW 1559 (2007) (publishing as appendix *Principles to Guide the Office of Legal Counsel*)

Lessons from the Right: Progressive Constitutionalism for the Twenty-First Century, 1 HARVARD LAW & POLICY REVIEW 239 (2007)

Foreword, War, Terrorism and Torture: Limits on Presidential Power for the 21st Century, 81 INDIANA LAW JOURNAL 1139 (Fall 2006)

Guidelines for the President's Legal Advisors, an introduction to *Principles to Guide the Office of Legal Counsel*, 81 INDIANA LAW JOURNAL 1345 (Fall 2006)

Abortion: A Mixed and Uncertain Legacy, in THE REHNQUIST LEGACY (Bradley, ed., Cambridge University Press, 2006)

Book Review, H. JEFFERSON POWELL, A COMMUNITY BUILT ON WORDS: THE CONSTITUTION IN HISTORY AND POLITICS (2002), 101 INDIANA MAGAZINE OF HISTORY (September 2005)

Should Ideology Matter in Selecting Federal Judges? Ground Rules for the Debate, 26 CARDOZO LAW REVIEW 463 (2005)

Functional Departmentalism and Nonjudicial Interpretation: Who Determines Constitutional Meaning?, 67 LAW & CONTEMPORARY PROBLEMS 105 (2004)

Principles to Guide the Office of Legal Counsel, December 2004 (with Walter Dellinger, et al.) (reprinted at 54 UCLA Law Review 1559 (2007), as appendix)

Judicial Supremacy Two Centuries After Marbury: The President and Congress and the Determination of Constitutional Meaning, essay in *MARBURY V. MADISON: 1803-2003: DEUX SIECLES DE CENSURE JUDICIAIRE SUR LES LOIS* (2003)

Ronald Reagan and the Rehnquist Court on Congressional Power: Presidential Influences on Constitutional Change, 78 *INDIANA LAW JOURNAL* 363 (2003)

Presidential Non-Enforcement of Constitutionally Objectionable Statutes, 63 *LAW & CONTEMPORARY PROBLEMS* 7 (2000)

Executive Privilege Since United States v. Nixon: Issues of Motivation and Accommodation, 83 *MINNESOTA LAW REVIEW* 1127 (1999)

Maternal-Fetal Relationship: Legal and Regulatory Issues, 3 *ENCYCLOPEDIA OF BIOETHICS* 1413 (Reich, ed., rev. ed. 1995)

Shared Interests: Promoting Healthy Births Without Sacrificing Women's Liberty, 43 *HASTINGS LAW JOURNAL* 569 (1992), & chapter in *ABORTION, MEDICINE AND THE LAW* (Butler, ed., 4th ed. 1992)

From Driving to Drugs: Governmental Regulation of Pregnant Women's Lives after Webster, 138 *UNIVERSITY OF PENNSYLVANIA LAW REVIEW* 179 (1989)

A New Threat to Pregnant Women's Autonomy, *THE HASTINGS CENTER REPORT* 33 (August 1987)

The Creation of Fetal Rights: Conflicts with Women's Constitutional Rights to Liberty, Privacy and Equal Protection, 95 *YALE LAW JOURNAL* 599 (1986)

Slate, Law and Orders: How Should the President's Lawyers Advise a Reluctant White House (June 8, 2007)

Slate, The Outer Shell: The Hollowing out of Roe v. Wade (Jan. 25, 2006), (also published in *Philadelphia Daily News* Jan. 30, 2006)

The following *Slate* posts appeared on a blog called "Convictions"

Slate, Greetings (March 16, 2008)

Slate, Restoring Our Nation's Honor (Mar. 18, 2008)

Slate, Yet More on Cheney and Unitary Executive (Mar. 19, 2008)

Slate, Reducing Abortions (Mar. 22, 2008)

Slate, *More on Roe and the Republican Coalition* (Mar. 22, 2008)

Slate, *NYT? What's Bush's Excuse* (Mar. 27, 2008)

Slate, *Outrage at the Latest OLC Memo* (April 3, 2008)

Slate, *Devastating Racial Disparities* (Apr 24, 2008)

Slate, *A View on Crawford from Indiana* (Apr. 29, 2008)

Slate, *Surprise Agreement at Senate Hearing on Secret Law* (May 1, 2008)

Slate, *Blogging from ACS Convention re: Boumediene* (June 12, 2008)

Why the 2008 Election Matters for Reproductive Rights, Balkinization (Sept. 24, 2008)

Post on IntLawGrrls Blog, <http://intlwgrrls.blogspot.com/>, *On Investigation of Post-9/11 Waterboarding* (Feb. 11, 2008)

Would Roberts Respect Privacy, Salon (July 22, 2007)

Post for the American Constitution Society blog: I recall coauthoring a short blog post with Pamela Harris on *Gonzales v. Carhart*. I have been unable to locate the post, but recall it was part of a series that described cases then pending before the Supreme Court and covered similar material as in the following talk (a video of which is provided): *Supreme Court preview, Gonzales v. Carhart*, panel, Indiana University Maurer School of Law-Bloomington, Oct. 26, 2006.

Post on Georgetown Law Faculty Blog, *Untangling the Debate on Signing Statements* (July 31, 2006) (coauthored with David Barron, et al.)

The Arizona Politician with Old-Boy Connections: Sandra Day O'Connor, The First Woman on the Supreme Court, and Her Extraordinary Influence, Legal Times (Apr. 24, 2006) (book review)

Judge Alito, on the Record, New York Times, p. 24 (Jan. 5, 2006) (letter to editor)

How to Prevent Another "Torture" Memo, Wall Street Journal, p. A9 (Jan. 21, 2005) (with Neil Kinkopf) (letter to editor)

Post by Dawn Johnsen (Nov. 26, 2004) (weblog for Yale ACS conference, The Constitution in 2020)

Tipping the Scales, Washington Monthly (July/August 2002)

Choices Not Offered, Bloomington Herald Times (Mar. 5, 2002) (letter to editor)

The Abortion Papers, The Washington Post (February 4, 1989) (with Kate Michelman) (letter to editor)

Civil Liberties (ACLU publication), *Boyfriends and Husbands Use Courts to Block Women's Abortions* (1988) (with Lynn Paltrow)

Act Threatens Religious Academic Freedom, National Law Journal (Mar. 14, 1988) (with Lynn Paltrow) (letter to editor)

- 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 done my best to identify all reports, memoranda or policy statements I have prepared that fall within the categories described in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

A Progressive Agenda for Women's Reproductive Health and Liberty on Roe v. Wade's Thirty-Fifth Anniversary, issue brief for the American Constitution Society (2008)

All The President's Lawyers: How to Avoid Another "Torture Opinion" Debacle, issue brief for the American Constitution Society (2007)

National Commission on America Without *Roe*, Facing a Future Without Choice: A Report on Reproductive Liberty in America (July 1992)

NARAL, Who Decides? A State-by-State Review of Abortion Rights (1989, 1991 & 1992 editions)

NARAL Report on then-nominee to the U.S. Supreme Court Clarence Thomas, referenced in *Judge Thomas's Anti-Privacy Views Are More Extreme than Those of Any Sitting Supreme Court Justice*, New Report Says, U.S. Newswire, September 4, 1991

NARAL, A Reproductive Rights Issue Manual (1990)

NARAL, The Voices of Women (no publication date on the document, but my recollection is it was around 1989)

NARAL, Reproductive Rights: A Status Report, *Will Roe v. Wade Survive the Rehnquist Court?* (article by Dawn Johnsen & Marcy Wilder) (1989) (also published in the Nova Law Review)

- c. Please 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 done my best to identify all testimony, official statements and other communications that fall within the purview of this question, through a review of my personal files and searches of available electronic databases. I have located the following:

Restoring the Rule of Law, Subcommittee on the Constitution, Committee on the Judiciary, U.S. Senate, September 16, 2008 (submitted joint written testimony only; coauthored with Walter Dellinger, et al.)

Secret Law and the Threat to Democratic and Accountable Government, Subcommittee on the Constitution, Committee on the Judiciary, U.S. Senate, April 30, 2008, appending *Principles to Guide the Office of Legal Counsel* (2004)

Confirmation Hearings of Michael Mukasey to be Attorney General, Panel on the Department of Justice, Committee on the Judiciary, U.S. Senate, October 18, 2007

Proposed Legislation to Deny Citizenship at Birth to Certain Children Born in the United States, Subcommittee on Immigration and Claims, Committee on the Judiciary, U.S. House of Representatives, June 25, 1997

Improper Granting of U.S. Citizenship to Individuals with Criminal Records, Subcommittee on National Security, International Affairs and Criminal Justice, Committee on Government Reform and Oversight, and Subcommittee on Immigration and Claims, Committee on the Judiciary, U.S. House of Representatives, March 5, 1997 (appeared only to answer questions)

The Balanced Budget Amendment, Committee on the Judiciary, U.S. Senate, January 22, 1997 (submitted written testimony only)

Letter from Legal Scholars to Senate Judiciary Committee on H.R. 1592, The Local Law Enforcement Hate Crimes Prevention Act of 2007, July 9, 2007

Letter from Legal Scholars to Congressional Leaders on Congress's authority to limit the proposed surge in troops in Iraq, January 17, 2007

Memorandum to The United States Senate Judiciary Committee, Judge David Souter's Testimony Regarding the Fundamental Right to Privacy, September 21, 1990

During my time at the Office of Legal Counsel, I worked on numerous legal memoranda and provide here copies of all (to the best of my knowledge) published memoranda that I signed while at OLC:

Waiver of Statutes of Limitations in Connection with Claims Against the Department of Agriculture, June 18, 1998

Coverage Issues under the Indian Self-Determination Act, April 22, 1998

Application of the Double Jeopardy Clause to Disgorgement Orders under the Federal Trade Commission Act, April 9, 1998

Interpretation of Phrase "Recommendation that Funds Be Put to Better Use" in Inspector General Act, March 20, 1998

Reimbursement of Expenses Under 5 U.S.C. § 5503(A)

Statute of Limitations and Settlement of Equal Credit Opportunity Act Discrimination Claims Against the Department of Agriculture, January 29, 1998

18 U.S.C. § 203 and Contingent Interests in Expenses Recoverable in Litigation against the United States, January 28, 1998

Application of Consumer Credit Reporting Reform Act of 1996 to Presidential Nomination and Appointment Process, December 11, 1997

Authority of Military Exchanges to Lease General Purpose Office Space, August 1, 1997

Administrative Assessment of Civil Penalties Against Federal Agencies under the Clean Air Act, July 16, 1997

Applicability of Executive Order No. 12976 to the FDIC, April 22, 1997

Personal Satisfaction of Immigration and Nationality Act Oath Requirement, April 18, 1997

Qualification Requirement for Aliens under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, March 27, 1997

Preemptive Effect of the Bill Emerson Good Samaritan Food Donation Act, March 10, 1997

Revocation of Citizenship, March 3, 1997

Waiver of Oath of Allegiance for Candidates for Naturalization, February 5, 1997

Proposed Agency Interpretation of “Federal Means-Tested Public Benefits” under Personal Responsibility and Work Opportunity Reconciliation Act of 1996, January 14, 1997

Whether 18 U.S.C. § 603 Bars Civilian Executive Branch Employees and Officers from Making Contributions to a President’s Authorized Reelection Campaign Committee, May 5, 1995

Review of 1988 Opinion Concerning the Applicability of § 504 of the Rehabilitation Act to Individuals Infected with HIV, July 8, 1994

- 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 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 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 have done my best to identify all speeches and talks I have delivered, through a review of my personal files and searches of publicly available electronic databases. Where I have been able to locate a video of the event, I provide it either on the accompanying CD or by way of link to internet site. Where I have been able to locate notes for the talk, I have provided them. For those for which I did not retain notes, I have provided a short summary. I would note that from 1987 to 1993, while I worked at NARAL and the ACLU, I participated in numerous debates and talks, primarily on college campuses, but have not been able to locate specific dates. I have located the following:

Release of Change for America: A Progressive Blueprint for the 44th President, Center for American Progress, panelist, Washington D.C., Nov. 12, 2008. Notes provided.

Meet at the Crossroads: Where Ideas Intersect, workshop, Planned Parenthood Central Region Conference, Indianapolis, Indiana, Nov. 8, 2008. Notes provided.

The Future of Sexual and Reproductive Rights, panel on *Roe’s Future*, Yale Law School, Oct. 10-12, 2008. Notes provided.

Presidential Transition Discussion, Center for American Progress, Washington, DC, Sept. 16, 2008. Notes provided. I participated by phone from home.

Advancing the Health of Women and Families, Planned Parenthood Federation of America, Policy Summit, Washington, DC, July 17, 2008. See notes for 11/8/08 Planned Parenthood talk, which I prepared by expanding notes for this talk.

Restoring Justice: The Politicization of the Department of Justice and How to Revive It, panelist, American Constitution Society, Lawyer Chapter for the Bay Area, Palo Alto, July 15, 2008, description at <http://www.acslaw.org/node/6844> as follows: “On July 15, 2008, the Bay Area Lawyer Chapter presented a panel entitled ‘Restoring Justice: How the Department of Justice Has Been Politicized and How To Revive It.’ The panel featured three former high-ranking Department of Justice officials: Professor Dawn Johnsen, former Acting Assistant Attorney General, Office of Legal Counsel, and current Professor of Law, University of Indiana School of Law, Bloomington; Bill Lann Lee, former Assistant Attorney General, Civil Rights Division, and current Shareholder, Lewis, Feinberg, Lee, Renaker & Jackson, P.C.; and Michael Small, former Deputy Associate Attorney General, attorney in the Office of Legal Counsel, and current Senior Counsel, Akin Gump Strauss Hauer & Feld. Professor Johnsen discussed the so-called torture memo issued by the Office of Legal Counsel under the Bush Administration. She explained how the memo departed sharply not only from existing law but also from the traditional role of the Office of Legal Counsel, which has been to provide the President with accurate legal advice, not to advocate administration policies. Bill Lann Lee spoke about his experiences leading the Civil Rights Division and stressed the crucial role that career lawyers play in the enforcement of the civil rights law. Michael Small likewise noted the high quality of the career staff at the Department of Justice. All three panelists discussed the stark difference between the treatment of career staff, including the recent U.S. Attorney firings, under the current administration and prior administrations, both Democratic and Republican. Finally, the panelists expressed hope that the next administration, whether Republican or Democratic, will reestablish the DOJ’s tradition of professionalism and political neutrality, and the challenges they will face in doing so.”

Women’s Law Day, Indiana University Maurer School of Law-Bloomington, panelist, March 27, 2008. Notes provided.

Preparing a Reproductive Rights Agenda for the Next Administration, National Partnership for Women and Families & National Women’s Law Center, panelist, Washington, DC, March 20, 2008. See notes for 11/8/08 Planned Parenthood talk and 9/16/08 Center for American Progress talk, both of which I prepared by expanding notes for this talk; my comments included discussion of the use of presidential Executive Orders and other Presidential directives.

Update on the Roberts Court, meeting of the Indiana Civil Liberties Union, at the home of Larry Friedman, ICLU-Bloomington chapter president, Nov. 4, 2007. Informal presentation on the Supreme Court’s previous Term. Notes provided.

Faculty talk, Indiana University Maurer School of Law—Indianapolis, Oct. 29, 2007. Talk based on same material as Boston University panel of Oct. 11, 2007 (notes and ultimate published article provided for that).

The New Separation of Powers: Parties, Politics, and the Presidency, panelist, Yale Law School, Oct. 12, 2007. Video available at http://ylsqtss.law.yale.edu:8080/qtmedia/alumni2007/AW07NewSeparationPowers101207_s.mov

The Presidency in the Twenty-First Century, panelist on *Sources of Presidential Power*, Boston University, Oct. 11, 2007. Notes provided. My presentation provided the basis for the article *What's a President to Do? Interpreting the Constitution in the Wake of the Bush Administration's Abuses*, 88 BOSTON UNIVERSITY LAW REVIEW 395 (2008).

Principles to Guide the Department of Justice under the Next Attorney General, panelist, National Press Club, Washington, DC, Oct. 10, 2007. Transcript provided.

Constitution Day panel, Indiana University Maurer School of Law-Bloomington, Sept. 17, 2007. Video provided on accompanying CD.

Presidential Law Stories, Duke Law School, Sept. 14-16, 2007. Roundtable discussion of reactions to draft book chapters, which were circulated beforehand. My particular assignment for this meeting was to focus on comments on a chapter authored by Curtis Bradley. My chapter on *Hamdan* is provided on the CD under publications.

National Constitution Center Summer Teachers' Workshop, *Changing the Constitution: Politics and Law in American Constitutional Development*, lecture on *Presidential Constitutional Construction*, Philadelphia, Penn., Aug. 2, 2007. Notes provided.

Presidential Power in an Age of Terror, panelist, Indiana University Center on Law and Society and Culture, Apr. 5, 2007. Notes provided.

Norman Amaker Public Interest Law & Social Justice Retreat, speaker, Bradford Woods, Indiana, Feb. 24, 2007. Led discussion among student participants in retreat, after viewing of *Quiet Revolution*, video available at <http://www.afj.org/for-students/quiet-revolution/watch-the-film.html>

Constitutional Niches, panelist on Executive Power, UCLA School of Law, Feb. 2, 2007. Notes provided. My presentation provided the basis for the article *Faithfully Executing the Laws: Internal Legal Constraints on Executive Power*, 54 UCLA LAW REVIEW 1559 (2007).

American Association of Law Schools, Annual Convention, *Emerging Issues in Reproductive Rights*, panelist, Washington, D.C., Jan. 4, 2007. This was what is called by the AALS a “hot issues” panel discussion (added late in the conference planning), in this instance on reproductive rights issues. I participated on a panel with Walter Dellinger, Jeff Rosen, and Reva Siegel. Professor Siegel organized the panel.

Supreme Court preview, Gonzales v. Carhart, panel, Indiana University Maurer School of Law-Bloomington, Oct. 26, 2006. Video provided on accompanying CD.

Quiet Revolution, panelist on release of film, Alliance for Justice/Center for American Progress, Washington, DC, Oct. 10, 2006, video available at <http://www.afj.org/for-students/quiet-revolution/watch-the-film.html>. Notes provided.

Signing Statements, Constitution Day Panel, Indiana University Maurer School of Law-Bloomington, Sept. 18, 2006. Video provided on accompanying CD.

Separation of Powers: Restoring the Balance Among the Branches, plenary panelist/moderator, American Constitution Society national convention, Washington, D.C., June 16, 2006. Transcript provided.

Presidential War Powers and Access to Government Information: Presidential Power in the 21st Century, talk to conference of government librarians, Indiana University Maurer School of Law-Bloomington, May 18, 2006. Notes provided.

American Freedoms in the War Without End, Indiana Civil Liberties Union, Unitarian Church, Bloomington, Mar. 29, 2006. Notes provided.

Equality and Reproductive Rights, moderator, Columbia Law School, Mar. 3-4, 2006. Introduced panelists and led questioning. No presentation.

Domestic Spying: Is it Justified?, Student Union Fireside Chat, Indiana University Maurer School of Law-Bloomington, Feb. 15, 2006. Notes provided.

Judging Alito, panelist, Indiana University Maurer School of Law-Bloomington, Jan. 12, 2006, Video provided on accompanying CD.

The Nomination of Samuel A. Alito, Jr., panelist, Center for American Progress/American Constitution Society, Washington, D.C., Jan. 4, 2006, video available at <http://www.acslaw.org/node/2064>

Replacing the Justice in the Middle: Selection Standards, Superprecedents and Constitutional Change, American Constitution Society chapters, University of

North Carolina School of Law, Nov. 17, 2005, and Duke Law School, Nov. 16, 2005, video available at <http://www.law.duke.edu/webcast/?match=Dawn+Johnsen>

War, Terrorism and Torture: Limits on Presidential Power for the 21st Century, introductory speaker, Indiana Law Journal and American Constitution Society, Indiana University Maurer School of Law-Bloomington, Oct. 7, 2005.

The Constitution in the 21st Century, moderator, *Reproductive Rights in the 21st Century*, American Constitution Society national convention, July 28-31, 2005. No prepared remarks because I served as the moderator of the panel.

The Constitution in 2020, opening panel speaker, Yale Law School, Apr. 8-10, 2005. Notes provided.

The Rehnquist Legacy, panelist on *Abortion: A Mixed and Uncertain Legacy*, Indiana University Maurer School of Law-Bloomington, Apr. 1-2, 2005. Notes provided. My presentation provided the basis for my chapter in *Abortion: A Mixed and Uncertain Legacy*, in *THE REHNQUIST LEGACY* (Bradley, ed., Cambridge University Press, 2006).

Advising the Executive: Torture and the Office of Legal Counsel, panel, American Constitution Society chapter, University of Virginia School of Law, Nov. 2004. Building on my panel discussion at the University of Chicago (Oct. 22-23), the notes for which are provided, I discussed the (then-withdrawn) Office of Legal Counsel's 2002 opinion on the federal torture statute and why that opinion did not reflect the best traditions of the office. I later developed those views in *Principles to Guide the Office of Legal Counsel*, a document coauthored by a number of former OLC attorneys and published at 81 *INDIANA LAW JOURNAL* 1345 (Fall 2006) and 54 *UCLA LAW REVIEW* 1559 (2007).

Terrorism and the Rule of Law, panelist on *Does a Different Kind of War Demand a Different Constitutional Understanding?*, University of Chicago Law School, Oct. 22-23, 2004. Notes provided.

Interrogation, Detention, and the Powers of the Executive, panelist on *The Role of Lawyers in the War against Terrorism*, Duke Law School, Sept. 16-18, 2004, video available at <http://www.law.duke.edu/webcast/?match=Dawn+Johnsen>

Reproductive Rights: Framing the Agenda, panelist, American Constitution Society national convention, Washington, D.C., Aug. 1-3, 2003. Transcript provided.

Marbury v. Madison: 1803-2003: Deux Siecles de Censure Judiciaire sur les Lois, panelist on *Judicial Supremacy Two Centuries After Marbury: The President and Congress and the Determination of Constitutional Meaning*, Centre de Droit Americain, University of Paris II, Feb. 28-29, 2003. Notes provided. My presentation provided the basis for my chapter in *Judicial Supremacy Two Centuries After Marbury: The President*

and Congress and the Determination of Constitutional Meaning, essay in *MARBURY V. MADISON: 1803-2003: DEUX SIECLES DE CENSURE JUDICIAIRE SUR LES LOIS* (2003).

The Constitution and Other Legal Systems: Are There Progressive and Conservative Versions?, panelist on *Functional Departmentalism and Reproductive Rights*, Duke Law School, Dec. 13-15, 2002. Notes provided. My presentation provided the basis for the article *Functional Departmentalism and Nonjudicial Interpretation: Who Determines Constitutional Meaning?*, 67 *LAW & CONTEMPORARY PROBLEMS* 105 (2004).

National Strategy Conference on the Rehnquist Court Rollback of Civil Rights, panelist on *Congressional Power and Federalism*, Columbia Law School, Oct. 3-5, 2002. Notes provided.

Congress and the Court, panelist, Fifth Circuit Judicial Conference, Dallas, Texas, May 1-3, 2002. Notes provided.

The Assault of Federalism on Civil Rights: Developing New Strategies to Protect Civil Rights in a Conservative Era, panelist, Equal Justice Society, Harvard Law School, Apr. 5-6, 2002. Notes provided.

Congressional Power in the Shadow of the Rehnquist Court, panelist on *Implications for the Separation of Powers*, Indiana University Maurer School of Law—Bloomington, Feb. 1-2, 2002. Notes provided. My presentation provided the basis for the article in the symposium issue *Ronald Reagan and the Rehnquist Court on Congressional Power: Presidential Influences on Constitutional Change*, 78 *INDIANA LAW JOURNAL* 363 (2003).

Non-Consensual Testing of Pregnant Women: The Implications for Women's Equality of Ferguson v. City of Charleston, Duke Law School, Feb. 2001. Notes provided.

Executive Power after the Clinton Administration, panelist, ABA Administrative Law Section Annual Meeting, Washington, D.C., Oct. 12, 2000.

The Constitution Under Clinton: A Critical Assessment, panel on *Executive Authority*, Duke Law School, Sept. 23-25, 1999. Notes provided. My presentation provided the basis for the article *Presidential Non-Enforcement of Constitutionally Objectionable Statutes*, 63 *LAW & CONTEMPORARY PROBLEMS* 7 (2000).

Nixon Now: Presidential Power and Executive Privilege Twenty-Five Years Later, panel on *The Scope of the Doctrine(s) of Executive Privilege*, University of Minnesota Law School, Oct. 24, 1998. Notes provided. My presentation provided the basis for the article *Executive Privilege Since United States v. Nixon: Issues of Motivation and Accommodation*, 83 *MINNESOTA LAW REVIEW* 1127 (1999).

In addition to the above, and especially prior to 1993, I spoke at other events sponsored by law schools and universities, the American Bar Association, the District of Columbia Bar Association, the Women Judges' Fund for Justice, and public interest organizations

including affiliates and chapters of the American Constitution Society, NARAL Pro-Choice America, the American Civil Liberties Union, and Planned Parenthood Federation of America. To the best of my recollection, the universities at which I spoke prior to 1993 (all on issues of reproductive rights) include American, Bucknell, University of California at Berkeley, Duke, Georgetown, Harvard, Hastings, Holy Cross, Indiana University-Bloomington, Minnesota, New York University, St. Louis University, and Yale. I have no record of the dates or notes.

- e. Please 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.

I have done my best to identify all press interviews I have given through a review of my personal files and searches of publicly available electronic databases. I have located the following articles. In addition, I have created and submitted a CD with video recordings that I possessed of many of my television appearances (though I do not have any record of the dates of those recorded appearances).

Liberal legal group comes to the fore, Politico.com, December 28, 2008, Lisa Lerer

Liberal Legal Group Is Following New Administration's Path to Power, The New York Times, December 11, 2008, Charlie Savage

Legal Organization May Become Influential Beyond Its Dreams, The Washington Post, December 7, 2008, Michael A. Fletcher

Obama's Transition Team Gets To Work In D.C., National Public Radio (NPR), Show: Morning Edition, November 6, 2008

Vexing Legal Questions Await Next President, The National Journal, November 1, 2008, Shane Harris

Abortion debate central for some voters, USA TODAY, October 31, 2008, Joan Biskupic

Opinion Casts Light on Secretive Justice Dept. Office, The Washington Post, October 19, 2008, Carrie Johnson

Fate of 'Roe v Wade' abortion ruling hangs in election balance, The Irish Times, October 8, 2008

The Nation; Roe vs. Wade really could depend on this election; The Supreme Court majority for abortion rights has shrunk. The next president could change the ratio, Los Angeles Times, October 5, 2008, David G. Savage

Some Legal Activists Have Hearts Set on 'True Liberal', The Washington Post, July 20, 2008, Robert Barnes and Kevin Merida

Obama strategy: Downplay Roe v Wade, Politico.com, July 14, 2008, Avi Zenilman, Carrie Budoff Brown

States News Service, May 1, 2008, States News Service, Bloomington, Indiana

Permissible Assaults Cited in Graphic Detail; Drugging Detainees Is Among Techniques, The Washington Post, April 6, 2008, Dan Eggen

AG Won't Probe CIA on Torture Laws Says Justice Dept. Memos Signed Off on Waterboarding, The Boston Globe, February 8, 2008, Charlie Savage

Bush asserts authority to bypass defense act Calls restrictions unconstitutional, The Boston Globe, January 30, 2008, Charlie Savage

Defense Bush approval; He said 4 sections infringe on his powers, Grand Rapid Press (Michigan), January 30, 2008

Lawmakers seeking war contract panel; Bush issued signing statement saying it could usurp authority; sponsor Webb moving forward, Richmond Times Dispatch (Virginia), January 30, 2008

Roe v. Wade: 35 Years Later, Rhode Island's Future, January 22, 2008

What might have been, still could be; Indianapolis law firm pondered pro bono possibilities for Guantanamo Bay detainees, The Indiana Lawyer, December 26, 2007, Michael W. Hoskins

Psychologists question U.S. torture policy at Indiana U., University Wire, December 3, 2007, Brian Spegele, Indiana Daily Student

IU Law prof testifies at hearing; Senate confirms former judge as Attorney General., The Indiana Lawyer, November 14, 2007, Michael W. Hoskins

Thompson Favorite for AG Job, But Does He Want It?, Cox News Service, November 13, 2007, Rebecca Carr

IU hosts Harris Lecture; British professor speaks in Bloomington about international law, The Indiana Lawyer, October 3, 2007, Rebecca Berfanger

Attorney posts remain vacant; Both districts will have acting U.S. attorneys, The Indiana Lawyer, September 19, 2007, Jennifer Mehalik

Indiana Law Professor Available to Comment on Mukasey Appointment, US Fed News, September 17, 2007, Bloomington, Indiana

Ex-Georgian on short list to run Justice; 2-party rapport: Rejection of others may spur Bush to ask former U.S. attorney Thompson to replace Gonzales. But would he want the job?, The Atlanta Journal-Constitution, September 14, 2007 Rebecca Carr

Thompson Favorite for AG Job, But Does He Want It? Cox News Service, September 13, 2007, Rebecca Carr

Is the Bush administration ... right?, Salon.com, July 23, 2007, Alex Koppelman

Hill Panel Initiates Contempt Charges Against Miers; Executive Privilege Battle May Hit Courts, The Washington Post, July 13, 2007, Robert Barnes and Dan Eggen

Lawyer: Bush failing constitutional duty, UPI, July 12, 2007, Bloomington, Indiana

White House and Congress in Showdown Over Aides' Testimony, Cox News Service, July 9, 2007, Ken Herman and Rebecca Carr

Guantanamo Appeals: Experts Available to Comment, US Fed News, June 29, 2007, Bloomington, Indiana.

White House says "No" to Subpoenas, Cox News Service, June 28, 2007, Rebecca Carr and Ken Herman

Radio Interview with Ian Masters, referenced in LA Times, May 13, 2007

SCOTUS rules on abortion; Legal analysts predict wave of suits., The Indiana Lawyer, May 2, 2007, Michael W. Hoskins

Following the Beat of the Ban: After a loss in South Dakota, many in the anti-abortion movement reassess their legal strategy, American Bar Association, ABA Journal, February, 2007, 93 A.B.A.J. 32, Mark Hansen

The NewsHour with Jim Lehrer, The Alito Hearings, January 11, 2006

The Washington Times, December 13, 2005, Nation; Inside Politics, Greg Pierce

The Nation; Washington Outlook; Alito's Remarks on Roe May Not Be Fighting Words, December 12, 2005, Ronald Brownstein

Hoosiers see both sides of abortion debate, Gannett News Service, November 30, 2005, Maureen Groppe, Washington

Should Alito's philosophy be fair game?; Foes agree nominee is 'bright, capable,' but not acceptable, Chicago Tribune, November 29, 2005, Frank James

Should Alito's philosophy be fair game?, Chicago Tribune, November 29, 2005, Frank James

Still Standing; The resilience of Roe v. Wade., The New Yorker, November 28, 2005, Jeffrey Toobin

“A Pocketful of Dynamite,” The National Journal, October 15, 2005, Eliza Newlin Carney

Indiana U. law professors weigh in on Roberts, University Wire, September 30, 2005, Michael Sanserino, Indiana Daily Student

Constitutional Dreaming As Conservatives Move to Consolidate Their Hold on the Court, Liberals and Progressives Look Ahead—Way Ahead—and Plan Their Strategy for Taking Back the Constitution, The Boston Globe, May 22, 2005, Dave Denison

Bush’s most crucial judicial pick will be chief justice, Morning Call (Allentown, Pennsylvania), May 22, 2005, Opinion; Another View, Malcolm J. Gross

Chief Justice Scalia?; A hero to the legal right, and a lightning rod for the left, The Record (Bergen County, NJ), May 15, 2005, Opinion, Warren Richey

Advice for Counsel, Hartford Courant (Connecticut), February 14, 2005, Editorial, Lincoln Caplan

Battle over judges reaches crucial test; Democrats make ideology an issue, Chicago Tribune, September 16, 2002, Jan Crawford Greenburg

Indiana U. law professors discuss prosecution of terrorists, University Wire, February 7, 2002, Elizabeth Crosbie, Indiana Daily Student

Should a Fetus’s Well-Being Override a Mother’s Rights?, The New York Times, September 9, 2000, Linda Greenhouse

Delivers Remarks at the University of Minnesota School of Law, FDCH Political Transcripts, October 28, 1998, Kenneth Starr, Whitewater Independent Counsel, V Nixon Symposium

Starr Defends Executive Privilege During U of M Law Symposium; But Legal Right Supersedes Justice System, He Say, Saint Paul Pioneer Press (Minnesota), October 25, 1998, Scott Carlson

Attorney leaves Reno’s cabinet for Bloomington campus, The Indiana Lawyer, September 16, 1998, Cary Solida

Immigrants’ Rights Bills Create Strong Debate; Legislation Supporters Want to Deny Birthright Citizenship to Children of Illegal Immigrants and Require Voter Checks. Opponents Say Proposals are Unconstitutional, Los Angeles Times, June 26, 1997, Gebe Martinez

Illegals' babies is focus of hearing, The Orange County Register, June 26, 1997, Dena Bunis

Citizenship may be denied to children of illegal aliens; House bill aims to curb influx of illegals, The Washington Times, June 26, 1997, Ruth Larson

President's Proposals to End Abortions Restrictions Controversial, CBS News Transcripts, CBS MORNING NEWS, March 31, 1993, Monica Gayle, Bill Plante

House to Vote on Compromise Plan to Implement Clinton's Economic Plan, CBS News Transcripts, CBS MORNING NEWS, March 31, 1993, Paula Zahn, Bill Plante

Congressional Negotiators Reach Compromise on Economic Package, CBS News Transcripts, CBS MORNING NEWS, March 31, 1993, Harry Smith, Bill Plante

Supreme Court "up for grabs"; Some see swing to the middle, USA TODAY, March 22, 1993, Tony Mauro

Democrat gets 1st high court pick since LBJ, Chicago Tribune, March 21, 1993, Carol Jouzaitis and Michael Tackett

Abortion Rights Seen Getting Boost, Chicago Sun-Times, March 21, 1993, Rochelle Sharpe

Showdown in Russia, CNN, The Week in Review, March 21, 1993, Transcript # 50, Susan Rook, Bob Cain

Steady on the right, The Boston Globe, March 20, 1993, Gregg Krupa

Supreme Court puts abortion on back burner, The Boston Globe, March 16, 1993, Gregg Krupa

New York: Hayat Case "Unlikely to Set New Precedent, Abortion Report, March 10, 1993

Near-ban on abortion is rejected; Supreme Court declines to restore Louisiana law, The Dallas Morning News, March 9, 1993, Steve McGonigle

Doctor in Abortion Case To Appeal Assault Count, The New York Times, March 7, 1993, Richard Perez-Pena

The Stroke of a Pen, The National Journal, December 5, 1992, Viveca Novak

Abortion issues await Clinton; New president can settle many with a stroke of his pen, The Dallas Morning News, November 7, 1992, Jeffrey Weiss

Supreme Court Stages Oral Arguments on Abortion, CNN, October 6, 1992, Transcript # 184 - 2, Anthony Collings

The abortion ruling: Day Two // State laws getting reviewed, USA TODAY, July 1, 1992, Mimi Hall

Court's Ruling Assures More Abortion Litigation; 'Undue Burden' Awaits Judicial Definition, The Washington Post, July 1, 1992, Ruth Marcus

The Supreme Court, Long Battles Over Abortion Are Seen, The New York Times, June 30, 1992, Tamar Lewin

News Conference with NARAL Re: Supreme Court Decision in Pennsylvania Case
Speakers: Kate Michelman, President, NARAL, Dawn Johnsen, NARAL Legal Director
1101 14th Street NW, Washington, DC, Federal News Service, June 29, 1992, transcript

Abortion could close court's term today, USA TODAY, June 29, 1992, Monday, final edition, Tony Mauro

Abortion: the great debate; Roe vs. Wade faces a radical overhaul by high court, The Houston Chronicle, June 14, 1992, Judy Wiessler

Between Parent and Child: When a Teenager Seeks an Abortion, Should Parents Be Told, The Washington Post, April 7, 1992, Cristine Russell

Abortion battle embroils D.C., Landmark 'Roe' ruling in question, USA TODAY, January 22, 1992, Tony Mauro; Mimi Hall

News Conference with NARAL Re: Supreme Court Decision to hear Pennsylvania Case
Speakers: Kate Michelman, Executive Director NARAL Harrison Hickman, Hickman Brown, Public Opinion Research Dawn Johnsen, Legal Consultant, NARAL, Federal News Service, January 21, 1992, transcript

Revival of Texas anti-abortion law feared, The Houston Chronicle, January 8, 1992, Judy Wiessler

News Conference with NARAL Re: New Study Ranking the 50 States in Level of Protection Provided if Roe v. Wade is Overturned, National Press Club, Washington, DC, Federal News Service, January 7, 1992, transcript

Abortion waiting period upheld; Pa. ruling surprises both sides, USA TODAY, October 22, 1991, Mimi Hall

The Thomas Swearing-In; After Ordeal of Senate Confirmation, Views on Thomas's Court Opinions, The New York Times, October 19, 1991, Neil A. Lewis

Grace, Grit and Gutter Fight; Never Has Country Seen a Hearing Like This, The Washington Post, October 12, 1991, E.J. Dionne Jr.

Thomas: "Speech, Essay Indicate Thomas is Abortion Foe," The Hotline, July 3, 1991

Thomas's Conservatism Displayed in Speeches, Writings, The Washington Post, July 3, 1991, Ruth Marcus

Pro-choice group slams Thomas, The Washington Times, July 3, 1991, Dawn Ceol

Overturning 'Roe': Almost a question of when, not if, USA TODAY, June 28, 1991, Mimi Hall

High Court Has Several Options For New Look at Abortion Right, The New York Times, June 20, 1991, Tamar Lewin

Date is Set to Test Law on Abortion, St. Louis Post-Dispatch (Missouri), June 20, 1991

Abortion showdown looming, USA TODAY, June 20, 1991, Tony Mauro

Louisiana's Chief Vetoes Ban on Most Abortions, The New York Times, June 15, 1991, Roberto Suro

Md. Legislature enacts abortion-rights bill, United Press International, February 18, 1991

Maryland: Final Vote on Abortion Bill May Come Today, Abortion Report, February 15, 1991

Justices Again Asked to Reject Roe v. Wade, The Washington Post, September 8, 1990, Ruth Marcus

Pennsylvania: Parts of PA Law Voided—Next Roe Challenge?, Abortion Report, August 27, 1990

Pa. laws may be the test for 'Roe', USA TODAY, August 27, 1990, Mimi Hall

Pennsylvania Abortion Law's Key Parts Voided: Courts: The State Says It Will Appeal the Federal Judge's Ruling. Some Fear this Case and One from Guam will Be Used to Overturn Roe v. Wade, Los Angeles Times, August 25, 1990, David Treadwell

Souter may find queries on abortion unavoidable, The Boston Globe, July 29, 1990, Ethan Bronner

Pro-lifers demand Souter's views, too, The Washington Times, July 27, 1990, Joyce Price

Souter Nomination: Poll; Senate Questions; Cases & More, Abortion Report, July 26, 1990

Liberal groups ask senators to hold off backing nominee, The Boston Globe, July 26, 1990, Stephen Kurkjian

Souter Meets With Leaders of Senate In Session of Humor and Good Will, The New York Times, July 26, 1990, Linda Greenhouse

Hunting for Souter's 'Smoking Gun', The Washington Post, July 26, 1990, Dale Russakoff

Backers Push Louisiana Abortion Bill Toward Supreme Court Test, The New York Times, June 24, 1990, Roberto Suro

O'Connor: And Her Pivotal Role on the Bench, Abortion Report, May 8, 1990

Abortion Talk Foreshadows Races; Issue is already promising to dominate state legislative races in fall, Newsday (New York), May 6, 1990, By Debbie Tuma and Dele Olojede

Many waiting in the wings for the word on key cases, USA Today, May 1, 1990, Tony Mauro

Connecticut's Governor Gets Landmark Abortion Bill, Orlando Sentinel (Florida), April 28, 1990

Taste of Victory National Abortion-Rights Activists Cite Progress in State: Legislatures, St. Louis Post-Dispatch (Missouri), April 12, 1990, Martha Shirk

Louisiana: Court Rejects Reinstating LA Abortion Law, Abortion Report, January 29, 1990

Louisiana abortion ban rejected, Chicago Tribune, January 28, 1990, Associated Press

Federal Court Refuses to Reinstate Louisiana Antiabortion Law, The Washington Post, January 27, 1990, Ruth Marcus

The defenders of abortion win one, U.S. News & World Report, October 16, 1989, Jim Impoco, Dusko Doder, William J. Cook, Clemens P. Work, Don L. Boroughs, Ted Gest, Merrill McLoughlin

Louisiana Lawyers Move to Revive Invalidated Law Banning Abortions, The New York Times, October 7, 1989, Frances Frank Marcus

Florida Court Rules Against Abortion Curbs, The New York Times, October 6, 1989, Neil A. Lewis

ABC News Transcripts, World News Tonight - ABC, October 2, 1989

Louisiana Abortion Law Ruling Sought; District Attorney Moves to Reinstate Century-Old Criminal Statute, The Washington Post, July 11, 1989, Dan Balz

The Next Battleground On Abortion Rights; Groups Focus on State Constitutions, Courts, The Washington Post, July 10, 1989, Ruth Marcus

Justices allow teen's abortion, Chicago Tribune, May 19, 1989, Glen Elsasser

The Battle For the Unborn Of Nancy Klein; A Comatose Woman and a Bitter Abortion Fight, The Washington Post, February 11, 1989, Paula Span

High court to review Mo. abortion law; Step may affect landmark '73 ruling, The Boston Globe, January 10, 1989, Ethan Bronner

Abortion rights: "down the drain"?; possible reversal of Supreme Court position, The Hastings Center Report, December 1, 1988, Christine K. Cassel

States News Service, November 28, 1988, Anne Hazard

Bush Court Likely to Back Abortion Limits by States, Los Angeles Times, November 27, 1988, David G. Savage

The ACLU Averts Its Eyes, The Washington Post, August 7, 1988, Editorial, Nat Hentoff

Drama in the Woman: A Matter of Life and Death Winds Up In Court, Los Angeles Times, December 25, 1987

Analysis: Kennedy's Pivotal Vote, Associated Press, April 19, 2007, Gina Holland

At Long Last, Maybe a Liberal, The Associated Press March 21, 1993, Jill Lawrence

Supreme Court Declines to Revive Guam's Anti-Abortion Law, The Associated Press November 30, 1992, Richard Carelli

Abortion Fights Loom in Nine States While Focus Shifts to Congress, The Associated Press November 30, 1992, Arlene Levinson

Souter Treads the Middle Ground, The Associated Press March 21, 1991, Richard Carelli

Nominee Dismisses Questions on Decade-Old Abortion Letter, The Associated Press July 26, 1990, William M. Welch

Souter Urged Legislature Not to Involve Judges in Abortion Decisions, The Associated Press July 26, 1990, John King

Louisiana Abortion Ban Could Prompt Reconsideration of *Roe v. Wade*, The Associated Press July 10, 1990, William Welch

Abortion Bill Heads to Governor, The Associated Press April 28, 1990, Judd Everhart

Appeals Court Affirms Pregnant Women's Right to Set Medical Care, The Associated Press April 27, 1990, Jill Lawrence

Court Refuses to Let State Restore Anti-Abortion Law, The Associated Press January 27, 1990

The Associated Press November 29, 1989, Richard Carelli

Availability of Abortion May One Day Hinge on State Courts, The Associated Press October 30, 1989, Richard Carelli

Ruling Encourages States to Restrict Abortion, Activists Say, The Associated Press July 4, 1989

Don't Look for Quick Changes in Abortion Laws, The Associated Press July 3, 1989, Harry F. Rosenthal

Outside Abortion Context, Legal Rights of Fetus Expanding, The Associated Press April 23, 1989, Richard Carelli

High Court Considers Limiting Women's Right to Abortion, The Associated Press April 22, 1989, Richard Carelli

Brehm addresses torture controversy, The Herald Times, December 1, 2007, Mercedes Rodriguez

General meeting of the Bloomington Chapter of the ACLU of Indiana, The Herald Times, November 20, 2007

Could reform attorney general's office, Indiana University law professor says, The Herald Times, September 20, 2007, James Boyd Mukasey

Gonzales resignation brings sign of relief, The Herald Times, August 28, 2007, Mike Leonard

Possibility of dissent gets two tossed from speech, The Herald Times, April 15, 2007, Mike Leonard

Panel: Bush stretching credibility on surveillance, The Herald Times, January 20, 2006, Steve Hinnefeld

Exit stage right, The Herald Times, October 28, 2005, Andy Graham

Indiana friends cheer confirmation, The Herald Times, September 20, 2005, Deanna Martin

The law according to Rehnquist, The Herald Times, March 31, 2005, Steve Hinnefeld

Hamilton quits IDEM, may run in 8th District, The Herald Times, April 1, 1999, Steve Hinnefeld

News Release, Indiana University School of Law-Bloomington, May 1, 2008

Johnsen Testifies at “Secret Law” Hearing, Indiana Law, May 6, 2008

Film Features Dawn Johnsen Alongside Koh, Obama, Sunstein, Law Indiana, November 9, 2006

Fidler, Cate, Johnsen Weigh in on Controversial Constitutional Issues, Sept. 18, 2006

Johnsen Confronts Expanding Executive Power, Indiana Law, Fall 2008, Debbie O’Leary

Choosing Her Battles, Indianapolis Monthly, March 2006, Christine Speer

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.

Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice, 1993-1996, appointed by Attorney General Janet Reno.

Acting Assistant Attorney General, Office of Legal Counsel, Department of Justice, 1997-1998, appointed by Attorney General Janet Reno.

- 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, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

My husband, John Hamilton, unsuccessfully sought the Democratic nomination for Congress from Indiana’s eighth district in 2000, but was defeated in the primary. I am a member of the Monroe County Democratic Women’s PAC. I have never held an office in any political party or election committee. I have, however, served as an unpaid advisor to several political campaigns, including Barack Obama for President, Hillary Clinton for President, Bill Clinton for President, and Michael Dukakis for President.

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 clerked for the Honorable Richard D. Cudahy on the U.S. Court of Appeals for the Seventh Circuit from September 1986 to August 1987.

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

No.

- 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.

Staff Counsel Fellow, American Civil Liberties Union, Reproductive Freedom Project, 125 Broad St., New York, NY, 1987-1988 (one-year fellowship)

Legal Director, NARAL Pro-Choice America, 1156 15 St., NW, Suite 700, Washington, D.C., 1988-1993

Acting Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington, D.C., 1997-1998; Deputy Assistant Attorney General, 1993-1996

Indiana University Maurer School of Law-Bloomington, 211 S. Indiana Ave., Bloomington, IN, 1998-present

- b. Describe:

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

At the ACLU Reproductive Freedom Project, where I worked as a one-year fellow, my work primarily consisted of assisting with litigation aimed at protecting the right of individuals to make their own decisions regarding childbearing, free from governmental intrusion. While at NARAL, I occasionally authored or coauthored amicus briefs, typically in the U.S. Supreme Court in major reproductive rights cases, but the nature of my work shifted away from such a heavy focus on litigation to include, in addition, legislative, policy and public education work. While at OLC, I provided legal

advice on a range of statutory and constitutional issues to the President and the various departments and agencies of the Executive Branch.

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

I have specialized in constitutional law. Within constitutional law, my areas of specialization include executive authority, separation of powers more generally, and reproductive rights. As a law professor, I do not have clients. As a government lawyer at the Office of Legal Counsel my client ultimately was the United States, but more immediately I provided legal advice to executive branch officials and lawyers. My clients at NARAL included the organization itself, its members, and various amici I represented on briefs. My clients at the ACLU were the litigants and amici we represented in various lawsuits. For greater detail, see answer to questions 16 and 17.

- 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. Indicate the percentage of your practice in:

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

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings;
- 2. criminal proceedings.

I would estimate that while at the ACLU more than ninety percent of my work was in litigation, but it was mainly brief writing and I never personally appeared in court. I would estimate that about seventy percent of my litigation work involved civil proceedings in federal courts and the remaining thirty percent was in state courts. While at NARAL, approximately one-quarter of my work involved litigation, overwhelmingly amicus brief writing, approximately ninety-five percent of which involved civil proceedings in federal courts (and the remaining five percent involved civil litigation in state court).

- 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.

None.

- i. What percentage of these trials were:

- 1. jury;
- 2. non-jury.

- 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.

Webster v. Reproductive Health Services, No. 88-605, Brief of Seventy-Seven Organizations Committed to Women's Equality as Amici Curiae in Support of Appellees

Webster v. Reproductive Health Services, No. 88-605, Brief for the Amici Curiae Women Who Have Had Abortions and Friends of Amici Curiae in Support of Appellees

Bray v. Alexandria Women's Health Clinic, No. 90-985, Brief of 29 Organizations Committed to Women's Health and Women's Equality As Amicus Curiae in Support of Respondents

Bowen v. Kendrick, Nos. 87-253, 87-431, 87-462, 87-775, Appellees' and Cross-Appellants' Brief

Bowen v. Kendrick, Nos. 87-253, 87-431, 87-462, 87-775, Cross-Appellants' Reply Brief

Gene Myers v. Shawn Kathleen Lewis, Carlton James Lewis v. Shawn Kathleen Lewis, No. 88-555, On Petition for a Writ of Certiorari to the Michigan Court of Appeals, Respondent's Brief in Opposition

Edward Andrew Conn v. Jennifer Ann Conn, No. 88-347, On Petition for a Writ of Certiorari to the Indiana Supreme Court, Respondent's Brief in Opposition

John Smith v. Jane Doe, No. 88-1837, On Petition for a Writ of Certiorari to the Indiana Supreme Court, Respondent's Brief in Opposition

United States Catholic Conference v. Abortion Rights Mobilization, No. 87-416, On A Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit, Respondents' Brief in Opposition

Abortion Rights Mobilization v. United States Catholic Conference, Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

United States Catholic Conference v. Abortion Rights Mobilization, No. 87-416, On a Writ of Certiorari to the United States Court of Appeals for the Second Circuit, Brief for Respondents

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

Since 1993 my principal legal work has been with the Office of Legal Counsel (five years) and as a law professor teaching and writing about issues of constitutional law (more than ten years). In those capacities I have not litigated (except for very occasional work, for example, commenting on a brief or helping to draft a portion of a brief). The litigation described below therefore all occurred early in my legal career and all involved reproductive rights litigation on which I assisted or served as amicus counsel during the year I worked as a staff counsel fellow at the ACLU Reproductive Freedom Project or while I served as legal director of NARAL. Where I could find recent contact information through electronic searches I included that information; otherwise, I included the information as it appeared on the brief or reported opinion (and noted that fact).

1. *Bowen v. Kendrick*, 487 U.S. 589 (1988). As part of my work for the ACLU Reproductive Freedom Project from 1987-88, I worked with Counsel of Record Janet Benshoof on a brief before the U.S. Supreme Court on behalf of several plaintiffs in their challenge to the constitutionality of the Adolescent Family Life Act, on the grounds that it violated the Establishment Clause. Plaintiffs included members of the clergy, the American Jewish Congress, and federal taxpayers.

- a. I worked on this case from 1987 to 1988.
- b. U.S. Supreme Court
- c. Co-counsel representing plaintiffs were Janet Benshoof, Rachael Pine, Lynn Paltrow, then of the ACLU Reproductive Freedom Project, 125 Broad St., NY, NY 10004
Current contact information:
Janet Benshoof, President, Global Justice Center, 25 East 21 St. 10th floor, NY, NY 10010, 212-725-6530
Rachael Pine, 589 4th St., Brooklyn, NY 11215, 718-788-1498
Lynn Paltrow, National Advocates for Pregnant Women, 15 W. 36 St., Suite 901, NY, NY 10018, 212-255-9252

The statute was defended by Solicitor General Charles Fried, U.S. Department of Justice, Washington, DC 20530; currently Beneficial Professor of Law, Harvard Law School, 1563 Massachusetts Ave., Cambridge, MA 02138, 617-384-7817

2. *Webster v. Reproductive Health Services*, 492 U.S. 490 (1989). I was a principal author of two amicus briefs in this case, which at the time was widely watched for whether the Supreme Court would, as urged by the Solicitor General, overrule *Roe v. Wade*. It was the first case in which it seemed a majority of the Justices might favor that outcome. Both of my briefs urged the Court to reaffirm *Roe*. One brief was filed on behalf of a broad range of “Seventy-seven Organizations Committed to Women’s Equality.” The second brief was filed on behalf of 2,887 “Amici Curiae Women Who Have Had Abortions and [627] Friends of Amici Curiae,” and was based upon letters written by these individuals describing personal experiences with both pre-*Roe* illegal abortions and post-*Roe* legal abortions.

a. The amicus briefs were filed on March 30, 1989.

b. U.S. Supreme Court

c. Co-counsel on the first brief:

Marcy Wilder, Hogan & Hartson, 555 13 St. NW, Washington, DC 20004, 202-637-5729

Judith Lichtman, Senior Advisor and Past President, National Partnership for Women & Families, 1875 Connecticut Ave. NW, Suite 650, Washington, DC 20009, 202-986-2600

Donna R. Lenhoff, Legislative and Policy Director, National Employment Lawyers Association, 1090 Vermont Ave, Ste. 500, Washington, DC 20005, 202-898-2880

Maxine Eichner, University of North Carolina School of Law, 5103 Van Hecke-Wettach Hall, Chapel Hill, NC 27599, 919-843-5670

Evan Caminker, Dean of University of Michigan Law School, 625 South St., Ann Arbor, Michigan, 734-764-0514

Marcia Greenberger, National Women’s Law Center, 11 Dupont Circle, NW, #80, Washington, DC 20036, 202-588-5180

Lois Murphy, Director Governor’s Action Team, SE Region, 200 Broad St., Philadelphia, PA 19102, 215-560-5830; as of Jan. 30, 2009 beginning new job: Heckscher, Teillon, 100 Four Falls, Suite 300, West Conshohocken, PA, 610-940-2600

Stephanie Ridder, George Washington University School of Law, 2000 H St. NW, Washington, DC 20052, 202-994-6261

Michael C. Small, currently of Akin, Gump, Strauss, Hauer & Feld LLP, 2029 Century Park East, Suite 2400, Los Angeles, CA 90067, 310-552-6645

Wendy Webster Williams, Georgetown University Law School, 600 New Jersey NW, Washington, DC 20001, 202-662-9000

Co-counsel on second brief:

Sarah Burns, currently of NYU School of Law, 40 Washington Square South, NY, NY 10012, 212-998-6000

Helen R. Neuborne, Senior Program Officer, Economic Development, Ford Foundation, 320 E. 43rd St., NY, NY 10017, 212-573-4906

Allison Wetherfield, McDermott, Will & Emery, 7 Bishopsgate, London EC2N 3AR, United Kingdom, 44-20-7577-3489

Principal counsel for parties:

William L. Webster, then-Attorney General of Missouri, unable to find current information

Charles Fried for the United States, currently Beneficial Professor of Law, Harvard Law School, 1563 Massachusetts Ave., Cambridge, MA 02138, 617-384-7817
Frank Susman, Gallop, Johnson & Neuman, 101 S. Hanley, Suite 1700, St. Louis, MO 63105, 314-615-6000

3. *United States Catholic Conference v. Abortion Rights Mobilization*, 487 U.S. 72 (1988). I assisted counsel of record Marshall Beil in preparing Supreme Court briefs in this suit against the federal government seeking enforcement of statutory limits on the ability of tax-exempt organizations (here, the Roman Catholic Church in the United States) to engage in electoral activities on behalf of or in opposition to political candidates. The issue on which I worked was whether the plaintiffs had standing to raise this challenge; plaintiffs included five members of the clergy, voters, taxpayers, a political candidate, and a state political party official.

- a. To the best of my recollection, I assisted in drafting portions of briefs immediately following law school graduation in May/June of 1986, and then again part-time while employed elsewhere, and in particular on a brief filed on March 11, 1988.
- b. U.S. Supreme Court
- c. Counsel of Record:
Marshall Beil, McGuire Woods, 1345 Avenue of the Americas, 7th floor, NY, NY 10105, 212-548-7004
Additional “of counsel” on one or more briefs:
Mark W. Budwig, retired, home info: 353 E. 83rd St., NY, NY 10028
Katharine S. Dodge, retired from law firm, 16 High St., Brattleboro, VT 05301, 802-254-2345
Gene B. Sperling, Council on Foreign Relations, 1777 F. St., NW, Washington, DC, 202-509-8401

Principal counsel for other parties:

Kevin T. Baine for petitioners; Williams & Connolly LLP, 725 12th St., NW, Washington, DC 20005, 202-434-5010

Alan I. Horowitz and Solicitor General Charles Fried for the United States

Current contact information:

Charles Fried, Beneficial Professor of Law, Harvard Law School, 1563 Massachusetts Ave., Cambridge, MA 02138, 617-384-7817

Alan I. Horowitz, Miller Chevalier, 655 Fifteenth St., NW, Suite 900, Washington, DC 20005, 202-626-5839

4. *Bray v. Alexandria Women’s Health Clinic*, 506 U.S. 263 (1993). I was counsel of record and co-authored an amici curiae brief filed in the U.S. Supreme Court on behalf of “29 organizations committed to women’s health and women’s equality,” including NARAL. The brief described the impact of abortion clinic violence and blockades in support of respondents’ argument, and the judgment of the lower courts, that anti-abortion protestors had violated 42 U.S.C. § 1985(3).

- a. The amicus brief was filed May 13, 1991

- b. U.S. Supreme Court
- c. On the amicus brief with me were: Lois Eisner Murphy, Marcy J. Wilder, NARAL
Current contact info:
Lois Murphy, Director Governor's Action Team, SE Region, 200 Broad St., Philadelphia, PA 19102, 215-560-5830; as of Jan. 30, 2009 beginning new job: Heckscher, Teillon, 100 Four Falls, Suite 300, West Conshohocken, PA, 610-940-2600
Marcy J. Wilder, Hogan & Hartson, 555 13 St. NW, Washington, DC 20004, 202-637-5729

Principal counsel for the parties:

Jay Sekulow, Chief Counsel, American Center for Law & Justice, P.O. Box 90555,

Washington, DC 20090, 1-800-296-4529

John Schafer, retired from Covington & Burling, 1201 Pennsylvania Ave., Washington, DC, 20004, 202-662-6000

5. *Weeks v. Connick*, 733 F. Supp. 1036 (E.D. La. 1990). I was counsel of record on an amicus brief filed on behalf of my employer NARAL and fifteen other organizations in support of plaintiffs. Following the Supreme Court's 1989 decision in *Webster v. Reproductive Health Services* there was an effort to enforce Louisiana statutes, enacted in 1855 and 1920, to criminalize abortion. A federal district court judge requested supplemental briefing on a question that our amicus brief addressed: "What is the . . . effect on a statute which has been declared unconstitutional . . . if there has been a subsequent change in case law which implicates the earlier decision of unconstitutionality? Is the affected statute revived by the subsequent favorable case law, or must another statute be enacted?" My brief argued, among other things, that the court should not reach this question because the statutes at issue had been repealed in 1978; in any event remained unconstitutional under *Webster* (which did not overrule *Roe v. Wade*); and even if not unconstitutional would have to be reenacted before they could be enforced.

- a. The amicus brief was filed on November 13, 1989.
- b. U.S. District Court Eastern District of Louisiana, the Honorable W. Eugene Davis, Morely L. Sear, and Martin L.C. Feldman
- c. Co-counsel for amici:
Marcy Wilder & Susan Lowry, then of NARAL
Marcy Wilder, Hogan & Hartson, 555 13 St., NW, Washington, DC 20004, 202-637-5729
Susan Lowry, unable to find current information
Gene B. Sperling, Council on Foreign Relations, 1777 F. St., NW, Washington, DC, 202-509-8401
Walter Dellinger, O'Melveny & Myers, 1625 Eye St., NW, Washington, DC 202-383-5300
Laurence H. Tribe, Carl M. Loeb University Professor, Griswold Hall 307, 1525 Massachusetts Ave., Cambridge, MA 02138, 617-495-1767

Principal counsel for the parties:

Jennifer Schaye, Attorney for William J. Guste, Jr., Louisiana Department of Justice, Division of Risk Litigation, 626 N. Fourth St., Baton Rouge, LA 70804 (unable to find current information)

John S. Baker, Attorney for Harry F. Connick, Louisiana State U., Paul M. Habert Law Center, Baton Rouge, LA, 70803, 225-578-8846

Rachael Pine, Janet Benshoof, Lynn Paltrow, Kathryn Kolbert, then of the ACLU, 132 W. 43 St., NY, NY 10036

Current contact info:

Rachael Pine, 589 4th St., Brooklyn, NY 11215, 718-788-1498

Janet Benshoof, President, Global Justice Center, 25 East 21 St. 10th floor, NY, NY 10010, 212-725-6530

Lynn Paltrow, National Advocates for Pregnant Women, 15 W. 36 St., Suite 901, NY, NY 10018, 212-255-9252

Kathryn Kolbert, President, People for the American Way, 2000 M. St., NW, Suite 400, Washington, DC 20036, 202-467-4999

6. *In re A.C.*, 573 A.2d 1235 (D.C. 1990). I assisted in the representation of the interests of A.C., a woman who died following a court-ordered cesarean section that contributed to her death. The baby also died. The en banc D.C. Court of Appeals held that the trial court erred in the standards it applied in ordering the surgery: in particular, by balancing the woman's life against the fetus's life, rather than applying a standard that looked to the woman's own interests, or if incompetent, a procedure known as substituted judgment to ascertain her wishes.

- a. I assisted on briefs filed 1987 to 1988.
- b. District of Columbia Court of Appeals, en banc
- c. Co-counsel:

Lynn Paltrow, National Advocates for Pregnant Women, 15 W. 36 St., Suite 901, NY, NY 10018, 212-255-9252

Janet Benshoof, President, Global Justice Center, 25 East 21 St. 10th floor, NY, NY 10010, 212-725-6530

Rachael Pine, 589 4th St., Brooklyn, NY 11215, 718-788-1498

Leslie A. Harris, Center for Democracy and Technology, 1634 I St. NW #1100, Washington, DC 20006, 202-637-9800

Robert E. Sylvester, 5402 Huntington Parkway, Bethesda, MD 20814, 301-654-3467 (unable to find current contact information)

Elizabeth Symonds, formerly of ACLU of the National Capitol Area, 1400 20th St., NW, Suite 119, Washington, DC 20005, 202-457-0800 (unable to find current information)

Arthur B. Spitzer, ACLU of the National Capitol Area, 1400 20th St., NW, Suite 119, Washington DC 20005, 202-457-0800

Principal counsel for the parties:

Barbara Mishkin, Hogan & Hartson, 555 13 St., NW, Washington, DC 20004, 202-637-5680

Vincent C. Burke, III, Furey, Doolan & Abell, LLP, 8401 Connecticut Ave., Suite 1100, Washington, DC 20815, 301-652-6880

7. *Planned Parenthood v. AID*, 838 F.2d 649 (2nd Cir. 1988). I assisted in the drafting of an amicus brief arguing that the district court erred in finding that a challenge to the constitutionality of the Mexico City Policy presented a nonjusticiable political question. The Second Circuit reversed the district court, allowing the challenge to proceed.

- a. The amicus brief was filed October 26, 1987
- b. The U.S. Court of Appeals for the Second Circuit, the Honorable Judges Miner, Timbers, and Lasker
- c. Co-counsel for Amici:
Janet Benshoof, President, Global Justice Center, 25 East 21 St. 10th floor, NY, NY 10010, 212-725-6530
Lynn Paltrow, National Advocates for Pregnant Women, 15 W. 36 St., Suite 901, NY, NY 10018, 212-255-9252
Rachael Pine, 589 4th St., Brooklyn, NY 11215, 718-788-1498

Principal counsel for the parties:

Roger Evans, Legal Director, Planned Parenthood Federation of America, 434 W. 33rd St, NY, NY 10001, 212-541-7800
Carolyn L. Simpson, Assistant U.S. Attorney (unable to locate current contact information)

8, 9 & 10. In 1988 while at the ACLU Reproductive Freedom Project, I was co-counsel on briefs in a series of cases that all involved attempts by men to enjoin particular women from having first trimester abortions, on the ground that the man was the prospective father and opposed the abortion. The Supreme Court had already resolved the legal issue, but these cases were part of an effort in 1988 to create a test case to bring to the Supreme Court to urge the Court to overrule its precedent. Among the counsel representing the men in all cases was James Bopp, the general counsel of the National Right to Life Committee, and the cases followed a “Father’s Rights” litigation packet which encouraged such challenges. I was among the counsel representing the women in each case. In the end, the courts ultimately ruled in favor of the women. The spate of cases ended when the Supreme Court denied certiorari in two of the cases. Below is the information I have been able to gather and based on my best recollection about the three cases in which courts issued published opinions (and I have included information on a fourth case for completeness, because I believe—though am not certain—that represents all of the cases in this series).

Myers v. Lewis, on petition of writ of certiorari to the Michigan Court of Appeals, cert. denied, 488 U.S. 967 (1988)

- a. 1988
- b. Michigan Court of Appeals, U.S. Supreme Court (opposition to certiorari petition)
- c. Co-counsel:
Janet Benshoof, Counsel of Record, President, Global Justice Center, 25 East 21 St. 10th floor, NY, NY 10010, 212-725-6530

Lynn Paltrow, National Advocates for Pregnant Women, 15 W. 36 St., Suite 901,
NY, NY 10018, 212-255-9252

Rachael Pine, 589 4th St., Brooklyn, NY 11215, 718-788-1498

Linda L. Pylypiw, 720 Church St., Flint, Michigan 48502, 810-234-0980

Shelley R. Spivak, 900 S. Saginaw St., Flint, Michigan 48502, 810-237-6130

Opposing Counsel:

Steven W. Moss, 404 N. Linden Rd, Flint, Michigan 48504, 313-230-0080 (unable to
find current contact information)

Gene Myers, 1133 E. Bristol Rd., Burton, MI 48529

James Bopp, Jr., Bopp, Coleson & Bostrom, National Building 1 South 6th St., Terre
Haute, IN 47807, 812-232-2434

Richard E. Coleson, Bopp, Coleson & Bostrom, National Building 1 South 6th St.,
Terre Haute, IN 47807, 812-232-2434

Conn v. Conn, 525 N.E.2d 612 (Ind. Ct. App. 1988), 526 N.E.2d 958 (Ind. 1988), cert.
denied, 488 U.S. 955 (1988)

a. 1988

b. Indiana state courts, including Indiana Supreme Court, U.S. Supreme Court
(opposition to certiorari petition)

c. Co-counsel:

Richard A. Waples, Counsel of Record, Waples & Hanger, 410 N. Auburn Rd,
Indianapolis, IN 46219, 317-357-090

Janet Benshoof, President, Global Justice Center, 25 East 21 St. 10th floor, NY, NY
10010, 212-725-6530

Lynn Paltrow, National Advocates for Pregnant Women, 15 W. 36 St., Suite 901,
NY, NY 10018, 212-255-9252

Rachael Pine, 589 4th St., Brooklyn, NY 11215, 718-788-1498

Opposing counsel:

James Bopp, Jr., Bopp, Coleson & Bostrom, National Building 1 South 6th St., Terre
Haute, IN 47807, 812-232-2434

Richard E. Coleson, Bopp, Coleson & Bostrom, National Building 1 South 6th St.,
Terre Haute, IN 47807, 812-232-2434

Roger Wm. Bennett, Bennett, Boehning & Clary LLP, 415 Columbia St., Suite 1000,
Lafayette, IN 47901, 765-742-9066

John P. Worth, 136 E. 2nd St., Rushville, IN 46173, 765-932-2242

John Doe v. Jane Smith, 527 N.E.2d 177 (Ind. 1988)

a. 1988

b. Indiana Supreme Court, 527 N.E.2d 177 (Ind. 1988), appeal from the Elkhart
Superior Court, Room No. 2 Juvenile Division, Cause No. 20 D0288 05 JP 095, The
Honorable Stephen E. Platt, Judge

c. Co-counsel

Richard A. Waples, Waples & Hanger, 410 N. Auburn Rd, Indianapolis, IN 46219, 317-357-0903

John M. Hamilton, City First Enterprises, 1436 U. St., NW, Suite 404, Washington, DC 20009, 812-327-4311

Marie Waring-Mengel, Executive Director, Elkhart County Legal Aid Society, 330 W. Lexington, Elkhart, IN 46516, 219-294-2658

Opposing Counsel:

Robert J. Palmer, May, Oberfell, Lorber, 4100 Edison Lakes Parkway, Mishawaka, IN 46545, 574-243-4100

Steven J. Strawbridge, 201 N. Illinois St., Suite 1000, Indianapolis, IN 46244, 317-237-3800

James Bopp, Jr., Bopp, Coleson & Bostrom, National Building 1 South 6th St., Terre Haute, IN 47807, 812-232-2434

Richard E. Coleson, Bopp, Coleson & Bostrom, National Building 1 South 6th St., Terre Haute, IN 47807, 812-232-2434

Jane Doe v. John Smith, no reported opinion, Indiana Court of Appeals, No. 84 A01-8804-CV-00112, Appeal from the Vigo Circuit Court, Juvenile Division, Cause No. 84C01 8804 JP 185

a. 1988

b. Indiana Court of Appeals, No. 84 A01-8804-CV-00112, Appeal from the Vigo Circuit Court, Juvenile Division, Cause No. 84C01 8804 JP 185, The Honorable Robert H. Brown, Circuit Judge

c. Co-counsel:

Richard A. Waples, Waples & Hanger, 410 N. Auburn Rd, Indianapolis, IN 46219, 317-357-0903

John M. Hamilton, City First Enterprises, 1436 U. St., NW, Suite 404, Washington, DC 20009, 812-327-4311

Samuel E. Beecher, Jr., formerly of Terre Haute, Indiana (deceased)

Opposing Counsel included (unable to locate complete list):

James Bopp, Jr., Bopp, Coleson & Bostrom, National Building 1 South 6th St., Terre Haute, IN 47807, 812-232-2434

Richard E. Coleson, Bopp, Coleson & Bostrom, National Building 1 South 6th St., Terre Haute, IN 47807, 812-232-2434

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 fully the nature of your participation in these activities. Please 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.)

For just over a decade, I have taught and written about issues of constitutional law, with a focus on presidential authority and especially executive branch lawyering. I have, for example, written about executive authority to interpret the Constitution and to issue signing statements, and about a President's dilemma and responsibility when confronted with an unconstitutional statutory provision. I have both been a critic of executive branch excesses, in particular the 2002 OLC opinion on the legality of torture (see, e.g., *Faithfully Executing the Laws: Internal Legal Constraints on Executive Power*, 54 UCLA LAW REVIEW 1559 (2007)) and a defender of legitimate and important presidential authorities such as the authority to interpret the Constitution and issue signing statements (see, e.g., *What's a President to Do? Interpreting the Constitution in the Wake of the Bush Administration's Abuses*, 88 BOSTON UNIVERSITY LAW REVIEW 395 (2008)). Most notably, I spearheaded the development of a document signed by nineteen former OLC lawyers that draws upon the best nonpartisan traditions to set forth principles that should guide OLC lawyers in advising the President on how lawfully to accomplish his policy objectives.

Prior to teaching, I served for five years at OLC, first as a deputy assistant attorney general (1993 to 1996) and from January 1997 to June 1998, as the Acting Assistant Attorney General heading that office. In that capacity, I provided legal advice (through delegated authority from the Attorney General) to the President and to executive branch departments and agencies, on the range of constitutional and statutory issues that confront the executive branch. OLC responds to legal questions from the Counsel to the President, the Attorney General, the General Counsels of the various executive departments and agencies, and the Assistant Attorneys General for the other components of the Department of Justice. Among its responsibilities, OLC resolves legal disputes between executive agencies, assesses the constitutionality of pending legislation, advises the President on whether to sign or veto legislation and drafts accompanying presidential statements, and assesses Executive Orders and other presidential directives for form and legality. The list of OLC opinions I signed during my five years at OLC listed under 13(c) provides a good indication of the typical work of OLC. My work to uphold *Roe v. Wade* while at the ACLU Reproductive Freedom Project and NARAL is captured in greater detail in my responses to Questions 15 and 16 above.

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.

I am in my eleventh year of teaching at Indiana University Maurer School of Law-Bloomington. I regularly have taught constitutional law to first-year law students, a five-credit-hour course that covers issues of both structure of government and Fourteenth Amendment rights (2000, 2002, 2003, 2004, 2005, 2006, 2008). I also have regularly taught constitutional law II, which is a course on the First Amendment (both expression and religion) (1998, 1999, 2000, 2001, 2003, 2005, 2006). I also often have taught a seminar on the separation of powers, which explores the authorities of and relationship

among the three branches of the federal government (1999, 2001, 2003, 2003, 2007, 2008), and on a few occasions a seminar on sexuality, reproduction and the Constitution, which explores governmental treatment of reproductive health and decisionmaking and sexual orientation (2006, 2007, 2008). I have included the two most recent syllabi for each of these courses.

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.

My current employer, Indiana University, provides a defined contribution pension plan that includes a minor component (2.4% match of annual salary) that does not vest unless and until I reach age 55 as an employee of the University. If I am so employed at that future time, such benefits would vest. The current face value of these unvested contributions is approximately \$30,000. See also answer to question 20 below.

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.

None, though if I am confirmed I will ask my current employer, Indiana University Maurer School of Law-Bloomington, to give me a leave of absence which would allow me to return to my tenured position. I expect to ask for successive annual leaves, during which time my salary and benefits will not be paid, with the exception of an initial three months of life insurance that is provided as a matter of course and the option to continue health care benefits (which I may do for a few months, until my family can move to Washington, DC).

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.)

Dawn E. Johnsen
Income

Sources of Income as of 1/16/09	Amount	Year
Indiana University School of Law - salary	\$164,418	2008
Indiana University School of Law - salary	\$13,500	2009

Mutual Fund holdings - dividends (est.)	\$2,200	2008
Mutual Fund holdings - dividends (est.)	\$200	2009
Cash holdings – interest	\$2,337	2008
Cash holdings - interest (est.)	\$200	2009
Tax-exempt bond payments	\$368	2008
Tax-exempt bond payments	\$20	2009
Honorarium for authoring book chapter	\$500	2008

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

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 have been nominated. Explain how you would address any such conflict if it were to arise.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official.

- 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, of this or any other kind, I would consult with the Office of Government Ethics and the Department of Justice's designated agency ethics official and comply with their guidance.

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.

Prior to joining the faculty at Indiana University Maurer School of Law-Bloomington, I have chosen legal positions either at nonprofit organizations or in government. Public service has been my overriding objective. My reproductive rights work has been aimed largely at upholding *Roe v. Wade*, which would disproportionately serve the disadvantaged because women with resources are far more likely to be able to navigate governmental restrictions on reproductive decisions. Since teaching, I have continued to work with nonprofits, foundations, and governmental entities (in particular, congressional staff) to promote legal and policy change that will disproportionately serve the disadvantaged (the amount of time varies greatly but I would estimate in the last five years it has averaged five to ten hours a week).

FINANCIAL STATEMENT

Dawn Johnsen

NET WORTH
__as of 12/31/08__

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	128,245			Notes payable to banks-secured	0		
U.S. Government securities-add schedule	0			Notes payable to banks-unsecured	0		
Listed securities-add schedule	645,630			Notes payable to relatives	0		
Unlisted securities--add schedule	7,000			Notes payable to others	0		
Accounts and notes receivable:	17,000			Accounts and bills due	10,000		
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	113,800		
Real estate owned-add schedule	230,000			Chattel mortgages and other liens payable	0		
Real estate mortgages receivable	0			Other debts-itemize:	0		
Autos and other personal property	30,100						
Cash value-life insurance	16,873						
Other assets itemize:	0						
				Total liabilities	123,800		
				Net Worth	951,048		
Total Assets	1,074,848			Total liabilities and net worth	1,074,848		
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor	0			Are any assets pledged? (Add schedule)	NO		
				Are you defendant in any suits			

On leases or contracts	0			or legal actions?	NO		
Legal Claims	0			Have you ever taken bankruptcy?	NO		
Provision for Federal Income Tax	0						
Other special debt							

FINANCIAL SCHEDULES
as of 12/31/2008

Johnsen, Dawn E.

LISTED SECURITIES

(est.)

American Funds

EuroPacific Growth Fund – B	\$3,542
The Growth Fund of America - B	\$3,459
Capital World Growth and Income Fund - B	\$3,613
Capital Income Builder – B	\$3,923

Sentinel Investments

Sentinel International Equity Fund-A	\$7,854
Sentinel Sustainable Core Opportunity-A	\$8,565

Calvert Investments

Calvert New Visions Small Cap Fund-A	\$7,001
Calvert Capital Accumulation Fund-A	\$6,036
Calvert New Vision Small Cap Fund-B	\$5,619
World Values International Equity-B	\$4,510
Calvert Social Index-B	\$5,140
Calvert Large Cap Growth Fund-B	\$4,971

Lincoln Financial Group

LVIP Delaware Special Opportunities	\$19,737
LVIP Delaware Social Awareness	\$30,122

Indiana College Choice Advisor

2016 Enrollment Portfolio Class A	\$5,895
2013 Enrollment Portfolio Class A	\$6,333

Indiana Public Employees' Retirement Fund

S&P 500 Index Fund	*	\$16,600
US Small Companies Fund	*	\$23,000

Indiana Deferred Compensation Plan - Hoosier START

Domini Institutional Social Equity Fund	*	\$14,500
Vanguard Capital Opportunity - Admiral	*	\$22,000

Domini Social Investments

Social Equity Investors Shares	\$58,898
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Lincoln Investment Planning, Inc.

AIM Global Small & Mid Cap Growth Fund - A	*	\$3,000
American Funds Growth Fund of America - F	*	\$3,200
Calvert Aggressive Allocation Fund - A	*	\$6,000

TIAA-CREF

TIAA CREF Social Choice Equity Fund - Rtl	\$70,391
TIAA CREF International Equity Fund - Rtl	\$30,263
TIAA CREF Large-Cap Grow Fund - Rtl	\$19,076
CREF Growth	\$57,951

CREF Global Equities	\$65,620
TIAA CREF Social Choice Equity - Rtmt	\$18,936
TIAA CREF Mid-Cap Gr-Rtmt	\$17,255
TIAA CREF S&P Index-RTMT	\$11,655
TIAA CREF Sm-Cap Eq-Rtmt	\$18,628
TIAA Real Estate	\$23,828
CREF Social Choice	\$29,740
Indiana University Tax Exempt Revenue Bond, Ser 2008A	\$8,769

TOTAL LISTED SECURITIES	\$645,630
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UNLISTED SECURITIES

City First Bank of D.C., NA	
Common Stock (book value; no public market)	\$7,000

TOTAL UNLISTED SECURITIES	\$7,000
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REAL ESTATE OWNED

635 S. Woodlawn Ave., Bloomington, IN 47401 (primary residence)	*	\$230,000
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TOTAL REAL ESTATE OWNED	\$230,000
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AUTOS AND OTHER PERSONAL PROPERTY

1998 Plymouth Voyager Minivan	*	\$5,100
General Household property (est.)	*	\$25,000

TOTAL REAL ESTATE OWNED	\$30,100
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REAL ESTATE MORTGAGE PAYABLE

Peoples State Bank, Bloomington, IN for primary residence loan	\$113,800
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TOTAL REAL ESTATE MORTGAGE PAYABLE	\$113,800
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* reflects estimate of 12/31/08 value

AFFIDAVIT

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

February 11, 2009
(DATE)

Dawn Johnson
(NAME)

Vivian St. Cyr 2/11/09
(NOTARY)

VIVIAN ST. CYR
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires November 30, 2013

[REDACTED]

January 21, 2010

The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In connection with the renomination process, I have reviewed the Senate Judiciary Questionnaire that I previously provided to the Committee, and which I supplemented with a letter to the Committee in March 2009. Since that time, I have continued to teach courses at Indiana University Maurer School of Law—Bloomington, but I have declined every invitation to engage in any other professional activity. Thus, the only new information since my prior submissions is as follows:

Question 12a: I no longer serve as a faculty advisor to any student organization or do work in any capacity for the American Constitution Society.

Question 13a: The essay that I provided to the Committee with my March 2009 letter was published in final form in May 2009 at 118 Yale Law Journal 1356.

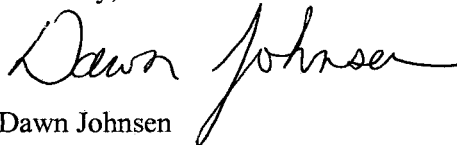
Question 18: In the Fall of 2009, I taught for the fourth time a seminar on sexuality, reproduction and the Constitution, which is described in greater detail in my initial response to this question. During the current Spring 2010 semester, I am scheduled to teach two seminars beginning January 20th. For the seventh time, I will teach a seminar on the separation of powers, which also is described in greater detail in my response to this question in the initial questionnaire. I also will teach for the first time a seminar on the First Amendment. I have often taught an introductory First Amendment course, and this new seminar will be an advanced study of select issues of free expression, for students who already have taken the introductory course.

Question 20: Depending on the timing, after confirmation I might continue to supervise my seminar students' papers, for no compensation.

Question 21: I do not yet have 2009 statements for salary, interest and dividends but expect those figures to be very similar to the figures I reported for 2008.

Question 22: I have attached an updated statement of net worth.

Sincerely,


Dawn Johnsen

cc: The Honorable Jeff Sessions
Ranking Minority Member
Committee on the Judiciary