

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Mary L. Smith

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

Assistant Attorney General for the Tax Division, U.S. Department of Justice

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

Office address:

Schoeman Updike Kaufman & Scharf
333 West Wacker Drive, Suite 300
Chicago, Illinois 60606



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

August 28, 1962, in Chicago, Illinois.

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

University of Chicago School of Law, attended from 10/89 to 06/91. J.D., *cum laude*, received in June 1991.

Loyola University of Chicago School of Law, attended from 08/88 to 05/89.

Loyola University of Chicago, attended from 08/80 to 05/84. B.S., *magna cum laude*, received in May 1984.

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

06/08 – present. Partner, Schoeman Updike Kaufman & Scharf, 333 West Wacker Drive, Chicago, Illinois 60606.

11/08 – 01/09. Member, Obama-Biden Transition Team for the U.S. Department of Justice.

08/05 – 07/07. Senior Litigation Counsel, Tyco International (US) Inc., 9 Roszel Road, Princeton, New Jersey 08540.

08/04 – 11/04. Senior Advisor on Native American Policy, Kerry/Edwards '04, Washington, D.C.

05/01 – 08/05. Senior Associate, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, N.W., Washington, D.C. 20005.

04/00 – 01/01. Associate Counsel to the President, White House Counsel's Office, The White House, Washington, D.C.

05/97 – 04/00. Associate Director of Policy Planning, Domestic Policy Council, The White House, Washington, D.C.

03/97 – 05/97. Policy/Research Analyst, Welfare to Work Partnership, 1301 Connecticut, N.W., Washington, D.C. 20036.

12/96 – 03/97. Revenue Assistant, Presidential Inaugural Committee, Washington, D.C.

06/96 – 11/96. Assistant to Political Strategy and Assistant to Press Secretary, Clinton/Gore '96, Washington, D.C.

08/94 – 06/96. Trial Attorney, U.S. Department of Justice, Civil Division, Commercial Litigation Branch, Washington, D.C.

06/92 – 08/94. Associate, Ross & Hardies, Chicago, Illinois.

09/91 – 06/92. Judicial Clerk, Hon. R. Lanier Anderson III, U.S. Court of Appeals for the Eleventh Circuit, Macon, Georgia.

06/91 – 08/91. Research Assistant, Professors Mary Becker and Anne-Marie Burley, University of Chicago School of Law, Chicago, Illinois.

10/90 – 12/90. Intern, U.S. Attorney's Office for the Northern District of Illinois, 219 S. Dearborn Street, Chicago, Illinois.

6/90 – 9/90. Summer Associate, Mayer, Brown & Platt, Chicago, Illinois.

05/89 – 09/89. Extern, Hon. Ilana Diamond Rovner, U.S. District Court for the Northern District of Illinois, Chicago, Illinois.

11/87 – 07/88. Senior Systems Engineer, Northern Trust Bank, Chicago, Illinois.

06/84 – 11/87. Systems Programmer, Walgreens Company, Deerfield, Illinois.

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social

security number) and type of discharge received, and whether you have registered for selective service.

None.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.
- Co-Editor, Best Overall Newsletter for 2006-2007 for the American Bar Association's Section of Litigation *In-House Litigator*
 - Co-Chair, District of Columbia Bar Association Award for Best Section for the Litigation Section (June 2008)
9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association

- Member, Commission on Women in the Profession (August 2006 – present).
- Delegate for the National Native American Bar Association, ABA House of Delegates (February 2007 – present).
- Member, Select Committee, ABA House of Delegates (August 2008 – present).
- Member, Multicultural Women Attorneys Network (MWAN) (2006 – 2008).
- Council Member, Section of Individual Rights and Responsibilities (2007 – present).
- Co-Chair, Public Education Committee, Section of Individual Rights and Responsibilities (2006 - 2007).
- Vice Chair, Civil Rights and Equal Opportunity Committee, Section of Individual Rights and Responsibilities (2005 - 2006).
- Co-Chair, 2008 Corporate Counsel CLE Planning Committee, Section of Litigation.
- Co-Chair, Content Committee, Section of Litigation (August 2008 - present).
- Co-Chair, Committee Newsletters Committee, Section of Litigation (July 2007 – August 2008).
- Co-Editor, Committee on Corporate Counsel Newsletter, Section of Litigation (August 2005- July 2007).

American Bar Foundation

- Fellow (2007 – present).

Association of Corporate Counsel

- Member, Corporate and Securities Committee (2006 – June 2008).
 - o Vice-Chair, Corporate and Securities Committee (October 2007 – June 2008).
- Member, Litigation Committee (2006 – June 2008).

Chicago Bar Association

- Member, Board of Managers (June 2008 – present).

Chicago Bar Foundation

- Board Member (July 2006 – present)
 - o Member, Audit Committee (September 2007 – present).

District of Columbia Bar Association

- Member, Section of Litigation Steering Committee (June 2005-).

- Co-Chair, Section of Litigation Steering Committee (September 2007 – present).
 - Chair, Litigation Section Nominating Committee (2005 – 2006).
 - Co-Chair, Litigation Section Program Committee (2005 – 2007).
- Native American Bar Association
- Board Member (2007 to present)
- Native American Bar Association of D.C.

10. **Bar and Court Admission:**

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

D.C. Court of Appeals, 2001
 Supreme Court of Illinois, 1991

- 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.

STATE AND FEDERAL COURT ADMISSIONS

Court	Status (active, inactive)	Approx. Date Admitted (if Available)
1. Supreme Court of Illinois	Active	12/10/91
2. District of Columbia	Active	12/03/01
3. Supreme Court of the United States	Active	05/20/96
4. U.S. Court of Appeals for the Third Circuit	Active	09/28/92
5. U.S. Court of Appeals for the Fourth Circuit	Active	4/25/02
6. U.S. Court of Appeals for the Fifth Circuit	Active	12/18/01
7. U.S. Court of Appeals for the Seventh Circuit	Active	09/04/92
8. U.S. Court of Appeals for the Ninth Circuit	Active	06/14/05
9. U.S. Court of Appeals for the Eleventh Circuit	Active	08/29/05
10. U.S. Court of Appeals for the District of Columbia Circuit	Active	07/15/02

11. U.S. Court of Appeals for the Federal Circuit	Active	06/20/96
12. U.S. District Court for the District of Columbia	Active	06/03/02
13. U.S. District Court for the Northern District of Illinois	Active	08/14/92
14. U.S. District Court for the Central District of Illinois	Active	08/14/92
15. U.S. District Court for the District of Maryland	Active	11/19/01
16. U.S. Court of Federal Claims	Active	8/18/94

11. **Memberships:**

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

None.

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

N/A.

12. **Published Writings and Public Statements:**

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

I have done my best to identify all items called for in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

The Rule of Law for Native Americans: Why Increased Funding for Tribal Justice Systems is Needed, AMERICAN BAR ASSOCIATION SECTION OF LITIGATION MINORITY TRIAL LAWYER NEWSLETTER, Vol.6 No. 4 (Summer 2008) (with Jerry Gardner).

In-House Journey to Success for Women Lawyers, AMERICAN BAR ASSOCIATION SECTION OF LITIGATION COMMITTEE ON CORPORATE COUNSEL IN-HOUSE LITIGATOR JOURNAL, Vol. 21 No. 3 (Spring 2007) (with Teresa Rider Bult).

Managing Concurrent Litigation And Government Investigations from An In-House Perspective, AMERICAN BAR ASSOCIATION SECTION OF LITIGATION COMMITTEE ON CORPORATE COUNSEL NEWSLETTER, Vol. 20 No. 2 (Winter 2006) (with Andrea L. Zopp).

Wage Gap Must Be Attacked On More Than One Front, CHICAGO TRIBUNE, Feb. 27, 2002, at C6 (with Robin Leeds).

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

I have done my best to identify all items called for in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

August 2008. *From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms*, available at <http://www.abanet.org/women/woc/VisiblySuccessful.pdf>.

August 7, 2008. Comments to the Financial Accounting Standards Board (FASB) about proposed standards requiring disclosure of loss contingencies arising from pending or threatened litigation. D.C. Bar Section of Litigation Public Statement, available at http://www.dcbar.org/for_lawyers/sections/statements/cfm.

Funding for Tribal Justice Systems. Urges Congress to support quality and accessible justice by ensuring adequate, stable, long-term funding for tribal justice systems. American Bar Association Resolution 117A passed at Annual Meeting in August 2008. [08A117A].

Hawaiian Governing Entity. Urges Congress to pass legislation to establish a process to provide federal recognition for a native Hawaiian governing entity, defined as an authority similar to that which American Indian and Alaska Native governments possess. American Bar Association Resolution 108B passed at Annual Meeting in August 2006. [06M108B]

Voting Rights Act. Supports the reauthorization of the Voting Rights Act of 1965 as amended through 1992. American Bar Association Resolution 108 passed at Annual Meeting in August 2005. [05A108].

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

I have done my best to identify all items called for in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

None.

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

I have done my best to identify all items called for in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

- IPQC 7th eDiscovery Conference, San Francisco, CA, "Exploring E-Discovery Solutions While Minimizing Costs," Panelist (April 28, 2009) (Forthcoming).
- American Bar Association Mid-Year Meeting, Boston, Massachusetts, Hearing on "State of Diversity in the Legal Profession," Presenter (February 12, 2009).
- American Bar Association Commission on Women in the Profession, Summit for Women In-House Counsel Capture Your Power: Your Role in Advancing Women in the Legal Profession, Chicago, Illinois, "Your Power Makes a Difference: Young Partner Panel," Moderator (May 15, 2008).
- Cleveland Metropolitan Bar Association, Improve Your Bottom Line: Hire, Retain and Promote Women and Minority Lawyers, Cleveland, Ohio, "Strategies for Overcoming Barriers Facing Women and Minority Lawyers," Panelist (May 9, 2008).
- Minority Corporate Counsel Association, The 8th Annual Pathways to Diversity Conference, New York, New York, "Visible Invisibility: Women of Color in Law Firms," Panelist (November 9, 2007).
- Association of Corporate Counsel Annual Meeting, Chicago, Illinois, "Securities Litigation & Derivative Actions: Trends and High Risk Activities", Panelist (October 29, 2007).
- American Bar Association, The 11th Annual National Institute on Class Actions, Chicago, Illinois, "Current CAFA Consequences: Has Class Action Practice Changed," Panelist (October 19, 2007).
- ABA Editors' Symposium, "Best Practices for Staff-Assisted Editors," Chicago, Illinois, Panelist (September 28, 2007).
- ABA Annual Meeting, CLE Panel, San Francisco, CA, "Being the Best Lawyers (Who Also Happen to be Minority Women) We Can Be: Trading Strategies and Sharing Secrets Among the Baby Boomers, Gen X and Gen Y," Panelist (August 11, 2007).
- "Women of Color in the Legal Profession: Success Strategies for Law Firms," Chicago, Illinois, Panelist (June 19, 2007).
- ABA Editors' Symposium, "Getting the Best Material: Finding and Working with Authors," Chicago, Illinois, Panelist (September 28, 2006).

- ABA Annual Meeting, Presidential Plenary Panel, Honolulu, Hawaii, “The Legal Status of Native Hawaiians,” Honolulu, HI, Panelist (August 3, 2006).
 - Council on Legal Education Opportunity (“CLEO”), Thurgood Marshall Legal Educational Opportunity Program, 2006 Mid-Summer Professional Development Seminar And Career Fair, Detroit, Michigan, “Navigating the Corporate World: In-House Counsel,” Panelist (June 10, 2006).
 - American Bar Association, Section of Litigation Annual Conference, Los Angeles, California, “Editors’ Workshop: How to Get Articles for Young Lawyers,” Panelist (April 21, 2006).
- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all items called for in this question, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Native American Calling Radio Program, January 2001.

Native American Calling Radio Program, January 2004.

Shea Anderson, *Indians Carve Bigger Role in Politics*, Albuquerque Tribune, November 18, 2003 at A1.

Lynn Sweet, *Chicagoans Stay Until End*, Chicago Sun-Times, January 14, 2001 at 22.

13. Public Office, Political Activities and Affiliations:

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

None.

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

06/08-11/08. Member of Native American Policy Committee, Criminal Justice Policy Committee and Women’s Policy Committee, Obama campaign.

08/08-11/08. Member of Women’s Leadership Group, Obama-Biden campaign.

08/08-11/08. Member of Illinois Finance Committee, Obama-Biden Campaign.

08/08. Illinois Delegate to the Platform Committee, Democratic National Convention.

03/07-06/08. Member of D.C. Finance Committee, Hillary Clinton for President.

03/07-06/08. Member of Women for Hillary, Hillary Clinton for President.

08/07-06/08. Member of Business Women's Council, Hillary Clinton for President.

03/07-06/08. Member of Native American Policy Group, Hillary Clinton for President.

07/04. D.C. Delegate to the Credentials Committee, Democratic National Convention.

08/04 – 11/04. Senior Advisor on Native American Policy, Kerry/Edwards '04, Washington, D.C.

11/03-03/04. Member of Women for Kerry, Kerry Campaign.

06/96-11/96. Assistant to Political/Strategy and Assistant to Press Secretary, Clinton/Gore '96.

14. **Legal Career:** Answer each part separately.

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

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

09/91-06/92. Judicial Clerk, U.S. Court of Appeals for the Eleventh Circuit, Macon, Georgia, Honorable R. Lanier Anderson III.

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

I never practiced alone.

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

06/08-Present. Partner, Schoeman Updike Kaufman & Scharf, 333 W. Wacker Drive, Suite 300, Chicago, Illinois 60606.

08/05-07/07. Senior Litigation Counsel, Tyco International (US) Inc., 9 Roszel Road, Princeton, NJ 08540.

05/01-08/05. Senior Litigation Associate, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, N.W., Washington, D.C. 20005.

04/00-01/01. Associate Counsel to the President, White House Counsel's Office, The White House, Eisenhower Executive Office Building, 17th and G Streets, N.W., Washington, D.C. 20501.

05/97-04/00. Associate Director of Policy Planning, Domestic Policy Council, The White House, Eisenhower Executive Office Building, 17th and G Streets, N.W., Washington, D.C. 20501.

08/94-06/96. Trial Attorney, Commercial Litigation Branch, Civil Division, U.S. Department of Justice, 1100 L Street, N.W., Washington, D.C. 20530.

06/92-08/94. Associate, Ross & Hardies, 150 N. Michigan Ave., Chicago, Illinois 60601.

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

Since July 2008, I have served as an arbitrator for the Cook County Mandatory Arbitration Program. Most of the cases involve automobile accidents. None of the cases have been significant.

b. Describe:

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

The general character of my law practice has been litigation. From 1992-1994, I generally practiced in products liability, appellate matters, and general commercial litigation. From 1994-1996, my practice generally consisted of government contracts and appellate matters. From 1997-2000, I worked on a range of policy and legislative matters. From 2000-2001, I worked on policy, legislative, and constitutional matters. From 2001-2005, I worked on class actions, securities class actions, government investigations, internal investigations, and appellate matters. From 2005-2007, I served as in-house counsel generally managing securities, executive compensation, and insurance litigation. From 2008 through the present, I focus on general commercial litigation, securities litigation, and investigations.

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

From 1992-1994, I represented manufacturers, criminal defendants, and other corporate clients in litigation matters. From 1994-1996, I represented the United States Government in government contract matters and appellate litigation. From 1997-2000, I served as a policy advisor to the President of the United States. From 2000-2001, I represented the

President of the United States on a range of matters including ethics and legislative matters. From 2001-2005, my clients included corporate clients, banks, credit card companies, and insurance companies. I specialized in class actions, securities litigation, internal investigations, and government investigations. From 2005-2007, I represented Tyco International Ltd. in securities litigation, government investigations, tax matters, and employment matters. From 2008 to the present, I have been attempting to build a practice from corporate clients.

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

The percentage of my practice which has consisted of litigation is about 85 percent. With the exception of 1992-1996, I have appeared in court only occasionally. During 1992-1996, I appeared in court frequently.

- i. Indicate the percentage of your practice in:

1. federal courts; 70%
2. state courts of record; 10%
3. other courts; n/a
4. administrative agencies 20%

- ii. Indicate the percentage of your practice in:

1. civil proceedings; 90%
2. criminal proceedings. 10%

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

I have tried three cases to judgment in which I was the sole counsel.

- i. What percentage of these trials were:

1. jury; 0%
2. non-jury. 100%

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

I have filed an amicus brief in the Supreme Court of the United State as counsel of record for several members of Congress in the case of *Grutter v. Bollinger*, 539 U.S. 306 (2003).

15. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe

in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *In re Tyco Intern., Ltd., Securities Litigation*, MDL No. 02-1335-B (D. N.H.) (Barbadoro, J.) (various reported cases). Dates of representation: 08/05 to 07/07. I served as Senior Litigation Counsel at Tyco International (US) Inc. where I managed the securities class action multi-district litigation relating to the Dennis Kozlowski era – the largest case pending at the Company and one of the largest cases pending in the country. This multi-district litigation arose out of more than 30 cases pending at the Company. At Tyco, I was the primary in-house counsel responsible for the management and strategy of the consolidated securities class action, a related case brought by the State of New Jersey, and an alleged securities fraud case brought relating to the telecommunications sector, among others. In 2007, the major portion of the litigation was settled for approximately \$3 billion. The settlement, reached after five years of litigation and the production of over 80 million pages of documents by the Company represents the single largest payment from any corporate defendant in the history of securities class action litigation. As part of my responsibilities, I managed a multi-million dollar budget, over 40 outside counsel, and over 60 contract attorneys.

U.S. District Court for the District of New Hampshire
Judge Paul Barbadoro

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Counsel for Defendant: Mark A. Belnick
(opposing counsel)

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Kevin Currid, Esq.
Carter Morse, Esq.
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(opposing counsel)

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2. *Tyco International Ltd. v. AIG Life of Bermuda Ltd. (formerly known as American General Life of Bermuda Ltd); L. Dennis Kozlowski; and Butterfield Trust (Bermuda) Limited*, Index No. 2006: No. 82, filed on March 6, 2006 (amended April 6, 2006) filed in the Supreme Court of Bermuda. Dates of representation: 08/05 to 11/06. While in-house at Tyco, I crafted a unique strategy that permitted my client to release over \$70 million in liability. Tyco was confronted with a situation where it still had to carry its former CEO's, Dennis Kozlowski, excessive life insurance policy on its books, despite the fact that a criminal court had convicted Mr. Kozlowski of receiving unauthorized compensation. Under accounting guidance, without an explicit court order or release from Mr. Kozlowski, with whom Tyco was currently in litigation in federal court in New Hampshire over his compensation, the Company had to carry the liability for the life insurance policy on its books. I devised a strategy whereby Tyco brought litigation in Bermuda, as the insurance contract was governed by Bermuda law, to seek the Bermuda equivalent of a declaratory judgment that the insurance policy was void as the result of fraud by Mr. Kozlowski at the time of contract formation by his looting of the Company

to unlawfully inflate his compensation. Without the filing of this action in Bermuda, Tyco would have had to wait until the related New Hampshire case with Mr. Kozlowski was adjudicated, which would have been several years in the future. After the case was pending less than a year, I was able to negotiate a settlement with Mr. Kozlowski's lawyers, the insurance company, and the Bermuda trust company which was very advantageous to my client.

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3. *Smith v. Salish Kootenai College*, 434 F. 3d 1127 (9th Cir. 2006) (*en banc*). I filed an *amicus curiae* brief on behalf of the National Congress of American Indians in a case involving the issue of whether a non-Indian plaintiff consents to the civil jurisdiction of a tribal court by filing claims against an Indian defendant arising out of activities within the reservation where the defendant is located.

United States Court of Appeals for the Ninth Circuit
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4. *Spirgel, et al. v. USEC, Inc.*, Nos. 02-1459, 02-1489, 2003 WL 21689097 (4th Cir. July 21, 2003). At Skadden, I represented the United States Enrichment Corporation, Inc. (“USEC”), in a matter that involved Sections 11 and 12 of the Securities Act of 1933 involving an initial public offering of the USEC, which operates the only uranium enrichment facility in the United States and had previously been part of the United States Government. This case was dismissed at the trial level, and the dismissal was upheld by the Fourth Circuit.

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5. *Hayes, et al. v. Crown Central Petroleum*, No. 02-2190, 2003 WL 22365985 (4th Cir. Oct. 17, 2003). At Skadden, I also worked on a purported securities class action arising out of alleged misstatements in a proxy statement under Section 14 of the Securities Exchange Act for a going-private transaction. There were several large law firms involved in this case, and I was the only attorney who urged that we renew defendants' motion to dismiss so that the entirety of the complaint would be dismissed. I argued the second motion to dismiss, and this time plaintiffs' claims were dismissed in their entirety. This case was upheld by the Fourth Circuit.

United States Court of Appeals, Fourth Circuit
Judges: Luttig, Motz, and Shedd, Circuit Judges.

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6. *Peterson Builders, Inc. v. United States*, 34 Fed. Cl. 182 (1995), *aff'd*, 155 F.3d 566 (1998). Prior to my time at Tyco and Skadden, I also served as a trial attorney for the United States Department of Justice Civil Division where I served as principal attorney for a number of trials and appeals. One of my biggest cases involved minesweeper ships that were used during the Persian Gulf War. This was one of the older cases in the office. I received this case from another attorney in the office as it was heading for trial. I quickly had to become acquainted with the facts of the case and with the engineering terms used in ship building. Because the case was so old, my client, the Navy, at one point discussed settling the case. I assured my client that we should not settle because we had a high probability of prevailing. I tried the case by myself, and the government won.

United States Court of Federal Claims
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7. *Total Medical Management v. United States*, 104 F.3d 1314 (Fed. Cir. 1997) and *Trauma Service Group v. United States*, 104 F.3d 1321 (1997). At the Department of Justice, I represented the government on issues of first impression regarding whether certain memoranda of understanding with military health providers were contracts. I won in a case I was handling, and then also took over the appeal of a related case. The government prevailed in both cases.

United States Court of Appeals for the Federal Circuit
Judges: Archer, Chief Judge, Michel and Rader, Circuit Judges.

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8. *Willow Beach v. United States* [no published decision]. In another case, I represented the National Park Service in a breach of contract action brought by one of its Nevada concessioners. Because the government was required by statute to pay the concessioner the value of its property interest in the concession, the expert depositions were critical in this case. Prior to the deposition of plaintiff's expert witness, I sent plaintiff's counsel an offer of judgment which was approximately one-tenth of the amount that the plaintiff was seeking to recover. During my questioning of plaintiff's expert, I completely undercut his credibility as an expert as well as his valuation methodology. When I arrived back in Washington, D.C., the morning after a red-eye flight from the deposition in Nevada, plaintiff's faxed acceptance of my offer of judgment was in my office mailbox.

U.S. Court of Federal Claims
Judge Wilkes C. Robinson

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9. *Grutter v. Bollinger, et al*, 539 U.S. 306 (2003). I was retained by several members of Congress to file an *amicus* brief in support of the University of Michigan's affirmative action programs.

Supreme Court of the United States
Chief Justice Rehnquist, Justices Ginsburg, Breyer, Scalia, Thomas, and Kennedy.

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10. *Zlotolow v. United States*, 35 Fed. Cl. 163 (1996). I tried a case on whether the government had properly renewed its lease on a postal facility. I was able to prevail after trial.

United States Court of Federal Claims
Judge Margolis

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

I have been involved in many governmental investigations and internal investigations for boards of directors. I have not engaged in lobbying other than lobbying for issues for the American Bar Association such as increases for legal services funding, the Akaka Native Hawaiian legislation, and judicial pay increases.

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

I have taught the National Institute of Trial Advocacy Annual Intensive Session in Trial Advocacy Skills at the Georgetown Law School in 2003, 2005, and 2007. I also taught the NITA Deposition Skills class, to the best of my knowledge, in 2003.

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

I have options in Covidien and Tyco Electronics. At the moment, they are all underwater.

Description	Option type	Grant date	Options exercisable	Options outstanding	Expiration date	Option price	Option cost	Market value	Unrealized gain
PLAN NUMBER L40C TYCO ELECTRONICS LTD. Current share price: \$11.04	NQO	11/22/05	1,144	1,144	07/20/10	33.5230	38,350.31	12,629.76	0.00
Total stock options				2,288			91,054.96	35,006.40	0.00
PLAN NUMBER L40CCOV COVIDIEN LTD. Current share price: \$33.24	NQO	11/22/05	1,144	1,144	07/21/10	36.9903	42,316.90	38,026.56	0.00
Total stock options				1,144			42,316.90	38,026.56	0.00

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

No.

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

See financial disclosure form.

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

22. **Potential Conflicts of Interest:**

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

None that I am aware of.

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

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.

23. **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.

Throughout my career, I have taken on pro bono matters, including at Ross & Hardies and at Skadden, Arps, Slate, Meagher & Flom LLP. While at Skadden, I worked on two pro bono appellate matters. I also serve on the Board of the Chicago Bar Foundation (“CBF”) which is dedicated to ensuring that everyone in the Chicago metropolitan area has equal access to justice, particularly the low-income and disadvantaged people who are in most critical need of the protections of our civil legal system. Through grants, advocacy and other leadership, the CBF takes a system-wide approach to improving access to justice and focuses on those objectives that are best achieved by working together as a community. I also currently serve as one of thirteen Commissioners on the ABA’s Commission on Women in the Profession. As part of my duties on the Commission, I am Chair of the Women of Color Committee and direct the Women of Color Research Initiative, a nationally-known research program that has developed seminal research and landmark reporting on the hiring and retention of women of color in the legal profession. Under my leadership, the Commission recently published *From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms*, a compilation of information, insights, and advice gathered from a national sample of prominent women partners of color in private practice and an examination of the practices at their firms that contributed to their success. I am also spearheading the next two phases of research conducted by the Women of Color Committee, which focuses on women of color who are attorneys in the corporate and government sectors. As with the earlier phases of this work, the next phases of research will focus on many issues which have not been previously examined in these environments, such as hiring, advancement and retention, performance evaluations, compensation, and working relationships with clients and colleagues.

FINANCIAL STATEMENT

Mary Smith

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks	\$500	000.	00	Notes payable to banks-secured			00
U.S. Government securities-add schedule			0	Notes payable to banks-unsecured			00
Listed securities-add schedule	\$196	000.	00	Notes payable to relatives			00
Unlisted securities--add schedule			00	Notes payable to others			00
Accounts and notes receivable:			00	Accounts and bills due			00
Due from relatives and friends			00	Unpaid income tax			00
Due from others			00	Other unpaid income and interest			
Doubtful			00	Real estate mortgages payable-add schedule	\$223	000.	00
Real estate owned-add schedule	\$260	000.	00	Chattel mortgages and other liens payable			00
Real estate mortgages receivable			00	Other debts-itemize:			00
Autos and other personal property	\$10	000.	00				
Cash value-life insurance			00				
Other assets itemize:							
Retirement accounts	\$170	000.	00				
				Total liabilities	\$223	000.	00
				Net Worth	\$923	000.	00
Total Assets	\$1,146,	000.	00	Total liabilities and net worth	\$1,146,	000.	00
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker			00	Are any assets pledged? (Add			No

or guarantor				schedule)			
On leases or contracts			00	Are you defendant in any suits or legal actions?			No
Legal Claims			00	Have you ever taken bankruptcy?			No
Provision for Federal Income Tax			00				
Other special debt			00				

DETAIL LISTING (SCHEDULE) OF ASSETS AND LIABILITIES		
		AMOUNT
Listed Securities		
	AIM Charter Fund Class A	\$ 1,100
	Microsoft Stock	\$ 1,850
	Sherwin Williams stock	\$22,000
	T. Rowe Price Dividend Growth Fund	\$ 2,800
	American Funds Growth Fund of America Class B (AGRBX)	\$ 1,950
	Google stock Class A	\$15,000
	McDonald's stock	\$39,500
	General Electric Stock	\$19,000
	Coca-Cola Stock	\$13,800
	Smith Barney account invested in Legg Mason Partners Aggressive Growth Fund Class B (SAGBX)	\$68,000
	UBS Account with stock in Tyco International, Tyco Electronics and Covidien	\$21,000
	Total	\$196,000
Retirement Accounts		
	IRA Rollover invested in Putnam Fund for Growth and Income	\$ 28,000
	Roth IRA Invested in Fidelity Contra Fund and Fidelity Growth and Income	\$ 2200
	IRA invested in American Funds Growth Fund of America (AGRBX)	\$ 7300
	Tyco Retirement Savings and Investment Plan	\$ 26,500
	Skadden Arps Retirement Savings Plan	\$ 66,000
	Thrift Savings Plan	\$ 40,000
	Total	\$170,000
Real estate owned		
	Condo in Chicago, Illinois	\$260,000
Real estate mortgages payable		
	Mortgage on condo, Chicago, IL	\$223,000