

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Gerard Edmund Lynch

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

United States Circuit Judge for the Second Circuit

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

United States District Court for the Southern District of New York
Daniel P. Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007

Additional Office:

Columbia University School of Law
435 W.116th Street
New York, NY 10027

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

1951; Brooklyn, New York

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.

1972 – 1975, Columbia University School of Law; J.D., 1975

1968 – 1972, Columbia College, Columbia University in the City of New York; B.A. summa cum laude, 1972

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.

2003-present
Columbia Law Review
435 W. 116th Street
New York, NY 10027
Member, Board of Directors (unpaid)

2000-present
United States District Court, Southern District Of New York
500 Pearl Street
New York, NY 10007
United States District Judge

1977-present
Columbia University School of Law
435 W. 116th Street
New York, NY 10027
Member of the Faculty of Law
(Paul J. Kellner Professor of Law, since 1996; Vice Dean, 1992-97;
Professor of Law, 1987-96; Associate Professor 1980-86;
Assistant Professor 1977-80)
(On public service leave, 1980-83; 1990-91)

2000-2000
New York Council of Defense Lawyers
New York, NY
Member, Board of Directors (unpaid)

1999-2000
Office of Independent Counsel Carol Elder Bruce
Washington, DC
Special Counsel (part time)

1992-2000
Covington & Burling, LLP
(formerly Howard Smith & Levin LLP; formerly Howard Darby & Levin)
1330 Avenue of the Americas
New York, NY 10019
(present address: 620 Eighth Avenue, New York, NY 10018)
Counsel

1990-1992
United States Department of Justice
Office of the United States Attorney, SDNY

One St. Andrew's Plaza
New York, NY 10007
Chief, Criminal Division

1988-1990
Office of Independent Counsel, Iran/Contra
555 Thirteenth Street NW
Washington, DC 20004
Associate Counsel (part time)

1987-1988
Office of Independent Counsel James C. McKay
Washington, DC
Associate Independent Counsel (part-time)

1987-1987
New York State Commission on Government Integrity
(Califano Commission)
1 World Trade Center
New York, NY
Chief Counsel (part time)

1986-1986
City Of New York Special Commission to Investigate City Contracts (Martin
Commission)
Special Counsel (part time)

1980-1983
United States Department of Justice
Office of the United States Attorney, SDNY
One St. Andrew's Plaza
New York, NY 10007
Assistant United States Attorney, Criminal Division
(Chief Appellate Attorney, 1983; Deputy Chief Appellate Attorney, 1982-83)

1976-1977
The Honorable William J. Brennan, Jr.
Associate Justice
Supreme Court of the United States
Washington, DC 20543
Law Clerk

1975-1976
The Honorable Wilfred Feinberg
United States Circuit Judge
United States Court of Appeals for the Second Circuit

United States Courthouse
40 Foley Square
New York, NY 10007
Law Clerk

1974-1974

Nickerson, Kramer, Lowenstein, Nessen, Kamin & Soll
919 Third Avenue
New York, NY 10022
(now known as Kramer, Levin, Naftalis & Frankel, LLP;
present address: 1177 Avenue of the Americas, New York, NY 10036)
Summer Associate

1972-1975

Office of Columbia College Admissions
212 Hamilton Hall
Columbia University
New York, NY 10027
Interviewer and Admissions Representative
(part time during law school terms and full time during summers of 1972 and 1973)

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.

No military service.
Registered for Selective Service 1969.

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.

Wien Prize for Social Responsibility (awarded by Columbia Law School), 2008
Elected to Membership, American Law Institute, 1998
Presidential Award for Outstanding Teaching (university-wide, faculty-voted), 1997
Willis Reese Award for Excellence in Teaching (law school, student voted), 1994

Law School:

John Ordronaux Prize (graduated first in class), 1975; James Kent Scholar (highest academic honors), 1972-73, 1973-74, 1974-75; Lawrence S. Greenbaum Prize (winner, Harlan Fiske Stone moot court competition), 1974; prizes for best performance in torts, contracts, property and constitutional law.

College:

Albert Asher Green Prize (valedictorian), 1972; David Truman Award (outstanding contribution to the academic life of the College), 1972; Earle Prize in Classics, 1972; Phi Beta Kappa, 1971; John Jay National Scholarship, 1968; National Merit Scholarship, 1968

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.

Association of the Bar of the City of New York

Committee on Federal Courts, 1993-1996

Committee on Criminal Advocacy, 1986-1989

Council on Criminal Justice, Subcommittee on Federal Sentencing Guidelines,
1986-1987

Committee on Legal Education and Admission to the Bar, 1978-1981, 1984-1986

New York State Bar Association

Committee on Civil Prosecution, 1992-1994

New York Council of Defense Lawyers

Member, Board of Directors, 2000

Second Circuit Library Committee, 2006-present

Advisory Committee to Second Circuit Rules Committee, 1999-present

Second Circuit Judicial Conference, Planning and Program Committee, 1989-1992

United States District Court for the Eastern District of New York, Committee on
Revision of Local Criminal Rules, 1989-1992

American Law Institute, 1998-present

Board of Advisors, Model Penal Code Sentencing Revision Project, 1999-present

Advisory Board, Cologne School of International Doctoral Studies, Faculty of Law,
University of Cologne, Germany, 2006-present

Consultant, MacArthur Foundation Law and Neuroscience Project, 2007-present

Civil Liberties Advisory Panel, White House Commission on Aviation Safety and
Security, 1997

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.

New York, 1976

I have remained a member of the bar in good standing from that date to the present without lapses. However, as a federal judge I have been in retired/judicial status since 2000.

- 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.

New York state courts (1976)

Supreme Court of the United States, 1985

United States Court of Appeals for the Second Circuit, 1979

United States Court of Appeals for the Fourth Circuit, 1989

United States Court of Appeals for the District of Columbia Circuit, 1989

United States District Court for the Southern District of New York, 1992

United States District Court for the Eastern District of New York, 1992

All dates are dates of first admission; in all cases I have remained a member of the bar in question in good standing from that date to the present without lapses.

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.

Other than the professional affiliations listed above, I have not been a member of clubs or organizations, with the exception of cultural, charitable or public interest organizations of which one becomes a "member" by making charitable contributions.

I do not recall the beginning date of current such memberships which include:

Metropolitan Museum of Art

Museum of Modern Art

New York City Ballet Guild

School of American Ballet

Alvin Ailey American Dance Theater
Symphony Space
Wildlife Conservation Society (Bronx Zoo)
National Wildlife Federation
American Automobile Association
WNET-TV (New York public television)
WNYC (New York public radio)
WBGO (Newark public radio)

Prior such memberships (terminated in 2000):
American Civil Liberties Union (approximately 1975 - 2000)
New York Civil Liberties Union (approximately 1975 - 2000)

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

I have never been, nor would I ever be, a member of any club or organization that discriminates on the basis of race, gender, religion, national origin, age, disability, or sexual orientation.

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.

Academic Publications:

Marvin Frankel: A Reformer Reassessed, ____ Federal Sentencing Reporter ____
(2009 forthcoming)

Letting Guidelines be Guidelines (and Judges be Judges), OSCJL Amici: Views from the Field, at <http://osjcl.blogspot.com> (January 2008), reprinted in 5(2) Ohio State Journal of Criminal Law 1 (supp.) (2008)

Why Not a Miranda for Searches?, 5 Ohio State Journal of Criminal Law 233
(2007)

Sentencing: Learning From, and Worrying About, the States, 105 Columbia Law Review 933 (2005)

Revising the Model Penal Code: Keeping It Real, 1 Ohio State Journal of Criminal Law 219 (2003)

Screening versus Plea Bargaining: What Are We Trading Off? 55 Stanford Law Review 1399 (2003)

Prosecution: Prosecutorial Discretion, in Dressler (ed.), 3 Encyclopedia of Crime & Justice 1246 (2d ed. 2002)

RICO (Racketeer Influenced and Corrupt Organizations Act), in Dressler (ed.), 3 Encyclopedia of Crime & Justice 1343 (2d ed. 2002)

Sentencing Eddie, 91 Journal of Criminal Law and Criminology 547 (2001), excerpted in Podgor, Henning, Garcia and Taslitz, Criminal Law: Concepts and Practice (2005)

Our Administrative System of Criminal Justice, 66 Fordham Law Review 2117 (1998), excerpted in O'Sullivan, Federal White Collar Crime (2001)

Toward a Model Penal Code, Second (Federal?): The Challenge of the Special Part, 2 Buffalo Criminal Law Review 295 (1998)

Plea Bargaining: El Sistema No Contradictorio de Justicia Penal en Estados Unidos, 1998/A Nueva Doctrina Penal 293 (Buenos Aires 1998)

The Role of Criminal Law in Policing Corporate Misconduct, 60 Law & Contemporary Problems 23 (1997)

William J. Brennan, Jr., American, 97 Columbia Law Review 1603 (1997)

The Sentencing Guidelines as a (Not-So-Model) Penal Code, 7 Federal Sentencing Reporter 112 (1994), reprinted in FSR Highlights from a Decade of Guideline Sentencing, 10 Federal Sentencing Reporter 25 (1997)

The Allocation of Discretion Under the Guidelines (Conference Proceedings), 101 Yale Law Journal 2066 (1992)

How Useful is Civil RICO in the Enforcement of Criminal Law? 35 Villanova Law Review 929 (1990)

A Conceptual, Practical and Political Guide to RICO Reform, 43 Vanderbilt Law Review 769 (1990)

A Reply to Professor Goldsmith, 88 Columbia Law Review 802 (1988)

RICO: The Crime of Being a Criminal, Parts I & II, 87 Columbia Law Review 661 (1987); Parts III & IV, 87 Columbia Law Review 920 (1987), excerpted in Leonard Orland (ed.), Corporate and White Collar Crime: An Anthology (1995), and in numerous casebooks

The Lawyer as Informer, 1986 Duke Law Journal 491 (1986)

Constitutional Law as Moral Philosophy, 84 Columbia Law Review 537 (1984)

Review of Ely, Democracy and Distrust, 80 Columbia Law Review 857 (1980), reprinted in Michael J. Glennon (ed.), A Constitutional Law Anthology (1992)

Review of Berger, Government by Judiciary, 63 Cornell Law Review 1091 (1978)

Op-ed and Popular Publications:

The Problem Isn't in the Stars but in a Misguided Law, The Washington Post, Feb. 22, 1998, at C3

Special Prosecutors: What's the Point? The Washington Post, May 28, 1995, at C7 (with Philip K. Howard)

IRS Can't Lasso Leona with a Loophole, New York Newsday, Aug. 25, 1989

RICO Law is Too Much of a Good Thing, New York Newsday, Jan. 11, 1989, at 55

Insult to Injury, The New Republic 198(14):17 (April 4, 1988)

Review of Woodward and Armstrong, The Brethren, Columbia College Today, March 1980, at 8

- 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.

Committee on Criminal Advocacy, Association of the Bar of the City of New York, Report on Megatrials, June 1988 (reprinted in White Collar Crime Reporter 2(6):1 (1988)).

I do not recall having been the principal author of any other bar association reports or the like, although it is possible that I was. I am sure that the various bar committees and the like listed above issued reports of various kinds during the period of my membership. Other than the report listed above, I do not have copies of any such reports and I have no specific recollection of their content.

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

On or about July 17, 1998, I testified before the House Judiciary Committee with respect to the Racketeer-Influenced and Corrupt Organizations Act (RICO). I do not have a copy of the full testimony. However, a Lexis search produced a copy of the prepared statement that I submitted or read in connection with that testimony.

On or about April 27, 2000, I testified before this Committee in connection with my nomination as District Judge. I do not have a transcript of this testimony.

It is possible that I have testified on another occasion, but I have no specific recollection.

- 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 never given anything in the nature of a political speech before a public forum or any speech that was, to my knowledge, reported in the press. I have frequently spoken or lectured before bar or judicial groups, continuing legal education panels, alumni or student organizations, academic conferences and the like. I have not kept a listing of such occasions. A search of my electronic calendar (which extends back to 1999), and of my memory has yielded the events set forth below.

I have not made it a practice to keep copies of the remarks made or notes used on such occasions, but where I have retained such copies (or copies of notes from which I spoke) I attach them. I am not aware of any such events attracting any press coverage.

Feb. 6, 2009. Academic Conference on “Studying the Judiciary,” Duke Law School. Audience of academics and judges. I was a member of a panel commenting on academic articles. My comments concerned a paper studying the work of Administrative Law Judges, and the substance of my remarks was to encourage academics to devote more study to the work of judges other than Supreme Court Justices or other appellate judges, since most of the work of the judiciary goes on in the trial courts.

Nov. 18, 2008. Award Luncheon, Columbia Law School, Rainbow Room, New York City. Audience of Columbia Law School Alumni. I received the Lawrence Wien Award for Social Responsibility. I accepted the award and made brief remarks on the importance of public service.

Aug. 8, 2008. American Bar Association Panel on White Collar Crime, Intercontinental Hotel, New York City. Audience of Lawyers. Panel Discussion on Recent Developments in White Collar Crime. I believe I provided practice tips on post-Booker sentencing advocacy, but the panel was quite informal and I don’t recall much of the substance.

June 2 and 9, 2008. New York County Lawyers Association, New York City. Audience of lawyers. Moderated Continuing Legal Education Panel on Federal Civil Practice.

March 31, 2008. Continuing Legal Education Program, Cornell Club, New York City. Audience of Lawyers. Participated in judges’ panel on Federal Civil Practice.

March 27, 2008. Columbia Law Review Banquet, Columbia Club, New York City. Audience of members and alumni of Columbia Law Review. Introductory/welcoming remarks praising the year’s work of the Law Review.

Jan. 22, 2008. Federal Bar Council Second Circuit Courts Committee, US Courthouse, New York City. Audience of Committee members. I believe this was part of a “Meet the Judges” series where I made some remarks about what judges like to see in lawyers practicing before them and answered questions.

Oct. 27, 2007. New York Council of Defense Lawyers, Westchester, New York. Audience of criminal defense lawyers, prosecutors and judges. I believe that I participated as moderator of a panel, rather than as a speaker. Usually these programs are in the format of a legal problem in which a moderator calls upon prosecutors, defense lawyers and judges on the panel to explain how they would handle such a problem in actual practice. I do not think that I would have made any substantive remarks; my job at such panels is to be the Socratic questioner rather than speaker.

Oct. 10, 2007. Association of the Bar of the City of New York. Audience of lawyers. Moderated Continuing Legal Education Program: The ABC's of Federal Criminal Practice.

Sept. 20, 2007. American Judicature Society, Devitt Award Presentation, Houston, Texas. Audience of Judges and Lawyers. I was part of the Committee that voted to award the prize to Judge Carolyn Dineen King, and I believe I made some brief remarks on why we made the choice, but I was not the primary presenter and I don't recall for sure whether I was called upon to say something.

Aug. 14, 2007. Panel on the Legal Profession and Professional Responsibility. Audience of Columbia Law School First Year Students. General remarks on the significance of legal ethics in their education and future careers.

June 12, 2007. Presentation of the Stimson Medal for Outstanding Performances by Assistant United States Attorneys, Association of the Bar of the City of New York. Audience of prosecutors and other lawyers. General praise for the traditions of the Justice Department and specific praise for the recipients of the award.

June 11, 2007. Panel on cross-examination, United States Courthouse, New York City. Audience of Assistant United States Attorneys and summer interns. Participated in panel of judges discussing effective cross-examination techniques.

Nov. 4, 2006. Conference, Stanford Law School, Audience of law professors, students, and practitioners. I don't recall the substance of the conference, but I believe it had to do with white collar crime.

Oct. 28, 2006. Federal Bar Council, Lenox, Massachusetts. Continuing Legal Education Program. Audience of lawyers. I don't recall the subject of whatever panel I participated in.

Oct. 6, 2006. Conference on Miranda v. Arizona. An expanded version of the talk I gave was published as Why Not a Miranda for Searches?, 5 Ohio State Journal of Criminal Law 233 (2007), listed above among academic articles.

March 7, 2006. Judges' Panel at Fordham Law School on post-Booker sentencing. Audience of law students and practitioners. Discussion among several judges from around the country about the impact of United States v. Booker on sentencing practice.

Mar. 3, 2006. American Bar Association Conference on White Collar Crime, San Francisco, California. Audience of lawyers. Participated in panel discussion on post-Booker sentencing.

Jan. 11, 2006. New York County Lawyers Association, Federal Courts Committee, New York City, Audience of Committee Members. I believe this was part of a "Meet the Judges" series where I made some remarks about what judges like to see in lawyers practicing before them and answered questions.

Apr. 9, 2005. Institute for Law and Economic Policy, Naples, Florida. Audience of lawyers, mostly plaintiffs' lawyers in securities class action. Participated in panel on recent developments in securities law.

Mar. 10, 2005. Federal Bar Council, US Courthouse, New York City. Audience of lawyers. Part of panel in Continuing Legal Education program on sentencing practice after *United States v. Booker*.

Jan. 21-22, 2005. Symposium on State Sentencing Guidelines, Columbia Law School, New York. Audience of law professors. I was the general organizer and moderator of this conference, and I believe participated in several panels as speaker or moderator. The papers presented at the conference filled an entire issue of the *Columbia Law Review*. My principal contribution was the summary introduction to that issue, *Sentencing: Learning From, and Worrying About, the States*, 105 *Columbia Law Review* 933 (2005), listed above with academic articles.

Oct. 22, 2004. American Judicature Society, Devitt Award Presentation, New York City. Audience of Judges and Lawyers. Presentation of the Devitt Award to Judge Wilfred Feinberg. I made a principal speech in praise of Judge Feinberg.

Oct. 6, 2004. Association of the Bar of the City of New York. Moderated public discussion of the film, "Capturing the Friedmans." Audience of lawyers. Panel included prosecutors, defense lawyers, and psychological experts on child abuse.

Sept. 22, 2004. Association of the Bar of the City of New York. Audience of lawyers. Continuing Legal Education program on confusion in sentencing law and practice following *Blakely v. Washington*. Participated in panel.

May 17, 2004. Association of the Bar of the City of New York. Audience of lawyers. Continuing Legal Education program regarding federal tax investigations. I don't recall this panel. I must have been the moderator rather than a presenter because I don't know that much about the subject.

Feb. 19, 2004. Federal Bar Council. Continuing Legal Education Program. Manzanillo, Mexico. Audience of lawyers and judges. Participated in panels on the case of *Korematsu v. United States* and the legal response to terrorism.

Oct. 18, 2003. New York Council of Defense Lawyers, Westchester, New York. Audience of criminal defense lawyers, prosecutors and judges. This was a similar event to the one listed above for Oct. 27, 2007.

Sept. 17, 2003. New York State Bar Association, Commercial Litigation Section, New York City. Audience of Committee Members. I believe this was part of a "Meet the Judges" series where I made some remarks about what judges like to see in lawyers practicing before them and answered questions.

Feb. 21, 2003. Federal Bar Council, Continuing Legal Education Program, Kona, Hawaii. Audience of lawyers. I do not recall the subject of the panels in which I participated.

Jan. 4, 2003. Association of American Law Schools, Washington, D.C. Audience of law professors. Spoke on a panel on revision of the Model Penal Code. An expanded version of this talk was published as *Revising the Model Penal Code: Keeping It Real*, 1 Ohio State Journal of Criminal Law 219 (2003), listed above with academic articles.

Nov. 4, 2002. Association of the Bar of the City of New York. Audience of lawyers. Continuing Legal Education program regarding handling conflicts of interest in criminal cases.

June 3, 2002. Association of American Law Schools, Washington, D.C. Audience of law professors. Conference on the law of evidence. My calendar reflects that I spoke at this conference, but I do not recall the substance of my remarks.

Feb. 12-16, 2002. Aspen Institute, Aspen, Colorado. Co-moderated seminar in law and terrorism for business leaders.

Nov. 8, 2001. Columbia Law School Alumni of Philadelphia. Philadelphia, Pennsylvania. Audience of Columbia Law alumni. I don't recall the substance of the event.

Oct. 29, 2001. New York University School of Law, Colloquium on Criminal Law. Audience of law professors, students, judges, lawyers. Formal lecture on the then-recent decision of the Supreme Court in *Apprendi v. New Jersey*.

Oct. 20, 2001. New York Council of Defense Lawyers, Westchester, New York. Audience of criminal defense lawyers, prosecutors and judges. This was a similar event to the one listed above for Oct. 27, 2007.

Apr. 12, 2001. Federal Bar Council. New York City. Continuing Legal Education program on the ethical limits of criminal representation. Audience of lawyers. I have no recollection of the nature of my participation.

July 7, 2000. American Bar Association Panel. New York Hilton Hotel, New York City. Audience of lawyers. My recollection is that I spoke on *Apprendi v.*

New Jersey as part of a panel addressing recent significant Supreme Court cases, but I do not have a clear recollection.

Nov. 4, 1999. Conference, American University School of Law, Washington, DC. This is reflected in my calendar, and I have a recollection of being there. I do not recall the subject of the conference or the nature of my participation.

Nov. 23, 1996. SUNY at Buffalo Conference on Rethinking Federal Criminal Law. Audience of law professors. An expanded version of the talk I gave was later published as *Toward a Model Penal Code, Second (Federal?): The Challenge of the Special Part*, 2 Buffalo Criminal Law Review 295 (1998), listed above among academic articles.

- 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 not given interviews or commented to the press on legal issues since becoming a judge in 2000. Before going on the bench, I was frequently asked by reporters to comment on legal issues of public interest. I have done my best to identify all items called for in this question, by searching electronic databases as well my personal files. What follows is a list of all occasions, to the best I have been able to recover them, on which I have been quoted in the press as the result of such an interview or inquiry.

"Court Looks Again at Race and Peremptory Challenges," Trial, Oct. 1, 2005, p. 68(3)

"Man in the News: James Brien Comey," New York Times, Dec. 2, 2001, p. 1A

"Gender Madness on Columbia's Campus," The Freeman, Mar. 2001, p. 40

[Note: This is not an interview, but appears to cite comments I made at some earlier time to the Columbia University Senate.]

"Due Process at Columbia," Wall Street Journal, Oct. 4, 2000, p. A26

"Starr Search," The New Republic, Apr. 3, 2000, p. 15

"Jurors' Trust in Police Erodes in Light of Diallo and Louima," New York Times, Mar. 9, 2000, p. B1.

"Columbia U. Prof Nominated for Seat in United States District Court," Columbia Daily Spectator, Mar. 6, 2000

"Men, Women: We're not *that* Different," USA Today, Mar. 3, 2000, p. 15A

"Columbia U. Senate Passes Sexual Misconduct Policy," Columbia Daily Spectator, Feb. 28, 2000

"In Diallo Trial, Best Option is Albany," New York Times, Dec. 23, 1999, p.B1

"An Aggressive Prosecutor Now Enters the Limelight as Starr's Successor," New York Times, Dec. 19, 1999, p. 48

"Letters Swamp Judge in Volpe Sentencing," New York Daily News, Dec. 12, 1999, p. 13

"Prosecutor Seeks Takeover of Boxing Group," New York Times, Nov. 23, 1999, p.1
 "Judge Overturns Verdict in 1980 Murder," New York Times, Nov. 12, 1999, p. B4
 "Robert Ray Pays Tribute to Kenneth Starr," National Public Radio, Oct. 18, 1999
 "Judge Bars Hirschfeld from Paying Jurors Despite Dubious Legal Authority," AP, Sept. 14, 1999
 "Accused Cops Split on Strategy in Brawl Trial," New York Post, Sept. 5, 1999, p. 22
 "Plan to Hire Top Trooper Hits a Snag," Newark Star-Ledger, July 31, 1999, p. 1
 "Fraud Conviction Reversed in Air Crash Insurance Case," New York Times, July 8, 1999, p. C19
 "Court Reverses Fraud Convictions on General Re Unit, Ex-CEO Brennan," Dow Jones Business News, July 7, 1999
 "Prosecutor Wins Bid to Get Tripp's Tapes," Augusta (Ga.) Chronicle, June 26, 1999, p. A8
 "State to Get Tripp Tapes," Baltimore Sun, June 26, 1999, p. 1A
 "State Ordered to Turn Over Tripp Tapes," AP, June 26, 1999
 "Experts: Reactions Vary Depending on Where You Live," Norfolk (Va.) Virginian-Chronicle, June 26, 1999, p. A1
 "Ouster of Jurors Derails '97 Case," Arizona Republic, June 23, 1999, p. 1A
 "Fallout from Scandal Claims Two Top Lawyers at Morgan Stanley," New York Times, June 11, 1999, p. C1
 "Police Officer Charles Schwarz Convicted," National Public Radio, June 9, 1999
 "Prosecutors Face a Challenge," New York Newsday, May 27, 1999, p. A47
 "Obstacles for Defense in Louima Brutality Trial," New York Daily News, May 9, 1999, p. 18
 "Volatile Claims Launch NYPD Assault Trial," Los Angeles Times, May 5, 1999, p. A1
 "Keeping a High Profile in Cases Against Police," New York Times, Apr. 29, 1999, p. B1
 "Counsel Law Gets Bad Name," New York Newsday, Apr. 15, 1999, p. A8
 "Libya Turns Over Pan Am Suspects," New York Daily News, Apr. 6, 1999, p. 28
 "The Diallo Shooting: The Charges," New York Times, Apr. 1, 1999, p. B5
 "In Court, Tricky Terrain," New York Newsday, Mar. 29, 1999, p. A7
 "Grand Jury Hands Up Indictments," National Public Radio, Mar. 26, 1999
 "McDougal Trial Raises Questions of Contempt," Washington Post, Mar. 22, 1999, p. A3
 "3 Officers in Diallo Case Ask for Delay in Inquest," New York Times, Feb. 27, 1999, p. B3
 "Pirro Indictment Similar to Helmsley Case," Westchester Journal News, Feb. 24, 1999, p. 5A
 "An Indictment? No Need to Hurry," Chicago Sun-Times, Feb. 14, 1999, p. 3
 "Indictment of President Appears More Unlikely," Washington Post, Feb. 12, 1999, p. A1

"No Legal Effect Seen in Censure," Baltimore Sun, Feb. 1, 1999, p. 6A
 "Lewinsky Faces Her 23rd Round," Washington Post, Feb. 1, 1999, p. A1
 "Senators Expanding their Roles in Trial," Baltimore Sun, Jan. 17, 1999, p. 1A
 "With Witnesses, Risk Before Any Rewards," Washington Post, Jan. 8, 1999, p. A17
 "Starr's Ethics Adviser Quits Over Testimony," Washington Post, Nov. 21, 1998, p. A1
 "Focus Shifts to Starr's Conduct," Baltimore Sun, Oct. 19, 1998, p. 1A
 "Clinton Case Hinges on Constitutional Phrase," USA Today, Oct. 9, 1998, p. 6A
 "The Testing of a President: the Judge," New York Times, Oct. 4, 1998, p. 33
 "Starr's Team Turning Focus From Lewinsky," Baltimore Sun, Oct. 2, 1998, p. 1A
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13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

On May 25, 2000, after confirmation by the United States Senate, I was appointed by President Clinton to be a United States District Judge for the Southern District of New York. I entered duty on August 31, 2000 and have served to the present date.

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

I have presided over 94 trials, and have handled between 2000 and 3000 cases through judgment or other resolution.

1. Of these, approximately what percent were:

jury trials? 79%; bench trials 21%

civil proceedings? 70%; criminal proceedings? 30%

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

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 ITC Ltd. v. Punchgini, Inc., 373 F. Supp.2d 275 (Feb. 10, 2005)
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 In re Adelphia Communications Corp., 2004 WL 2186582 (Sept. 27, 2004)
 United States v. Jackson, 351 F. Supp.2d 108 (Sept. 23, 2004)
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 Kelly v. Lex, Inc., 2004 WL 1752596 (Aug. 4, 2004)
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 Hattem v. Schwarzenegger, 2004 WL 1192355 (May 27, 2004)
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 Podany v. Robertson Stephens, Inc., 350 F. Supp.2d 375 (May 24, 2004)
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 Lopez v. Greiner, 323 F. Supp.2d 456 (Apr. 12, 2004)
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Riley v. Gantner, 2003 WL 22999487 (Dec. 22, 2003)

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Beacon Hill CBO, II, Ltd. v. Beacon Hill Asset Mgmt. LLC, 314 F. Supp.2d 205 (Dec. 4, 2003)

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Mendelsohn v. City of New York, 2003 WL 22510392 (Nov. 5, 2003)

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United States v. Stern, 313 F. Supp.2d 155 (Oct. 7, 2003)

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 Wells Fargo Bank Northwest, N.A. v. TACA Int'l Airlines, S.A., 314 F. Supp.2d 195 (Aug. 29, 2003)
 Pineiro v. PBGC, 318 F. Supp.2d 67 (Aug. 26, 2003)
 Fragrance Express Dot Com, Inc. v. Standard & Poor's Corp., 314 F. Supp.2d 189 (Aug. 22, 2003)
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 In re Global Crossing, Ltd. Securities Litig, 2003 WL 21659360 (July 15, 2003)
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 Toribio v. Barnhart, 2003 WL 21415329 (June 18, 2003)
 In re Ames Dep't Stores, Inc., 302 B.R. 791 (June 18, 2003)
 Mahon v. Staff Line, Inc., 2003 WL 21396660 (June 16, 2003)
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 McBean v. City of New York, 2003 WL 21277115 (June 3, 2003)
 Marquez-Almanzar v. Ashcroft, 2003 WL 21283418 (June 3, 2003)
 Bussi v. Barnhart, 2003 WL 21283448 (June 3, 2003)
 St. Paul Fire and Marine Ins. Co. v. 111 Tenants Corp., 314 F. Supp.2d 183 (May 28, 2003)
 Wells Fargo Bank Northwest, N.A. v. TACA Int'l Airlines, S.A., 315 F. Supp.2d 347 (May 20, 2003)
 Binder v. National Life of Vermont, 2003 WL 21180417 (May 20, 2003)
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 Breeding v. Cendant Corp., 2003 WL 1907971 (Apr. 17, 2003)
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 Stan Winston Creatures, Inc. v. Toys 'R' Us, Inc., 314 F. Supp.2d 177 (Apr. 17, 2004)
 Grinnell Corp. v. ITT Corp., 222 F.R.D. 74 (Apr. 8, 2003)
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 RUS, Inc. v. Bay Industries, Inc., 322 F. Supp.2d 302 (Apr. 1, 2003)
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 In re Global Crossing, Ltd. Securities Litig, 314 F. Supp.2d 172 (Mar. 24, 2003)
 Moore v. City of New York, 2003 WL 1460480 (Mar. 20, 2003)
 Brown v. Thomas, 2003 WL 1460603 (Mar. 20, 2003)
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 United States v. Reyes, 249 F. Supp.2d 277 (Feb. 11, 2003)
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 Rodriguez v. Ghoslaw, 2002 WL1424586 (June 28, 2002)
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 Jones v. Goord, 2002 WL 1007614 (May 16, 2002)
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 Brown v. National Football League, 219 F. Supp.2d 372 (Mar. 18, 2002)
 AG Worldwide v. Red Cube Mgmt. AG, 2002 WL 417251 (Mar. 15, 2002)
 United Feature Syndicate, Inc. v. Miller Features Syndicate, Inc., 216 F. Supp.2d 198 (Mar. 11, 2002)
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 In re Singer, 185 F. Supp.2d 313 (Feb. 4, 2002)
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 Leutwyler v. Royal Hashemite Court of Jordan, 184 F. Supp.2d 303 (Nov. 15, 2001)
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 Kaufman & Fisher Wish Co. v. F.A.O. Schwarz, 184 F. Supp.2d 311 (Oct. 3, 2001)
 Arhontisa Maritime Ltd. v. Twinbrook Corp., 2001 WL 1142136 (Sept. 27, 2001)
 Manuel v. Paramount Pictures, 2001 WL 1135917 (Sept. 26, 2001)
 United States v. Correa, 182 F. Supp.2d 326 (Sept. 25, 2001)
 Ba v. NYC Police Dept., 2001 WL 1098019 (Sept. 19, 2001)
 Banez v. New York Foundling Hosp., 2001 WL 1035142 (Sept. 7, 2001)
 Davila v. Duncan, 2001 WL 1029416 (Sept. 6, 2001)
 Hall v. City of New York, 2001 WL 1029046 (Sept. 5, 2001)
 Peguero v. Massanari, 2001 WL 1029048 (Sept. 5, 2001)
 SMT Shipmanagement & Transport, Ltd. v. Maritima Ordaz, C.A., 2001 WL 930837 (Aug. 15, 2001)
 Collings v. Industrial Acoustics Co., Inc., 2001 WL 913909 (Aug. 13, 2001)
 United States v. Smirlock, 2001 WL 913911 (Aug. 13, 2001)
 Leutwyler v. Office of Her Majesty Queen Rania Al-Abdullah, 184 F. Supp. 277 (Aug. 8, 2001)
 Bu v. Benenson, 181 F. Supp.2d 247 (Aug. 7, 2001)
 Thornton v. Reynolds, 2001 WL 845452 (July 26, 2001)
 Tan v. Bennett, 2001 WL 823869 (July 20, 2001)
 Santiago v. Massanari, 2001 WL 1946240 (July 16, 2001)
 Newton v. Coombe, 2001 WL 799846 (July 13, 2001)
 Rodriguez v. Ghoslaw, 2001 WL 755398 (July 5, 2001)
 United States v. Jones, 154 F. Supp.2d 617 (June 29, 2001)
 Katt v. City of New York, 151 F. Supp.2d 313 (June 21, 2001)
 National Union Fire Ins. Co. of Pittsburgh v. Younger Bros., Inc., 2001 WL 669042 (June 13, 2001)
 Klein v. Southgate Owners Corp., 2001 WL 630478 (June 7, 2001)
 Sun Forest Corp. v. Shvili, 152 F. Supp.2d 367 (May 29, 2001)
 Allred v. Brown, 2001 WL 575606 (May 25, 2001)
 Shait v. The Millennium Broadway Hotel, 2001 WL 536996 (May 18, 2001)
 Cardew v. Fleetwood, 2001 WL 533728 (May 17, 2001)
 Santiago v. Bennet, 2001 WL 527474 (May 16, 2001)
 Young v. Halle Housing Assocs., L.P., 152 F. Supp.2d 355 (May 7, 2001)
 Sterling Nat'l Bank v. A-1 Hotels Int'l, Inc., 175 F. Supp.2d 573 (May 4, 2001)

Davis & Assocs., Inc. v. Health Mgmt. Servs., Inc., 168 F. Supp.2d 109 (May 2, 2001)
 2 Broadway LLC v. Credit Suisse First Boston Mortgage Capital L.L.C., 2001 WL 410074 (Apr. 23, 2001)
 Pitts v. People, 2001 WL 410077 (Apr. 23, 2001)
 Media Group, Inc. v. HSN Direct Int'l, Inc., 202 F.R.D. 110 (Mar. 28, 2001)
 Sempra Energy Trading Corp. v. Algoma Steel, Inc., 2001 WL 282684 (Mar. 22, 2001)
 Sterling Nat'l Bank v. A-1 Hotels Int'l, Inc., 2001 WL 282687 (Mar. 22, 2001)
 Zen Continental Co., Inc. v. Intercargo Ins. Co., 151 F. Supp.2d 250 (Mar. 22, 2001)
 BNY Capital Markets, Inc. v. Moltech Corp., 2001 WL 262675 (Mar. 14, 2001)
 Powell v. Consolidated Edison, 2001 WL 262583 (Mar. 13, 2001)
 Standley v. Lyder, 2001 WL 225035 (Mar. 7, 2001)
 Rudman v. Weiss, 2001 WL 225244 (Mar. 6, 2001)
 Moore v. City of New York, 2001 WL 225247 (Mar. 6, 2001)
 Brice v. Security Operations Systems, Inc., 2001 WL 185136 (Feb. 26, 2001)
 Collette v. St. Luke's Roosevelt Hosp., 132 F. Supp.2d 256 (Feb. 26, 2001)
 Garrett v. Menefee, 2001 WL 170678 (Feb. 21, 2001)
 Kelly v. Artuz, 2001 WL 88227 (Jan. 31, 2001)
 Bloomer v. Costello, 2001 WL 62864 (Jan. 24, 2001)
 SEC v. Softpoint, Inc., 2001 WL 43611 (Jan. 18, 2001)
 Kreiss v. McCown De Leeuw & Co., 131 F. Supp.2d 428 (Jan. 18, 2001)
 61 Jane Street Tenants Corp. v. Great American Ins. Co., 2001 WL 40774 (Jan. 17, 2001)
 Rodriguez v. Circus Circus Casinos, Inc., 2001 WL 21244 (Jan. 9, 2001)
 Uddin v. New York City, 2001 WL 15694 (Jan. 8, 2001)
 Tech. Express, Inc. v. FTF Bus. Systems Corp., 2000 WL 1877020 (Dec. 26, 2000)
 Auyeung v. David, 2000 WL 1877036 (Dec. 26, 2000)
 Rodriguez v. American Friends of Hebrew Univ., Inc., 2000 WL 1877061 (Dec. 26, 2000)
 World-Link, Inc. v. Citizens Telecom Co., 2000 WL 1877065 (Dec. 26, 2000)
 Goldman v. MCL Companies of Chicago, 131 F. Supp.2d 425 (Dec. 26, 2000)
 Soltero v. Kuhlmann, 2000 WL 1781657 (Dec. 4, 2000)
 EEOC v. Morgan Stanley & Co., 132 F. Supp.2d 146 (Nov. 28, 2000)
 Safadi v. Almanzar, 2000 WL 1738403 (Nov. 22, 2000)
 Valentin v. Commissioner of Soc. Servs., 2000 WL 1727710 (Nov. 21, 2000)
 In re Arbitration between Promotora de Navigacion, S.A. and Sea Containers, Ltd., 131 F. Supp.2d 412 (Nov. 16, 2000)
 Licensed Practical Nurses v. Ulysses Cruises, Inc., 131 F. Supp.2d 292 (Nov. 15, 2000)
 Lee v. United States, 2000 WL 1597852 (Oct. 26, 2000)
 Strauss v. West Highland Capital, Inc., 2000 WL 1505957 (Oct. 6, 2000)
 Solis v. Menefee, 2000 WL 1401633 (Sept. 25, 2000)
 Cheong v. Okayama Enterprises, Inc., 2000 WL 1404379 (Sept. 25, 2000)

Green Party of the State of New York v. Weiner, 2000 WL 1280913 (Sept. 8, 2000)

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

Criminal:

1. United States v. Rosalie Garcia, Manuel Roman, and Ricardo Silva, 01 Cr. 1110, 10/31/05-12/6/05.

Three defendants charged with running a narcotics enterprise and multiple murders in furtherance of that enterprise. All defendants convicted on all counts and sentenced to life without parole.

All convictions and sentences affirmed, United States v. Garcia, 2008 WL 2229406 (2d Cir. May 29, 2008).

For the Government: AUSA David Rody, 212-637-2304

For Garcia: Avi Moskowitz, Moskowitz & Book, 1372 Broadway, NYC, 212-221-7999, and Bobbi Sternheim, Rochman Platzler Fallick Sternheim Luca & Pearl, 666 Third Avenue, NYC, 212-697-4090

For Roman: George Goltzer, Goltzer & Adler, 100 Church Street, NYC, 212-608-1260, and Jean Barrett, Ruhmke & Barrett, 47 Park Street, Montclair, NJ, 973-744-1000

For Silva: David Greenfield, 100 Lafayette Street, NYC, 212-481-9350, and Andrew Patel, 111 Broadway, NYC, 212-349-0230

2. United States v. Christian DelRosario and Gallipote Rivera, 03 Cr. 501, 6/6/05-7/5/05.

A drug boss and hired hitman charged with murder in aid of racketeering. Both defendants convicted and sentenced to life without parole.

All convictions and sentences affirmed, United States v. Rivera, 2008 WL 1711280 (2d Cir. Apr. 11, 2008).

For the Government: AUSA Christopher Conniff and AUSA Christopher Garcia, 212-637-1022

For DelRosario: Ivan Fisher, 2511 E.61st Street, NYC, 212-517-5000

For Rivera: Edward Wilford, 20 Vesey Street, NYC, 212-528-2741

3. United States v. Kimberly Jones and Monique Dopwell, 04 Cr. 340, 2/28/05-3/17/05.

The recording artist known as "Lil Kim" and an associate charged with conspiracy, obstruction of justice, and perjury during grand jury investigation into shooting incident. Both defendants convicted of conspiracy and all perjury counts. Jones sentenced to a year and a day, Dopwell to two months.

No appeals were taken. Opinions regarding pretrial motions in the case can be found at United States v. Butler, 351 F. Supp.2d 121 (S.D.N.Y. Nov. 4, 2004), and United States v. Butler, 2004 WL 2274751 (S.D.N.Y. Oct. 7, 2004).

For the Government: AUSAs Cathy Seibel and Daniel Gitner. AUSA Seibel is now Judge Seibel of the SDNY, 914-390-4271; AUSA Gitner is now with Lankler, Siffert & Wohl, 500 Fifth Avenue, NYC, 212-921-8399

For Jones: Mel A. Sachs (trial) (now deceased), and Paul Shechtman, Stillman Friedman & Shechtman (sentence), 425 Park Avenue, NYC, 212-223-0200

For Dopwell: Brian Kaplan, Goldberg & Kaplan, 55 Broad Street, NYC, 212-269-2363

4. United States v. Stephen Madori, 02 Cr. 274, 2/24/03-2/28/03.

Organized crime figure charged with loansharking. Defendant convicted on all counts and sentenced to 51 months in prison.

Conviction affirmed (but remanded for technical correction with respect to supervised release term), United States v. Madori, 419 F.3d 159 (2d Cir. 2005). Opinion rejecting new trial motion can be found at United States v. Madori, 2004 WL 2274756 (S.D.N.Y. Oct. 7, 2004)

For the Government: AUSA Adam Siegel and AUSA Diane Gujarati, 212-637-2507. AUSA Siegel is now with Freshfields Bruckhaus Deringer LLP, 520 Madison Avenue, NYC, 212-277-4000

For Madori: Edward Panzer, 75 Maiden Lane, NYC, 212-514-5335

5. United States v. Jorge Pabon Cruz, 01 Cr. 1187, 10/8/02-10/16/02.

Young defendant charged with transmission of child pornography. Defendant convicted and originally sentenced to 10 years in prison.

Conviction affirmed but imposition of 10-year sentence reversed on ground that sentence was not mandatory, United States v. Pabon-Cruz, 391 F.3d 86 (2d Cir. Dec. 3, 2004). Opinions denying motion to exclude evidence at sentencing and denying various post-trial motions can be found at United States v. Pabon Cruz, 321 F. Supp.2d 570 (S.D.N.Y. Mar. 10, 2003), and 255 F. Supp.2d 200 (S.D.N.Y. Feb. 4, 2003), respectively. Defendant ultimately sentenced to 4 years in prison.

For the Government: AUSA Alexander Southwell. AUSA Southwell is no longer with the US Attorney and I am not aware of his present contact information.

For Pabon Cruz: Jennifer Brown, Federal Defenders, 212-417-8700, and Deirdre von Dornum, Federal Defenders, 718-330-1208

Civil:

1. SEC v. James N. Stanard, 06 Civ. 7736, 9/8/08-9/17/08

Former chairman of reinsurance company charged with securities fraud in SEC civil enforcement action. Defendant found liable after bench trial.

Findings of fact and conclusions of law can be found at SEC v. Stanard, 2009 WL 196023 (S.D.N.Y. Jan. 27, 2009)

For the SEC: Preethi Krishnamurthy and Jack Kaufman, Securities and Exchange Commission, Three World Financial Center, NYC, 212-336-0116

For Stanard: James D. Mathias, DLA Piper LLP, Baltimore, MD, 410-580-4208, and Paul R. Grand, Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, PC, 565 Fifth Avenue, NYC, 212-880-9510

2. Browne Sanders v. Madison Square Garden, L.P. 06 Civ. 589, 9/10/07-10/2/07.

Plaintiff vice-president of Madison Square Garden sued her employer and then-New York Knicks coach Isiah Thomas for sexual harassment and retaliation. Jury returned a verdict for plaintiff for \$11.7 million, and case subsequently settled.

An opinion denying defendants' motion for summary judgment can be found at 525 F. Supp.2d 364 (S.D.N.Y. Sept. 5, 2007).

For plaintiff: Anne C. Vladeck, Vladeck, Waldman, Elias & Engelhard, P.C., 1501 Broadway, NYC, 212-403-7327

For defendant MSG: Ronald M. Green, Epstein Becker & Green, P.C., 250 Park Avenue, NYC, 212-351-4500

For defendant Thomas: Kathleen L. Bogas, Eisenberg & Bogas, P.C., 33 Bloomfield Hills Parkway, Bloomfield Hills, MI, 248-258-6080

3. Eisai Co. v. Dr. Reddy's Laboratories, Ltd., 03 Civ. 9053, 3/5/07-3/14/07

Action for patent infringement under Hatch-Waxman Act, concerning validity of the patent for the compound rabeprazole, the active ingredient in the acid-reflux drug Aciphex. Patent was found valid.

The judgment was affirmed in all respects by *Eisai Co. Ltd. v. Dr. Reddy's Laboratories, Ltd.*, 533 F.3d 1353 (Fed. Cir. July 21, 2008).

Findings of fact and conclusions of law can be found at *Eisai Co., Ltd. v. Dr. Reddy's Laboratories, Ltd.*, 2007 WL 1437834 (S.D.N.Y. May 14, 2007). Opinions addressing summary judgment motions can be found at *Eisai Co., Ltd. v. Dr. Reddy's Laboratories, Ltd.*, 472 F. Supp.2d 493 (S.D.N.Y. Oct. 6, 2006), and *Eisai Co., Ltd. v. Teva Pharmaceuticals USA, Inc.*, 2006 WL 2872615 (S.D.N.Y. Oct. 6, 2006). An opinion resolving a discovery dispute can be found at *Eisai Ltd. v. Dr. Reddy's Laboratories, Inc.*, 406 F. Supp.2d 341 (S.D.N.Y. Dec. 21, 2005).

For Eisai: Joseph M. O'Malley, Paul, Hastings, Janofsky & Walker, LLP, 75 E. 55th St., NYC, 212-318-6000

For Dr. Reddy's: Maurice B. Ross and Louis Weinstein, Budd Larner P.C., 150 John F. Kennedy Pkwy, Short Hills, NJ, 973-379-4800

For Teva: David M. Hashmall, Goodwin Proctor LLP, 599 Lexington Avenue, NYC, 212-813-8800

4. Astor Holdings, Inc. v. Roski, 01 Civ. 1905, 4/13/04-4/20/04

Plaintiff sued for tortious interference with contract in connection with a dispute over rights to stage and televise "robot wars" – combats between remote-controlled fighting machines. The jury returned a verdict for the defendant.

An appeal was filed but withdrawn. An opinion addressing defendant's motion for summary judgment can be found at *Astor Holdings, Inc. v. Roski*, 325 F. Supp.2d 251 (S.D.N.Y. Aug. 12, 2003). Opinions in connection with earlier motion practice can be found at *Astor Holdings, Inc. v. Roski*, 2002 WL 72936 (S.D.N.Y. Jan. 17, 2002), and *Astor Holdings, Inc. v. Roski*, 2002 WL 1058057 (S.D.N.Y. May 23, 2002).

For plaintiff: Fran M. Jacobs, Duane Morris LLP, 380 Lexington Ave., NYC, 212-692-1000

For defendants: Daniel Scott Schecter, Latham & Watkins, 633 West Fifth Street, Los Angeles, CA, (213) 485-1234

5. Recticel v. Bay Industries, 01 Civ. 6133, 9/8/03-9/19/03

Action for breach of contract in connection with sale of a business, in which defendant claimed that plaintiff had breached environmental warranties. After a bench trial with an advisory jury, plaintiff was awarded \$5.77 million.

The judgment was affirmed in all respects by Recticel Foam Corp. v. Bay Industries, Inc., 2005 WL 807010 (2d Cir. Apr. 7, 2005).

Findings of fact and conclusions of law can be found at RUS, Inc. v. Bay Industries, Inc., 2004 WL 1240578 (S.D.N.Y. May 25, 2004). An opinion denying motions for summary judgment can be found at RUS, Inc. v. Bay Industries, Inc., 322 F. Supp.2d 302 (S.D.N.Y. Apr. 1, 2003).

For plaintiff: Richard A. DePalma, now of Baker & McKenzie, 1114 Avenue of the Americas, NYC, 212-626-4590

For defendant: Douglas J. Klingberg, Ruder Ware, 500 Third Street, Wausau, WI, 715-845-4336

Finally, although it did not proceed to verdict, I should note one other significant trial. In Disability Advocates Inc. v. NYS Office of Mental Health, 02 Civ. 4002, tried from 4/3/06-4/13/06, I conducted a bench trial on a challenge to the use of disciplinary confinement against mentally ill New York State prisoners. The case resulted in a settlement favorable to the prisoners that attracted considerable press attention. Counsel for plaintiffs: Sarah Kerr, Legal Aid Society, NYC, 212-577-3530, and James Benkard, Davis Polk & Wardwell, 450 Lexington Ave., NYC, 212-450-4000. Counsel for defendants: Lee Adlerstein, NYS Attorney General's Office, 120 Broadway, NYC, 212-416-8650.

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

1. In re Refco Capital Markets, Ltd. Brokerage Customer Securities Litigation, 586 F. Supp.2d 172 (2009). Numerous other published and unpublished opinions in this

and related matters in the complex Refco bankruptcy and securities multi-district litigation can easily be found via Westlaw.

Counsel: Scott Edelman, Milbank Tweed, 1 Chase Manhattan Plaza, NYC, 212-530-5149; Richard Rosen, Paul Weiss, 1285 Avenue of the Americas, NYC, 212-373-3305. Numerous other counsel are listed in the opinion.

2. SEC v. Universal Express, Inc., 546 F. Supp. 2d 132 (2008); 475 F. Supp.2d 412 (2007).

Counsel: Julie Lutz and Leslie Hughes, SEC, Denver, CO, 303-844-1056; Arthur W. Tifford, Tifford & Tifford, P.A., Miami, FL, 305-439-8230

3. Boyd v. AWB Ltd., 544 F. Supp.2d 236 (2008).

Counsel: Seth R. Gassman, Cohen Milstein Hausfeld & Toll, 150 E. 52d Street, NYC, 212-838-7797; Robert H. Baron, Cravath Swaine & Moore, 825 Eighth Avenue, NYC, 212-474-1000

4. Tse v. UBS Financial Services, 568 F. Supp.2d 274 (2008).

Counsel: John A. Beranbaum, Beranbaum Menken Ben-Asher & Bierman, LLP, 80 Pine Street, NYC, 212-509-1616; Mary Gambardella, Epstein Becker & Green, P.C., 250 Park Avenue, NYC, 212-351-4500

5. Global Gold Mining LLP v. Robinson, 533 F. Supp.2d 442 (2008).

Counsel: Edward G. Kehoe, King & Spalding, LLP, 1185 Avenue of the Americas, NYC, 212-556-2222; Dana Chandler McGrath, Allen & Overy, 1221 Avenue of the Americas, NYC, 212-610-6376

6. Arista Records v. Lime Group LLC, 532 F. Supp.2d 556 (2007).

Counsel: Katherine Forrest, Cravath Swaine & Moore, 825 Eighth Avenue, NYC, 212-474-1000; Charles Stewart Baker, 713-226-6676

7. Telenor Mobile Communications v. Storm LLC, 524 F. Supp. 2d 332 (2007).

Counsel: Robert Sills, Orrick Herrington & Sutcliffe, 666 Fifth Avenue, NYC, 212-506-3782; Pieter van Tol, Lovells, LLP, 590 Madison Avenue, NYC, 212-909-0661; Ronald S. Rolfe, Cravath Swaine & Moore, 825 Eighth Avenue, NYC, 212-474-1000

8. Johnson & Johnson v. Guidant Corp., 525 F. Supp.2d 336 (2007).

Counsel: Harold Weinberger, Kramer Levin Naftalis & Frankel, LLP, 1177 Avenue of the Americas, NYC, 212-715-9132; Stuart J. Baskin, Shearman & Sterling LLP, 599 Lexington Avenue, NYC, 212-848-4000

9. In re Global Crossing, Ltd. Securities Litigation, 471 F. Supp.2d 338 (2006).

Numerous other published and unpublished opinions in connection with this complex securities and ERISA multidistrict litigation can easily be found via Westlaw.

Counsel: Jay W. Eisenhofer, Grant & Eisenhofer, Wilmington, DE, 302-662-7000; numerous other counsel are listed in the various opinions in the case.

10. Jones v. Goord, 435 F. Supp.2d 221 (2006).

Counsel: Peter Simmons, Fried Frank Harris Shriver & Jacobson, One New York Plaza, NYC, 212-859-8419; Barbara Hathaway and Barbara Maddox, Office of the Attorney General, 120 Broadway, NYC, 212-416-8560

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

I don't believe that certiorari was ever sought directly from any decision of mine. The only case over which I presided that eventually was reviewed by the Supreme Court was Twombly v. Bell Atlantic Corp., ___ U.S. ___ (May 21, 2007), rev'g 425 F.3d 99 (2d Cir. 2005), rev'g 313 F. Supp.2d 174 (S.D.N.Y. 2003). In that case, the Supreme Court agreed with the decision I had reached and reversed the judgment of the Second Circuit that had reversed me.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

1. Hardy v. Walsh Manning Securities LLC, 341F.3d 126 (2d Cir. Aug. 19, 2003), vacating in part 2002 WL 2031607 (S.D.N.Y. Sept. 5, 2002). I confirmed an arbitration award. The Court of Appeals reversed in part, by a 2-1 vote. I respectfully disagree with the majority.

2. Pugh v. Goord, 345 F.3d 121 (2d Cir. Sept. 22, 2003), vacating and remanding 184 F. Supp. 2d 326 (S.D.N.Y. Jan. 3, 2002). I granted summary judgment to the state in a lawsuit by Muslim inmates seeking various religious accommodations. They were right; I jumped the gun on summary judgment.

3. United States v. Reyes, 353F.3d 148 (2d Cir. Dec. 19, 2003), reversing 249 F. Supp. 2d 277 (S.D.N.Y. 2003). This was the only time in over eight years on the bench that I suppressed evidence. On reflection, I now think the Court of Appeals had the better of the argument.

4. Security Ins. Co. v. Old Dominion Freight Line, Inc., 391 F. 3d 77 (Dec. 2, 2004), reversing 2003 WL 22004895 (S.D.N.Y. Aug. 22, 2003). I granted summary judgment in a case against a carrier, and the Court of Appeals found a material issue of fact.

5. United States v. Pabon-Cruz, 391 F.3d 86 (2d Cir. Dec. 3, 2004), affirming 255 F. Supp. 2d 200 (2003) but vacating sentence. I imposed a ten-year sentence on a defendant charged with advertising child pornography, believing that was a mandatory sentence. The Court of Appeals held that the statute provided for a 10-

year mandatory sentence *if* a jail sentence was imposed, but permitted a fine in lieu of any imprisonment at all, based on a literal reading of the statute.

6. *Twombly v. Bell Atlantic Corp.*, ___ U.S. ___ (May 21, 2007), rev'g 425 F.3d 99 (2d Cir. 2005), rev'g 313 F. Supp.2d 174 (S.D.N.Y. 2003). I dismissed the complaint in an anti-trust case; the Second Circuit reversed; the Supreme Court reversed them and said I was right. I suppose I could have listed this as a "significant opinion," but it was the Supreme Court's opinion that was ultimately significant, not mine.

7. *Century 21, Inc. v. Diamond State Ins. Co.*, 442 F.3d 79 (2d Cir. Mar. 21, 2006), rev'g 2004 WL 1117897 (S.D.N.Y. May 18, 2004). Insurance dispute. I interpreted the commercial liability policy not to require the insurer to defend a claim for selling infringing goods; the Court of Appeals ruled that it did.

8. *Bernstein v. Pataki*, 2007 WL 1113263 (2d Cir. Apr. 3, 2007), rev'g 409 F. Supp.2d 306 (S.D.N.Y. 2005). I dismissed a complaint by involuntarily committed psychiatric patients claiming that they were unconstitutionally placed in overly restrictive facilities. The Court of Appeals reversed. I must have been very wrong, because the state promptly settled the case on terms favorable to the plaintiffs.

9. *Hudson v. Universal Studios*, 2007 WL 1555755 (2d Cir. May 30, 2007), rev'g in part 2006 WL 1148695 (S.D.N.Y. Apr. 28, 2006). I held that a pro se plaintiff's copyright claim that an Eddie Murphy movie was stolen from plays he had written was precluded by res judicata. The Court of Appeals found that aspect portion of his claims had not been addressed by the prior court that had considered them.

10. *Sarl Louis Feraud Intl. v. Viewfinder, Inc.*, 489 F.3d 474 (2d Cir. June 5, 2007), rev'g 406 F. Supp.2d 274 (S.D.N.Y. 2005). I declined to enforce a French judgment that an American photographer had violated the intellectual property rights of fashion designers by publishing pictures of their collections, finding that the French judgment was inconsistent with the First Amendment. The Court of Appeals held that further proceedings were necessary with respect to whether the fair use doctrine was applicable and whether French law provided an equivalent defense.

11. *In re Salomon Analyst Metromedia Litig.*, 544 F.3d 474 (2d Cir. Sept. 30, 2008), rev'g 236 F.R.D. 208 (S.D.N.Y. 2006). I certified a class in a securities fraud lawsuit. The Court of Appeals, while praising my "valiant effort to reconcile the conflicting messages from our Court on class certification standards," *id.* at 484, applied a more restrictive standard that it had created in an opinion delivered after I had ruled. In that opinion as well, the Court of Appeals had singled out my opinion in this case as "a valiant effort by a conscientious district judge" to make sense of Second Circuit law on the subject. *In re Initial Public Offering Securities Litigation*, 471 F.3d 24, 40 n.11 (2d Cir. 2006).

12. *Ramos v. City of New York*, 2008 WL 4810545 (2d Cir. Nov. 4, 2008), vacating in part 2006 WL 2871969 (S.D.N.Y. Oct. 6, 2006). I granted judgment on the

pleadings dismissing a plaintiff's false arrest and malicious prosecution claims. The Court of Appeals affirmed in part, but found that the plaintiff had properly alleged malicious prosecution vacated the portion of the decision finding the false arrest claim time-barred, holding that the Supreme Court's decision in Wallace v. Kato, 549 U.S. 384 (2007), which came after my decision, delayed the time of accrual of the claim.

I cannot recall any case in which the Court of Appeals affirmed a judgment of mine but was critical of my handling of the case.

The only other matter that should be brought to the Committee's attention under this heading is that the Court of Appeals issued a writ of mandamus directing me not to inform a jury of the mandatory minimum penalty in a criminal case. The order is neither published nor electronically available, so far as I know, but the issue is discussed in my post-trial opinion in United States v. Pabon Cruz, 255 F. Supp.2d 200, 214-15 (2003), and the Second Circuit's opinion affirming the conviction, 391 F.3d 86, 90-91 (2004).

Putting all of this in context, it should be noted that through the end of 2008, I had issued over 750 opinions published on Westlaw, and tried 90 cases to verdict. The Court of Appeals has not reversed the result of a single trial over which I have presided.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Nearly all decisions addressing significant motions and/or resolving cases on the merits are decided by opinion and order. All opinions and orders of this Court, so far as I am aware, are published electronically on Westlaw and/or Lexis. A very small number of substantive are decided by brief orders, with abbreviated stated reasons, or by oral opinions. Procedural issues, scheduling matters, discovery disputes and a host of similar administrative questions are resolved by unpublished orders, all of which are docketed and for the most part accessible to the public through the Electronic Case Filing system of the federal courts.

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

Other than opinions cited above, the only case that I can recall in this category is Mental Hygiene Legal Service v. Spitzer, 2007 WL 4115936 (S.D.N.Y. Nov. 16, 2007), aff'd, 2009 WL 579445 (2d Cir. Mar. 4, 2009).

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

Cases in which I sat by designation on the Second Circuit:

In re Venture Mortgage Fund, L.P., 282 F.3d 185 (2002)
Better TV, Inc. of Bennington v. Public Service Board, 42 Fed. Appx. 498 (2002)
United States v. Fernandez-Antonia, 278 F.3d 150 (2002)
Lambert v. New York State Office of Mental Health, 22 Fed. Appx. 71 (2001)
Grullon v. United States, 22 Fed. Appx. 70 (2001)
Morrissey v. General Motors, 21 Fed. Appx. 70 (2001)
United States v. Ierardi, Dkt. No. 01-1002*
United States v. Brunet, 275 F.3d 215 (2001)
Capicotto v. Puglisi, 25 Fed. Appx. 51 (2001)
Carvalho v. NYS Dept. of Taxation, 21 Fed. Appx. 71 (2001)
Sorri v. Bell Atlantic, 45 Fed. Appx. 80 (2002)
United States v. Pavlotskiy, 47 Fed. Appx. 590 (2002)
Coastal Aviation v. United States, Dkt. No. 02-6001*
Gonzalez v. Travis, 45 Fed. Appx. 83 (2002)
Shaffer v. Schenectady School District, Dkt. No. 01-9319*
United States v. Carneglia, 47 Fed. Appx. 27 (2002)
The Fonda Group v. Neptune Paper Enterprises, Inc., 45 Fed. Appx. 82 (2002)
Feeley v. New York City Police Dept., Dkt. No. 02-7148*
Ackoff-Ortega v. Windswept Pacific Entertainment Corp., 46 Fed. Appx. 663 (2002)
Drax v. Reno, 338 F.3d 98 (2003).
Dunham v. Travis, 313 F.3d 724 (2002).
Jenks v. DeMazza, Dkt. No. 02-7085*
Arculeo v. On-Site Sales & Marketing, LLC, 425 F.3d 193 (2005)
United States v. Robinson, 430 F.3d 537 (2005)
Yu v. INS, 128 Fed. Appx. 199 (2005)
Hailey v. New York City Transit Authority, 136 Fed. Appx. 406 (2005)
Grant v. Goord, 155 Fed. Appx. 551 (2005)
United States v. Gotti, 459 F.3d 296 (2006)
United States v. Castro, 175 Fed. Appx. 469 (2006)
United States v. Castillo, 2006 WL 1070904 (2006)
United States v. Castillo, 186 Fed. Appx. 25 (2006)
Gui Fang Chan v. Gonzales, 177 Fed. Appx. 172 (2006)
Filippov v. Gonzales, 177 Fed. Appx. 147 (2006)
Genao v. NYC Dept. of Parks and Recreation, 178 Fed. Appx. 142 (2006)
Filippelli v. United States, Dkt. No. 05-2976*
Deyo v. C.I.R., 180 Fed. Appx. 275 (2006)
Ling-Ling Zhu v. Dept. of Justice, 179 Fed. Appx. 785 (2006)
Osbourne v. Gonzales, 197 Fed. Appx. 783 (2006)
United States v. Villalona, 184 Fed. Appx. 23 (2006)
United States v. Day, 201 Fed. Appx. 27 (2006)

Beskovic v. Gonzales, 467 F.3d 223 (2006)
 Ti Wu Gao v. Gonzales, 200 Fed. Appx. 31 (2006)
 Lewis v. City of Buffalo Police Dept., 2009 WL 424232 (2009)
 Bader v. Goldman Sachs Group, Inc., 2009 WL 427323 (2009)
 Pleener v. NYC Board of Education, 2009 WL 454011 (2009)
 Abrahams v. Appellate Division, 2009 WL 454007 (2009)
 Lavayen v. Duncan, 2009 WL 453252 (2009)
 United States v. Navarro, 2009 WL 481616 (2009)
 Smallwood v. Lupoli, 2009 WL 579419 (2009)
 In re Delta Airlines, 2009 WL 577588 (2009)
 Stokes v. Girdich, 2009 WL 579139 (2009)
 Alzamora v. Village of Chester, 2009 WL 578630 (2009)
 Portillo-Escamilla v. Holder, No. 08-2916 (2009)*
 Ayazi v. New York City Board of Education, 2009 WL 648612 (2009)
 Vaughn v. Leeds, Morelli & Brown, P.C., 2009 WL 690024 (2009)

*I have been unable to locate a citation for a published or unpublished opinion for these cases.

Second Circuit cases in which I wrote opinions:

Wynn v. AC Rochester, 273 F.3d 153 (2001) (per curiam opinion).
 Asoma Corp. v. SK Shipping Co., 53 Fed. Appx. 581 (2002) (summary order).
 Grochowski v. Phoenix, 318 F.3d 80, 89 (2003). (dissent). In Cox v. NAP Const. Co., 10 N.Y.3d 592 (2008), the New York Court of Appeals unanimously agreed with my dissent.
 United States v. Crowley, 318 F.3d 401 (2003) (majority opinion).
 Nicholas v. Goord, 430 F.3d 652, 677 (2005) (concurring opinion).
 Royal and Sun Alliance Ins. Co. v. Century Intl. Arms, Inc., 466 F.3d 88 (2006) (majority opinion).
 Shechet v. Favali, 2006 WL 1308656 (2006) (summary order).
 Lucky Brand Dungarees, Inc. v. Ally Apparel Resources LLC, 206 Fed. Appx. 10 (2006) (summary order).
 Triestman v. Federal Bureau of Prisons, 470 F.3d 471, 477 (2006) (dissenting opinion).

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

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

I have endeavored to comply with the command of 28 U.S.C. § 455(a), disqualifying myself in cases in which my impartiality might reasonably be questioned, as well as in the specific instances set forth in § 455(b). Toward that end, I have supplied our clerk's office with a list of litigants in which a financial interest requires disqualification, so that I am notified when those litigants appear in a case randomly assigned to me. In the interest of avoiding disqualification, I have divested myself of holdings of common stock, retaining investments only in bonds and mutual funds, which raise fewer issues of disqualification.

I have also disqualified myself from all cases involving Columbia University, both because I continue to teach part-time at Columbia Law School and because of my long and close association with that institution. For my first five years on the bench, I maintained a policy of recusing from any case in which the law firm of Covington & Burling, with which I had been associated before being appointed, represented any party. After eight years on the bench, I no longer apply that policy; however, so far as I am aware, that law firm has not appeared before me in any case.

I have a recollection of having recused myself in at least one or two matters in which federal prisoners challenged convictions that were obtained when I was Chief of the Criminal Division in the United States Attorney's Office for this District, and had actual or nominal supervisory responsibility over their cases. As that was long ago, the situation has not come up often. I cannot remember the specifics.

I have recused myself in two cases that I can recall in which I had personal association with the parties. One was legal malpractice case, First Trust v. Moses & Singer, 99 Civ. 1947, in which I had social friendship with the defendant; the other was an employment discrimination case, Hall v. Meridian Capital Group, 08 Civ. 9570, in which I had represented one of the defendants in an unrelated matter some years ago. In each case the recusal was sua sponte.

In SEC v. Universal Express, Inc., 2007 WL 2947431 (2007), counsel for one of the defendants moved for me to recuse myself based on a concern that threats addressed to the receiver I had appointed in the case might lead me to be prejudiced against the defendant. I denied the motion, noting that none of the threats were in any way

associated with the moving defendant, and that threats against a judge or court personnel are not generally a valid basis for recusal in any case. My reasoning is laid out in the cited opinion. (I later received threats directly against myself and my family in the same case. For the same reasons, I determined not to recuse myself. I disclosed these threats to the remaining parties in the case, none of whom, to my recollection, made a further motion.)

A similar situation arose in a criminal case, United States v. Reyes, 02 Cr. 1195. In that case, the defendant filed various meritless and vexatious liens against me. For similar reasons, but without a written opinion, I determined that recusal was neither required nor appropriate.

15. Public Office, Political Activities and Affiliations:

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

I have never been a candidate for elected public office.

The only public offices I have held have been the appointed positions in government service as a law clerk, prosecutor, and judge listed elsewhere in this questionnaire. I have had no unsuccessful nominations for appointed office.

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

I have never been an official of any political party or election committee, nor been a member of any political club. I have never held any position or served in any political campaign.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

1976-1977; I served as a law clerk to The Honorable William J. Brennan, Jr., Supreme Court of the United States

1975-1976; I served as a law clerk to The Honorable Wilfred Feinberg,
United States Court of Appeals for the Second Circuit

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

I have never maintained an office for the practice of law. From 1977-1980, and from 1983-1989, while teaching at Columbia Law School, I handled occasional legal matters, mostly pro bono and on occasion for paying clients.

- 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.

2000-present

United States District Court, Southern District Of New York
500 Pearl Street
New York, NY 10007
United States District Judge

1992-2000

Covington & Burling, LLP
(formerly Howard Smith & Levin LLP; formerly Howard Darby & Levin)
1330 Avenue of the Americas
New York, NY 10019
(present address: 620 Eighth Avenue, New York, NY 10018)
Counsel

1990-1992

United States Department of Justice
Office of the United States Attorney, SDNY
One St. Andrew's Plaza
New York, NY 10007
Chief, Criminal Division

1988-1990

Office of Independent Counsel, Iran/Contra
555 Thirteenth Street NW
Washington, DC 20004
Associate Counsel (part time)

1980-1983

United States Department of Justice
Office of the United States Attorney, SDNY
One St. Andrew's Plaza

New York, NY 10007
Assistant United States Attorney, Criminal Division
(Chief Appellate Attorney, 1983; Deputy Chief Appellate Attorney, 1982-83)

1974
Nickerson, Kramer, Lowenstein, Nessen, Kamin & Soll
919 Third Avenue
New York, NY 10022
(now known as Kramer, Levin, Naftalis & Frankel, LLP;
present address: 1177 Avenue of the Americas, New York, NY 10036)
Summer Associate

The activities listed above constitute either full-time or significant part-time commitments. In addition, I have had occasional short-term or less extensive part-time involvements in public service, as follows:

Special Counsel, Office of Independent Counsel Carol Elder Bruce
(special prosecutor investigating allegations regarding Interior Secretary Bruce Babbitt), 1999-2000.

Associate Independent Counsel, Office of Independent Counsel James C. McKay (special prosecutor investigating Attorney General Edwin Meese's alleged involvement in Wedtech scandal), 1987-88.

Chief Counsel, New York State Commission on Government Integrity
(Califano Commission), 1987

Special Counsel, City of New York Special Commission to Investigate City Contracts (Martin Commission), 1986

- 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.

To the best of my recollection, I have never served as an arbitrator or mediator.

b. Describe:

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

My primary activity between completing my judicial clerkships and becoming a judge was teaching law. Since 1977, I have been a member of the faculty of law of the Columbia University School of Law, engaging in

full-time teaching and research during most of that time. My primary specialization, both as a teacher and as a practicing lawyer, has been in criminal law. In addition to courses and seminars in the general field of criminal law, such as substantive criminal law, criminal procedure, sentencing, criminology, criminal litigation, and ethical issues in criminal practice, I have taught from time to time other subjects, including contracts, constitutional law, professional responsibility, legal education, immigration law and international human rights, in both classroom and clinical settings.

Apart from teaching and scholarship, I have had various administrative responsibilities at the law school, including service for five years as Vice Dean, with responsibility for curriculum, teaching assignments, and hiring of adjunct instructors; chairing the search committee for our present dean, chairing the curriculum and judicial clerkship committees at various times, and serving as a University Senator.

However, unlike many legal academics, I made it a point to acquire practical knowledge of the law. While a member of the Faculty, I twice took extended leaves to engage in public service, serving as a full-time federal prosecutor for a total of five years. In addition, after returning from the first of these stints in 1983 I made a practice of regularly taking legal assignments, including government service, pro bono, and paying matters, on a part-time basis, within the limits permitted by the Law School. These assignments include the following:

(1) 1980-1983. As an Assistant United States Attorney for the Southern District of New York, I investigated and tried criminal cases for the United States. Initially, I was assigned to the General Crimes Unit, working on matters that could be tried in less than a week. Subsequently, I was assigned to the Major Crimes Unit, working on white collar and political corruption cases, and to the Appeals Unit, where I was responsible for supervising the Office's criminal appellate litigation. When I left to return to full-time teaching, I was the Office's Chief Appellate Attorney.

(2) 1983-1988. After leaving the government and returning to Columbia, I occasionally handled matters, mostly but not exclusively on a pro bono basis, including cases in the Supreme Court and in the United States Court of Appeals for the Second Circuit, both as counsel of record to parties and representing various *amici curiae*, including the American Civil Liberties Union and the Association of the Bar of the City of New York. I also served as part-time associate counsel to Independent Counsel James C. McKay, in connection with his investigation into allegations against Attorney General Edwin Meese arising out of the so-called "Wedtech"

affair, and for brief periods as Counsel to New York City and State Commissions investigating corruption in city and state government.

(3) 1988-1990. As part-time Associate Counsel in the Office of Independent Counsel, Iran/Contra, I was responsible for briefing and arguing substantive motions in the case of United States v. Oliver North, as well as having primary responsibility for the Office's appellate litigation in the North and Fernandez cases. In these roles I supervised and coordinated a large team of lawyers, and had primary responsibility for arguing legal matters in the district court and in the courts of appeals.

(4) 1990-1992. As Chief of the Criminal Division in the United States Attorney's Office, SDNY, I was responsible for supervision and management of all the Office's criminal cases, and for the supervision of approximately 135 federal prosecutors. In this capacity I argued several appeals and appeared in district court as needed to express the position of the Office. I advised AUSAs on a daily basis in the conduct of trials and investigations, and regularly made decisions regarding those cases. I personally handled a small number of investigations and litigations, but did not personally try any cases.

(5) 1992-2000. After returning again to teaching, I became counsel to the firm of Howard Darby & Levin (later Howard Smith & Levin; now the New York office of Covington & Burling), primarily handling white collar criminal defense and regulatory matters. While I appeared in both the district court and in the court of appeals in a civil matter, and represented clients in regulatory investigations, the bulk of the practice involved white collar criminal work: conducting internal investigations, representing witnesses and subjects in grand jury investigations, and criminal appeals. I have argued several criminal appeals, and have advocated clients' interests before prosecutors and regulatory bodies. During this period, in addition to representing paying clients of the firm, I handled a number of pro bono matters and served as counsel to Independent Counsel Carol Bruce in connection with her investigation of Secretary Babbitt.

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

As noted above, my primary specialization has been in criminal law, with an emphasis on federal criminal law. My principal former client, by any measure, was the government of the United States of America, since my only periods of full-time law practice, and some of my most significant part-time assignments, have been as a federal prosecutor, either with the Department of Justice or with Independent Counsel. As a defense lawyer, my specialization was in white collar and regulatory matters. Typical clients included individual attorneys, business executives and

entrepreneurs who were witnesses or subjects in grand jury investigations or defendants in criminal cases; occasionally I represented or advised business firms or corporations.

- 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.

During my periods of public service listed above (as an Assistant United States Attorney, 1980-1983 and 1990-1992, and as Associate Independent Counsel, 1988-1990), I appeared in court regularly – during my first tenure as an AUSA, on a daily basis, and regularly if somewhat less frequently in the other periods. From 1992-2000 I appeared in court occasionally in connection with my practice as Counsel to Covington & Burling and predecessor firms.

- i. Indicate the percentage of your practice in:

(A)	federal courts;	90%
(B)	state courts of record;	5%
(C)	other courts;	0%
(D)	administrative agencies	5%

- ii. Indicate the percentage of your practice in:

1.	civil proceedings;	5%
2.	criminal proceedings.	95%

- 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.

Approximately 10. Of those, all but two were as chief or sole counsel, and two were as associate counsel.

- i. What percentage of these trials were:

1.	jury;	90%
2.	non-jury.	10%

- 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 argued one case in the Supreme Court, United States v. Koecher, 475 U.S. 133 (1986). The case was dismissed as moot. I do not have a copy of the transcript of the oral argument. The case is fully described in section 17, part G, below.

I was also on the brief for the respondent in United States v. Albertini, 472 U.S. 675 (1985), in which I was primarily responsible for the statutory argument.

I was the principal author of amicus briefs for the American Civil Liberties Union in United States v. Ursery, 518 U.S. 267 (1996), Austin v. United States, 509 U.S. 602 (1993), and New York v. Burger, 482 U.S. 691 (1987).

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

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

A. United States v. Brennan. United States Court of Appeals for the Second Circuit, Dkt. Nos. 97-1440, 97-1441. Argued April 30, 1998, decided July 7, 1999. Reported at 183 F.3d 139.

I represented John V. Brennan, former president and CEO of United States Aviation Underwriters, Inc., the managing company of the largest aviation insurance consortium in the United States, in his appeal from his conviction, along with the company, of mail fraud in connection with the allocation of responsibility for an airline crash. Mr. Brennan was sentenced to nearly five years' imprisonment, and his company to fines and restitution of over \$40 million. (I was not involved in the case until after the trial.) The case involved numerous complex issues including the fiduciary responsibilities of insurers, the proper scope of the mail fraud statute in application to non-disclosures by fiduciaries, the application of the McCarran-Ferguson Act, whether the alleged misrepresentations by the defendants were sufficient to support mail fraud liability, and the proper venue in mail fraud cases.

The Second Circuit reversed the conviction and ordered the indictment dismissed on grounds of improper venue (the issue I argued orally to the court), and in dictum suggested that there were serious difficulties with the legal theories underlying the government's case. The government did not seek further review of the case.

I was counsel of record for Mr. Brennan, and briefed and argued the case for him, with the assistance of Cindy Soohoo, an associate at Howard Smith & Levin (now at

Covington & Burling, 1330 Avenue of the Americas, NYC, 212-841-1120), and Edward A. McDonald, of Reboul, MacMurray, Hewitt, Maynard and Kristol (45 Rockefeller Plaza, NYC, 212-841-5700), who was also trial counsel. USAU was represented by Andrew L. Frey, of Mayer Brown & Platt (1675 Broadway, NYC, 212-506-2635), with the assistance of Julie E. Katzman, then an associate at Mayer Brown, later a member of the staff of the Senate Judiciary Committee (202-224-0957), and David M. Zornow, of Skadden, Arps, Slate, Meagher & Flom (919 Third Avenue, NYC, 212-735-3000), who was also trial counsel. (The briefs for the two appellants constituted an integrated whole, composed by both firms.) The Government was represented by AUSAs Alan B. Vickery and Lee G. Dunst, Assistant United States Attorneys for the Eastern District of New York. The panel consists of Judges Jon O. Newman, Pierre N. Leval and Aronld Wexler (of the EDNY, by designation).

B. United States v. Blarek, United States Court of Appeals for the Second Circuit, Dkt. Nos. 98-1291, 98-1292. Decided in unreported opinion December 23, 1998.

I represented on appeal Frank Pellecchia and Alexander Blarek, two decorators and interior designers who were convicted of money laundering offenses for decorating houses and apartments in Colombia for Jose Santacruz Londono, a major drug trafficker, and receiving payment from funds derived from Santacruz's drug trafficking activities. The case received significant publicity, because it involved the conviction of otherwise legitimate businessmen for money laundering offenses and RICO violations as a result of their acceptance of tainted funds. The conviction was affirmed, a petition for certiorari (filed on behalf of petitioners by Alan Dershowitz) was denied.

I was counsel of record for Mr. Blarek, and briefed and argued the appeal for both defendants, with the assistance of Theodore R. Posner, then an associate at Howard, Smith & Levin, later legislative counsel to Rep. Sander M. Levin, 2268 Rayburn House Office Building, Washington, DC 20515-2212, 202-225-4961. I am not aware of his present position. Co-Counsel, representing Mr. Pellecchia, who also was trial counsel, was Paul Shechtman, of Stillman Friedman & Shechtman, 425 Park Avenue, New York, 212-223-0200. The Government was represented by Mark Lerner and Richard Weber, Assistant United States Attorneys for the Eastern District of New York. The panel was composed of Judges Guido Calabresi, Thomas Meskill, and Milton Pollack (of the SDNY, by designation).

C. United States v. Pedro Lara, United States Court of Appeals for the Second Circuit, Docket Nos. 93-1750, 93-1773, 93-1780, 93-1794, 93-1795, 93-1837. Argued November 14, 1994, decided February 2, 1995. Reported at 47 F.3d 60.

I represented on appeal, pro bono by special appointment of the District Court, Pedro Lara, a young man who had been convicted of narcotics offenses. The most significant aspect of the appeal was that the Government was appealing a downward sentencing departure made by Judge John Martin of the Southern District, on the ground that the

amount of narcotics attributed to Mr. Lara grossly overstated his culpability, because it represented an aggregate amount of narcotics distributed over a long period of time by a large organization of which he was accused of being only a minor part. We were unsuccessful in urging grounds for reversal of Mr. Lara's conviction, but successful in resisting the Government's appeal.

I briefed and argued the appeal for Mr. Lara, with the assistance of Stephen R. Peikin, then an associate of Howard Darby & Levin, later an AUSA in the Southern District of New York, now a partner in Sullivan & Cromwell (125 Broad Street, 212-558-7228). Two other appellants were represented by Martin G. Fogelson (470 Park Avenue South, 686-4262) and James C. Neville (20 Vesey Street, 233-0858). (Their appeals were largely independent of mine.) The government was represented by AUSA Michael S. Sommer of the SDNY, now a partner in McDermott, Will & Emery, 50 Rockefeller Center, NYC, 212-547-5400. The panel consisted of Judges Jon O. Newman and Pierre N. Leval, and the late Judge Francis X. Altimari.

D. Milbank, Tweed, Hadley & McCloy v. Chan Cher Boon. United States Court of Appeals for the Second Circuit, Docket No. 93-7418. Argued October 18, 1993, decided January 3, 1994. Reported at 13 F.3d 537.

I represented Carol Sui Han Leo, the plaintiff in a suit for violation of fiduciary duty against the law firm of Milbank, Tweed, Hadley & McCloy, on an appeal from a judgment in her favor for approximately two million dollars. Mrs. Leo, acting through an agent named Chan Cher Boon, had retained Milbank, Tweed to represent her in an effort to purchase a bankrupt Swiss bank. After Boon was fired as agent, he associated himself with a competing syndicate, and Milbank, Tweed undertook to represent that group in opposition to the interests of Mrs. Leo. The judgment was affirmed. The opinion of the Court of Appeals emphatically rejected the firm's claims that its conduct had been appropriate.

I argued the case in the Court of Appeals, and was primarily responsible for briefing the appeal, along with Sara E. Moss and Robert P. Haney, partners in Howard, Darby & Levin, and Nancy L. Kestenbaum, an associate of the firm, who were trial counsel. (Ms. Moss is now General Counsel of The Estee Lauder Companies, Inc., 767 Fifth Avenue, NYC, 212-572-4200) ; Mr. Haney and Ms. Kestenbaum are partners in Covington & Burling, New York, NY.) Opposing counsel was Harvey R. Miller of Weil, Gotshal & Manges, 767 Fifth Avenue, NYC, 212-310-8000. The panel consisted of Judges Joseph M. McLaughlin, Dennis G. Jacobs and Thomas M. Reavley (of the Fifth Circuit, by designation). (In addition to the appeal, I also had primary responsibility for oral argument of the defendants' motions for judgment notwithstanding the verdict and for a new trial before the District Court, Chief Judge Thomas P. Griesa, United States District Court for the Southern District of New York.)

E. United States v. Oliver North, United States Court of Appeals, Docket No. 89-3118. Argued February 6, 1990, decided July 20, 1990. Reported at 910 F.2d 843 (as modified, 920 F.2d 940).

I was asked by Independent Counsel Lawrence E. Walsh to join the staff of the Office of Independent Counsel, Iran/Contra, to supervise the responses to substantive legal motions in the prosecution of Oliver North. The defendant made numerous pre-trial motions to dismiss the indictment and for other relief, and, with the assistance of a rather large team of lawyers, we succeeded in persuading the District Court to reject virtually all of them and to proceed to trial on the indictment. (Several counts were later dismissed on prosecution motion pursuant to the Classified Information Procedures Act because of the Government's refusal to declassify various documents material to the case.) After Mr. North was convicted on a few counts, I returned to supervise the briefing of the appeal, and to argue the case. The convictions were reversed.

I handled most of the briefing and argument of substantive pre-trial motions, with the assistance of Bruce Green (now a professor at Fordham University School of Law, 212-636-6851) and a number of other lawyers, before the late Judge Gerhard Gesell, and briefed and argued the appeal, with the help of a number of others. Barry S. Simon of Williams & Connolly, 725 12th Street N.W., Washington, D.C. 20005, 202-434-5000, argued on behalf of Mr. North. The appellate panel consisted of Judges Laurence H. Silberman, David B. Sentelle and Patricia Wald.

F. Appeal of the United States (United States v. Fernandez), United States Court of Appeals for the Fourth Circuit, Docket No. 89-5804. Argued August 23, 1989, decided September 29, 1989. Reported at 887 F.2d 465. (See also United States v. Fernandez, 913 F.2d 148 (4th Cir. 1990).)

This was another matter I handled for the Independent Counsel, Iran/Contra. The case involved important issues under the Independent Counsel Act and the Classified Information Procedures Act. The matters involved litigation between the United States (represented by the Justice Department) and itself (represented by the Independent Counsel). In essence, the Attorney General sought to take an interlocutory appeal from a ruling of the District Court, rejecting the Independent Counsel's proposal to substitute redacted versions of classified materials that the Court had ruled relevant to the case. Independent Counsel's position was that the decision to take such an appeal was confided to Independent Counsel, not to the Attorney General. (Although both halves of "the United States" agreed that the District Court should have allowed the substitution, the question was who would control the prosecution, including the tactical choice of when to attempt to accommodate the Court's rulings and when to appeal.) We were successful in having the Attorney General's appeal dismissed, but the victory was ultimately meaningless; the District Court eventually dismissed the case, ruling that the refusal to declassify documents would deprive the defendant of a fair trial. I also argued the Independent Counsel's later appeal of that order, but the decision was affirmed.

I handled the briefing and argument of both appeals in the Fourth Circuit. The Attorney General's position was argued by then-Assistant Attorney General Edward S.G. Dennis, Jr., with the assistance of Ronald K. Noble (now a Professor of Law at NYU, 212-998-6702). Both appeals were heard by a panel consisting of Judges Robert F. Chapman, J. Harvie Wilkinson III and William W. Wilkins, Jr.

G. United States v. Hana Koecher, United States Supreme Court, Docket No. 84-1922. Decided February 25, 1986. Reported at 475 U.S. 133.

In this case, I represented Hana Koecher, the wife of an accused Czechoslovakian spy. Mrs. Koecher was subpoenaed to testify before a grand jury investigating her husband, and declined to testify on grounds of the spousal privilege. Her claim was upheld by the Second Circuit (755 F.2d 1022), in one of Judge Henry Friendly's last opinions, and the Government sought and received certiorari from the Supreme Court. The case was referred to me by the ACLU, and I took the case on a pro bono basis in the Supreme Court. The issue presented was whether there is a "co-conspirator exception" to the marital testimonial privilege. In the end, the case was dismissed as moot when my client and her husband were traded to the Russians in exchange for the freedom of the Soviet dissident and activist Natan Sharansky.

I briefed and argued the case in the Supreme Court, with the assistance of George Kannar of the ACLU (now a law professor at the State University at Buffalo (716-645-2400)). The Government brief was signed by then-Solicitor General Charles Fried, then-Assistant Attorney General (now Judge) Stephen Trott, then-Deputy Solicitor General Andrew Frey (now a member of Mayer Brown & Platt, 1675 Broadway, New York, NY, 212-506-2635 in New York), then Assistant to the Solicitor General Andrew Pincus, and AUSA Barry Bohrer (now a member of Morvillo, Abramowitz, Grand, Iason & Silberberg, 565 Fifth Avenue, New York, NY 10017, 212-856-9600), but my recollection is that someone else from the Solicitor General's Office, whose name I cannot recall, argued the case. I was not involved in the case before it reached the Supreme Court. I did make a brief appearance in the District Court in connection with entering the agreements that mooted the case, before the Honorable Shirley Wohl Kram, United States District Court for the Southern District of New York. The United States was represented at that proceeding by then-AUSA Bruce Green (now a professor at Fordham University School of Law, 212-636-6851).

H. United States v. Andrea Aiello, United States Court of Appeals for the Second Circuit, Docket Nos. 84-1404, 84-1405 and 84-1413. Argued March 25, 1985, decided Aug. 7, 1985. Reported at 771 F.2d 621 (2d Cir. 1985).

This was the first case I ever handled as a defense lawyer after leaving the United States Attorney's Office in 1983. The defendant, a tile importer from Buffalo, was convicted of importing narcotics. The case involved a significant issue – whether the Government, in seeking a warrant for video surveillance without audio, was required to comply with

standards analogous to those required by statute for aural electronic surveillance. The Court of Appeals held that it was not, and affirmed the convictions.

I briefed and argued the case for Mr. Aiello with respect to the electronic surveillance issues. Co-counsel were Anne C. Feigus and Mark F. Pomerantz, then of Fischetti, Feigus & Pomerantz, now a member of Paul Weiss Rifkind Wharton & Garrison, 1285 Avenue of the Americas, 212-373-3010). The Government was represented by then-AUSA William J. Cunningham III of the Eastern District of New York. The panel consisted of Judge Ralph K. Winter, and the late Judgea Walter R. Mansfield and James L. Oakes.

I. United States v. Patrick J. Cunningham and John J. Sweeney, United States District Court for the Southern District of New York, Indictment No. 81 Cr. 458. Tried May 24, 1982 to June 18, 1982.

Appeal to United States Court of Appeals for the Second Circuit, Docket Nos. 83-1046, 83-1052, 82-1402. Argued September 28, 1983, decided November 28, 1983. Reported at 672 F.2d 217 (2d Cir. 1983).

(See also United States v. Cunningham, 672 F.2d 1064 (2d Cir. 1982).)

United States v. Marie Falco, United States District Court for the Southern District of New York, Indictment No. 81 Cr. 415. Tried December 14-23, 1981.

Appeal to United States Court of Appeals for the Second Circuit, Docket No. 82-1104 Decided August 10, 1982, in an unreported opinion.

These were the most significant cases I tried as a line prosecutor. Patrick Cunningham, a former New York State Democratic Chairman, was convicted of tax evasion, perjury and obstruction of justice, along with his brother-in-law John Sweeney, and, in a related case separately tried, his secretary, Marie Falco, was convicted of perjury. The defendant was a politically significant figure, and the case was sharply contested. The cases were tried personally by United States Attorney John S. Martin, Jr., who selected me to be co-counsel, with significant responsibility for witness preparation, briefing of legal issues (including an attorney disqualification motion that was granted, leading to an appeal to the Second Circuit and reversal of the District Court's order), and presentation of the cases in court, including delivering the main summations in both trials. All three defendants were convicted, and I had primary responsibility for briefing and arguing the appeals, in which all convictions were affirmed (and three counts on which the District Court had set aside the verdict were reinstated).

I was trial co-counsel, and briefed and argued the Government's position on appeal, with United States Attorney John S. Martin, Jr. (later United States District Judge, SDNY, now a member of Martin & Obermaier LLC, 565 Fifth Avenue, 883-0000). Mr. Cunningham was represented by Michael Tigar (now Professor of Law at American University, 202-274-4088), Mr. Sweeney by Michael Kennedy, and Ms. Falco by Gerald B. Lefcourt (148 E.78th Street, 737-0400). The Cunningham case was tried before the late Judge Charles L. Brieant; the panel on appeal consisted of Judges Amalya L. Kearse

and Ralph K. Winter, and the late Judge Walter R. Mansfield; the panel on appeal of the disqualification motion consisted of Judge Amalya L. Kearse, the late Judge Thomas Meskill, and the late Judge Charles Metzner of the SDNY, sitting by designation. The Falco case was tried before the late Judge Vincent L. Broderick.

J. United States v. Steven Weil, United States District Court for the Southern District of New York, Indictment No. 81 Cr. 57. Tried June 25, 1981 to July 13, 1981. Appeal to the United States Court of Appeals for the Second Circuit, Docket No. 81-1374. Decided February 16, 1982 in an unreported opinion.

This was the most significant case I tried solo as a line prosecutor. Steven Weil was a stock manipulator who was convicted of multiple counts of perjury before the Securities and Exchange Commission. The trial lasted three weeks, and the defendant raised a defense of mental impairment as a result of injuries suffered in an air crash. The case involved the presentation of a number of kinds of complex evidence, including securities experts and deposition testimony of a Swiss investor, and the testimony of somewhat notorious co-operating witnesses Jerome Allen and Phillip Stoller. In addition, the defendant put on a substantial case, necessitating the cross-examination of witnesses including an expert neurologist, an expert psychiatrist, the defendant's wife, and a former prosecutor who had investigated the defendant in an earlier case. The defendant was convicted on all counts and the convictions were affirmed by the Second Circuit in an unreported opinion.

I was sole trial and appellate counsel for the United States. The defendant was represented by Paul Holian of Boston, Massachusetts. (There is no current listing for Mr. Holian in the Martindale-Hubbell on-line Lawyer Locator.) The trial judge was the Honorable Robert W. Sweet.

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

Before becoming a judge, my primary legal activities fell into three categories. First, and most significantly, I have been engaged in teaching law and legal scholarship. Since 1977, I have been a member of the faculty of the Columbia University School of Law. Since the spring of 1979, in my second year of teaching, when I was asked to take over a section of the first-year course in criminal law, my primary field of specialization has been criminal law and procedure. I have devoted more of my time to teaching itself than is perhaps common among faculty at major research universities, and I am proud to have received several awards in recognition of the quality of classroom teaching and

devotion to the educational needs of my students. I have also written a number of articles, one of which, on the federal RICO statute, has been widely cited, and excerpted in casebooks and other works.

Second, I have engaged in significant public service. Beginning with my earliest jobs as a law clerk, I have devoted a significant part of my career to serving the public. The bulk of this experience has been in law enforcement. As a full-time federal prosecutor in the Southern District of New York, from 1980-1983, I investigated and tried criminal cases, and served as Deputy Chief and Chief Appellate Attorney, briefing or supervising the briefing of scores of appeals. I later returned to the United States Attorney's Office from 1990-1992, at the request of then-United States Attorney Otto Obermaier, to serve as Chief of the Criminal Division, with supervisory responsibility over the entire criminal docket of the Office. In addition to that, I have served on a part-time basis as associate or special counsel to three different independent prosecutors, James McKay, Lawrence Walsh, and Carol Elder Bruce. Since 2000, I have been a United States District Judge for the Southern District of New York.

Finally, after leaving government service in 1992, I served as a part-time counsel at the law firm of Howard, Darby & Levin and successor firms, now a part of Covington & Burling. This activity has enabled me to see the practice of law from the standpoint of the private sector, both in the criminal process, representing witnesses and subjects of investigations as well as engaging in the appellate litigation described above, and in occasional complex civil cases.

I have never engaged in lobbying activities.

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

I have been a member of the Faculty of Law at Columbia Law School since 1977.

In those years, I have taught the following courses:

Contracts: 1977-79

Criminal Law: 1979-80, 1984-89, 1992-95, 1997-2009

Constitutional Law: 1978-80, 1984-85, 1988

Criminal Procedure: 1986, 1993-94, 1996, 1998-2000

Professional Responsibility: 1984, 1993-96, 1998-2000

I have also taught seminars in the following subjects:

Legal Education: 1978

Human Rights: 1989

Criminology: 1991-92, 1995-96

Sentencing: 1993-94, 2002-08

Comparative Constitutionalism: 1994-96

White Collar Crime: 1993

Professional Responsibility in Criminal Practice: 1999

I have also taught clinical seminars in the following subjects:

Criminal Litigation: 1983-84, 1986, 1988-89

Immigration Law: 1987

I taught constitutional law for one semester at Cardozo Law School in the 1980s; I do not remember the precise year. I have also taught a course in American Criminal Procedure at Hebrew University in Jerusalem in spring 2000, various courses in American Law at the Universities of Leiden and Amsterdam in the Netherlands in the summers of 1979, 1984, 1986, 1988, and 1990, and a course dealing with American approaches to the investigation and prosecution of white collar and organized crime at the University of Tokyo in the fall of 1998. I have guest-lectured at various other universities, including Yale Law School and the University of Buenos Aires.

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

I have no such expectations or agreements. As listed on the attached financial statement, I have accumulated a TIAA-CREF retirement account as a result of my employment at Columbia, which will be available to me as a retirement fund.

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

While serving as a district judge, I have continued to teach one course and one seminar annually at Columbia Law School, with the permission of the Chief Judge of the Circuit, within the time and income limits permitted to judges. I would expect to continue that commitment in most years. Other than that I do not expect to pursue any other outside employment.

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

See attached Financial Disclosure Report

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

See attached Net Worth Statement

24. **Potential Conflicts of Interest:**

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

I am not aware of any conflict of interest issues not already fully discussed above in section 14 (Recusal).

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

Throughout my career, I have devoted my primary attention to legal scholarship, public service, and law reform activities, and never sought out the most lucrative opportunities available to me. Thus, my primary employment since graduation from law school has been in teaching and in government service, rather than in law firms or in the service of private clients.

Even while in law teaching, however, I have made it a point to engage in pro bono legal activities. For example, two of the most significant matters I have litigated (United States v. Koecher and United States v. Lara, both discussed above) were pro bono matters (and most of the others were prosecutions in which I represented the government). I have also written a number of amicus curiae briefs for the American Civil Liberties Union, all without compensation.

From 1992 to 2000, I devoted about one day per week to law practice, and I tried to devote some portion of that to pro bono activities. In the case of United States v. Lara, for example, I was appointed to handle an appeal on behalf of an indigent criminal defendant. The time devoted to that case without compensation ranked it as one of my largest time commitments during 1993 and 1994.

As noted above, I have devoted considerable time to bar association and other law-improvement activities throughout my career.

26. Selection Process:

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

To this point, my involvement in the process has consisted exclusively of the following: I received a call from Senator Charles Schumer of New York, who advised me that the White House anticipated appointing me to the Second Circuit. I did not solicit such a nomination and I was not told what circumstances led to their interest. I briefly discussed with Senator Schumer's staff the procedures that would ensue. I have had numerous contacts with personnel of the White House Counsel's Office and the Justice Department regarding the paperwork required for their processes and for this Committee. My nomination was submitted to the Senate on April 2, 2009.

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

No.



FINANCIAL DISCLOSURE REPORT NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Lynch, Gerard E.	2. Court or Organization Second Circuit	3. Date of Report 04/02/2009
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Circuit Judge-nominee	5a. Report Type (check appropriate type) ☒ Nomination, Date 04/02/2009 ☐ Initial ☐ Annual ☐ Final	6. Reporting Period 01/01/2008 to 03/31/2009
	5b. ☐ Amended Report	
7. Chambers or Office Address 500 Pearl St. New York, NY 10007	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

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

☐ NONE (No reportable positions.)

POSITION

NAME OF ORGANIZATION/ENTITY

1. Professor of Law	Columbia University
2.	
3.	
4.	
5.	

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

☒ NONE (No reportable agreements.)

DATE

PARTIES AND TERMS

1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

Page 2 of 9

Name of Person Reporting

Lynch, Gerard E.

Date of Report

04/02/2009

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2007	Columbia University	\$24,144
2. 2008	Columbia University	\$24,495.00
3. 2009	Columbia University	\$6,125.00
4.		

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 1/08-3/09	Flushing Hospital-salary
2. 1/08-3/09	Private practice of psychotherapy-earnings
3.	
4.	

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

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

FINANCIAL DISCLOSURE REPORT
Page 3 of 9

Name of Person Reporting
Lynch, Gerard E.

Date of Report
04/02/2009

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

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

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*

☒ NONE *(No reportable liabilities.)*

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

FINANCIAL DISCLOSURE REPORT

Page 4 of 9

Name of Person Reporting

Lynch, Gerard E.

Date of Report

04/02/2009

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)

1. Citibank accounts	A	Interest	L	T	Exempt				
2. Merrill Lynch Money Market	B	Dividend	M	T					
3. Ameriprise Money Market	A	Interest	J	T					
4. New York NY FSA-CR	A	Interest	K	T					
5. Blackrock NY Muni Inc. Tr.	A	Dividend	J	T					
6. Gabelli Utility Trust PFD	A	Dividend	J	T					
7. ING Savings Account	A	Interest	J	T					
8. Nicholas Applegate Con. Fd.	A	Dividend	J	T					
9. ING Global Equity Fund	A	Dividend	J	T					
10. PIMCO NY Muni Fnc Fd.	A	Dividend	J	T					
11. Blackrock Global Allocation B	A	Dividend	J	T					
12. Triborough BTA Bonds		None	L	T					
13. Alliance Bernstein Gr/Inc. Fund A&B	A	Dividend	J	T					
14. Eaton Vance Enhanced Equity Fd	A	Dividend	J	T					
15. Eaton Vance Tax Managed Global Fund	A	Dividend	J	T					
16. Nuveen Municipal Value	A	Dividend	K	T					
17. Oppenheimer Main St A	A	Dividend	K	T					

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000 R = Cost (Real Estate Only) V = Other	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000 S = Assessment W = Estimated	D = \$5,001 - \$15,000 H2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000 T = Cash Market	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)					
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value				

FINANCIAL DISCLOSURE REPORT

Page 5 of 9

Name of Person Reporting

Lynch, Gerard E.

Date of Report

04/02/2009

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. PIMCO Floating Rate Strategy FD	B	Dividend	J	T					
19. Growth Fund Amer. Inc.	A	Dividend	J	T					
20. Putnam Intl Gr Fund		None	J	T					
21. Alpine Total Dynamic Div. Fd.	A	Dividend	J	T					
22. AIM Tax Free Int Shares	A	Dividend	J	T					
23. Eaton Vance Floating Rate Inc. Tr.	A	Dividend	J	T					
24. Rochester Muni Fd Cl A	B	Dividend	K	T					
25. Templeton Dev. Mkt. Trust A	A	Dividend	J	T					
26. Rydex Ser Tr. Juno Fd.		None	J	T					
27. NYS Trasn Fin	B	Interest	K	T					
28. Franklin Utilities	A	Dividend	J	T					
29. SunAmerica New Century Fd. A		None	J	T					
30. TIAA-CREF		None	O	T					
31. Franklin Income Fd C	A	Dividend	J	T					
32. ING Risk Managed Nat. Res. Fd.	A	Dividend	J	T					
33. Nuveen Global Fd.	A	Dividend	J	T					
34. NYC Bonds	A	Interest	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

FINANCIAL DISCLOSURE REPORT

Page 6 of 9

Name of Person Reporting

Lynch, Gerard E.

Date of Report

04/02/2009

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. Port Authority Bonds	A	Interest	J	T					
36. NYS Dorm Auth Bonds	B	Interest	K	T					
37. Hartford Cap. Apprec. Fd.	A	Dividend	J	T					
38. Fidelity Adv. Div. Intl.	A	Dividend	J	T					
39. Metro Trans Auth. NY	B	Interest	L	T					
40. Lord Abbett NY T/F	A	Interest	J	T					
41. PIMCO Long Term US Govt.	A	Interest	J	T					
42. Putnam American Govt Income FD.	A	Interest	J	T					
43. Seligman NY Muni FD	B	Interest	K	T					
44. JP Morgan Chase CD	A	Interest	K	T					
45. Fidelity Adv. Govt. Income FD	A	Interest	J	T					
46. Franklin US Govt Sec. FD	A	Dividend	K	T					
47. Lord Abbett Short Duration Inc. FD	A	Dividend	J	T					
48. Amer. Emp. Cent. Bk CD	A	Interest	K	T					
49. Hartford US Govt Sec FD	A	Dividend	J	T					
50. Rental Property, New York, NY (2002; \$272,500)	C	Rent	N	R					
51. Advisors Disciplined Trust Unit 226	B	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	
3. Value Method Codes (See Column C2)					

FINANCIAL DISCLOSURE REPORT
Page 7 of 9

Name of Person Reporting
Lynch, Gerard E.

Date of Report
04/02/2009

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. Bankcorp CD	A	Interest							
53. NY Power Authority Bond	A	Interest							
54. Putnam Health Science Fd	A	Dividend							
55. Alliance NFJ Dividend	A	Dividend							
56. Washington-Mutal Bank CD	A	Interest							
57. Nuveen Tax Free Unit Trust	A	Interest							
58. First Bank PR CD	A	Interest							

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

FINANCIAL DISCLOSURE REPORT
Page 8 of 9

Name of Person Reporting

Lynch, Gerard E.

Date of Report

04/02/2009

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

Part IIIA: Additional non-investment income earned during reporting period as United States District Judge.

FINANCIAL DISCLOSURE REPORT

Page 9 of 9

Name of Person Reporting

Lynch, Gerard E.

Date of Report

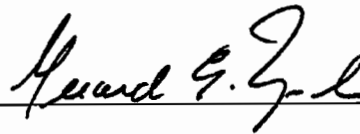
04/02/2009

IX. CERTIFICATION.

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

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

Signature



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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		219	424	Notes payable to banks-secured			
U.S. Government securities-add schedule				Notes payable to banks-unsecured			
Listed securities-add schedule	1	051	652	Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule			
Real estate owned-add schedule		272	500	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		6	885				
Cash value-life insurance							
Other assets itemize:							
				Total liabilities			0
				Net Worth	1	550	461
Total Assets	1	550	461	Total liabilities and net worth	1	550	461
CONTINGENT LIABILITIES			0	GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	NO		
On leases or contracts				Are you defendant in any suits or legal actions?	NO		
Legal Claims				Have you ever taken bankruptcy?	NO		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Mutual Funds:

Alliance Bernstein Growth & Income Fund Class A	\$ 2,602
Alpine Total Dynamic Dividend Fund	3,700
Blackrock New York Municipal Income Trust	11,500
Eaton Vance Enhanced Equity Income Fund II	4,539
Eaton Vance Floating Rate Income Trust	4,485
Eaton Vance Tax Managed Global Opp'ies Fund	4,980
Growth Fund Amer Inc	3,445
ING Risk Managed Natural Resources Fund	3,352
ING Global Equity Div. and Premium Opp'y Fund	4,850
Nicholas Applegate Convertible & Income Fund	3,776
Nuveen Global Govt Enhanced Income Fund	10,402
Nuveen Municipal Value Fund	18,900
Oppenheimer Main Street Fund Class A	11,165
Pimco New York Municipal Income Fund	3,655
Pimco Floating Rate Strategy Fund	3,350
Rydex Series Trust Govt Long Bond Fund	7,106
Sunamerica New Century Fund Class A	1,863
Templeton Developing Markets Trust Class A	3,610
AIM Tax Free	13,182
Franklin Utilities	4,304
Lord Abbett New York T/F	7,138
Pimco Long Term US Govt	8,996
Putnam International	6,230
Putnam American Govt Income Fund	6,955
Rochester Municipals Fd	23,930
Seligman New York	25,254
Fidelity Adv Diversified	3,003
Fidelity Advisor Govt Income Fund	4,141
Franklin Income	3,086
Franklin US Govt Securities Fund	16,853
Lord Abbett Short Duration Income Fund	4,347
Gabelli Utility Trust Sr A	3,530
Blackrock Global Allocation Fund	5,356
Hartford US Govt Securities Fund	4,058
Hartford Capital Appreciation Fund	1,836

Bonds:

NY State Dorm. Auth. Rvs City Unv. Sys.Bond	\$ 10,422
New York NY City Indl Dev Agy Civic Fac Rv	9,899
New York St Dorm. Auth. Rev Non Support Debt	20,096
New York St Dorm. Auth. Revs Supported Debt	
Mental Health Facs	21,277
New York NY FSA-CR	20,114
New York NYC Transn Fin	26,374
Metro Transn Auth NY Ded	54,399
Port Authority NY & NJ	10,048
Triborough Brdg & Tunnel Auth NY Rev Genl Purp. Bond	56,314

Unit Investment Trust:

Advisors Disciplined Trust Unit 226	\$ 11,399
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CDs in Retirement Accounts:

CDs JP Morgan Chase Bank	\$ 21,095
CD Amer Express Bank	15,298

Retirement Account:

TIAA-CREF Retirement Account	\$525,438
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Total Listed Securities	<u> </u> \$ 1,051,652
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Real Estate Owned

Rental property	\$ 272,500
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AFFIDAVIT

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

April 1, 2009
(DATE)

Gerard E. Lynch
(NAME)

Ka Kin Cheng
(NOTARY)

KA KIN CHENG
Notary Public, State of New York
No. 01CH5053524
Qualified in New York County
Commission Expires December 18, 2009