

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Loren Linn AliKhan

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

United States District Judge for the District of Columbia

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.

District of Columbia Court of Appeals
Historic Courthouse, 430 E Street, Northwest, Suite 308
Washington, DC 20001

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

1983; Baltimore County, Maryland

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.

2003 – 2006, Georgetown University Law Center; J.D., *magna cum laude*, 2006

1999 – 2003, Bard College at Simon's Rock; B.A., *summa cum laude*, 2003; A.A., with distinction, 2001

2002, London School of Economics, no degree received (summer abroad)

2001, University of Massachusetts, Amherst, no degree received (summer classes)

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.

2022 – present
District of Columbia Court of Appeals
Historic Courthouse, 430 E Street, Northwest, Suite 308
Washington, DC 20001
Associate Judge

2013 – 2022
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
400 6th Street, Northwest, Suite 8100
Washington, DC 20001
Solicitor General (2018 – 2022)
Acting Solicitor General (2017 – 2018)
Deputy Solicitor General (2013 – 2017)

2010 – 2013
O'Melveny & Myers LLP
1625 Eye Street, Northwest
Washington, DC 20006
Counsel (2012 – 2013)
Associate (2010 – 2012)

2009
American Inns of Court Foundation
Temple Bar Scholarship
225 Reinekers Lane, Suite 770
Alexandria, Virginia 22314
Temple Bar Scholar

2008 – 2009
U.S. Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
Bristow Fellow

2007 – 2008
U.S. Court of Appeals for the Third Circuit
844 North King Street, Suite 5300
Wilmington, Delaware 19801
Law Clerk to the Honorable Thomas L. Ambro

2006 – 2007
U.S. District Court for the Eastern District of Pennsylvania
James A. Byrne Federal Courthouse
601 Market Street, Suite 16613

Philadelphia, Pennsylvania 19106
Law Clerk to the Honorable Louis H. Pollak

Summer 2006
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, DC 20001
Summer Associate

2005 – 2006
Gebhardt & Associates (dissolved)
Law Clerk

Summer 2005
Williams & Connolly LLP
680 Maine Avenue, Southwest
Washington, DC 20024
Summer Associate

2004 – 2006
Georgetown University Law Center
600 New Jersey Avenue, Northwest
Washington, DC 20001
Research Assistant to Professor Charles R. Lawrence III

2004
People's Law Resource Center (dissolved)
Law Clerk

2002 – 2003
Baba Louie's
42/44 Railroad Street
Great Barrington, Massachusetts 01230
Waitress

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

I have not served in the military. I was not required to register for the selective service.

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.

National Association of Attorneys General
Senior Staff of the Year Award (2020)
Best Brief Award, *District of Columbia v. Wesby* (2016 Term)

Office of the Attorney General for the District of Columbia
Natalie O. Ludaway Award (2020)
Tamar A. Meekins Head of Division Award (2018)
Distinguished Service Award (2016)

South Asian Bar Association of Washington, D.C., Public Sector Trailblazer Award (2019)

Bisnow, “Top 40 Under 40 Attorneys” (2015)

National Law Journal, “40 Under 40: Washington’s Rising Stars” (2014)

Super Lawyers, “Rising Star” for Appellate Litigation (2013)

Forbes Magazine, “30 Under 30” List for Law and Policy (2012)

American Inns of Court Foundation, Temple Bar Scholarship (2009)

Georgetown University Law Center
J.D. conferred *magna cum laude* (2006)
Georgetown Law Journal (2004 – 2006)
Order of the Coif (2006)
ALI/ABA Scholarship and Leadership Award (2006)
Dean’s Certificate (2006)

Bard College at Simon’s Rock
B.A. conferred *summa cum laude* (2003)
Social Studies Divisional Prize (2003 and 2001)
Thomas H. Blodgett Scholarship (2002)
Robert M. Hutchins B.A. Scholarship (2001)
A.A. conferred with distinction (2001)
Faculty Merit Award (2000)
Acceleration to Excellence Scholarship (1999)

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

American Inns of Court Foundation (2009; 2015 – present)
Member, Board of Trustees (2020 – present)
Member, Temple Bar Scholarship Selection Committee (2015 – present)
Temple Bar Scholar (2009)

American Law Institute (2016 – present)

The Appellate Project (2020 – present)
Mentee Selection Committee (2021)

Edward Coke Appellate Inn of Court (2010 – present)

Georgetown Supreme Court Institute (2010 – 2022)

Lawyers' Club of Washington (2016 – present)
Member, Board of Governors (2019 – present)

National Association of Criminal Defense Lawyers (2010 – 2013)
Administrative Coordinator, Amicus Curiae Committee (2010 – 2013)

South Asian Bar Association of Washington, D.C. (2009 – 2010; 2013 – present)
Mentor (2019 – present)

U.S. Court of Appeals for the D.C. Circuit, Committee on Procedures (2017 – 2022)

Washington Bar Association (2021 – 2022)

Women's Bar Association of the District of Columbia (2017 – 2019; 2021 – present)

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.

Virginia, 2006
District of Columbia, 2010

There have been no lapses in membership.

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

Supreme Court of the United States, 2011
United States Court of Appeals for the Third Circuit, 2008
United States Court of Appeals for the Fourth Circuit, 2018
United States Court of Appeals for the Sixth Circuit, 2011
United States Court of Appeals for the Seventh Circuit, 2011
United States Court of Appeals for the Ninth Circuit, 2010
United States Court of Appeals for the Tenth Circuit, 2012

United States Court of Appeals for the Eleventh Circuit, 2010
United States Court of Appeals for the D.C. Circuit, 2009
United States Court of Appeals for the Federal Circuit, 2010
United States District Court for the District of Columbia, 2017

My membership in the U.S. Court of Appeals for the Eleventh Circuit lapsed in 2015 because the court assesses a fee for maintaining membership and I had no cases there that necessitated renewal. There have been no other lapses in membership.

11. Memberships:

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

Achilles International, Washington D.C. Chapter (2018 – present)

Arlington Road Runners Club (2013 – 2020)
Mentor (2018 – 2019)

Bard College at Simon's Rock Board of Overseers (2006 – present)

Montgomery County Road Runners Club (2022 – present)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

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.

To my recollection and through searches of my own records and publicly available databases, I have found the following works that I authored or co-authored:

“Symposium: A false choice between state sovereignty and multi-racial democracy,” SCOTUSblog.com (February 2021) (with Harrison M. Stark). Copy supplied.

“Symposium: A trio of cases, a lot at stake,” SCOTUSblog.com (September 2019). Copy supplied.

“Early Ever After: Alumni Reflect on Life After Simon’s Rock,” in *Educating Outside the Lines: Bard College at Simon’s Rock on a “New Pedagogy” for the Twenty-First Century* (Nancy Yanoshak, ed. 2011) (with Dr. Michael A. Lawrence). Copy supplied.

- 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.

None.

- 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 December 2, 2021, I testified before the Senate Homeland Security and Government Affairs Committee in connection with my nomination to be an Associate Judge of the District of Columbia Court of Appeals. Opening statement and responses to questions for the record supplied and video available at <https://www.hsgac.senate.gov/hearings/nominations-of-loren-l-alikhan-and-john-p-howard-iii-to-be-associate-judges-district-of-columbia-court-of-appeals-and-adrienne-jennings-noti-to-be-an-associate-judge-superior-court-of-the-district-of>.

On February 18, 2021, I testified on behalf of the Office of the Attorney General for the District of Columbia before the House Judiciary Committee’s Subcommittee on Courts, Intellectual Property, and the Internet at its hearing, “The Supreme Court’s Shadow Docket.” Video available at <https://www.c-span.org/video/?509098-1/house-hearing-supreme-court-docket-case-load>.

On June 1, 2020, I signed a letter to the Senate Judiciary Committee supporting the nomination of then-Kansas Solicitor General Toby Crouse to the United States District Court for the District of Kansas. Copy supplied.

On February 25, 2020, I testified on behalf of the Office of the Attorney General for the District of Columbia before the Senate Judiciary Committee at its hearing, "Rule by District Judge: The Challenges of Universal Injunctions." Testimony and responses to questions for the record supplied.

On March 22, 2018, I testified on behalf of the Office of the Attorney General for the District of Columbia before the D.C. Council Committee on the Judiciary and Public Safety at its hearing on three proposed bills concerning "red flag" legislation. Recording supplied.

On February 6, 2018, I testified on behalf of the Office of the Attorney General for the District of Columbia before the D.C. Council concerning the "Todd S. Kim Recognition Resolution of 2018." Notes supplied.

- 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 am frequently asked to speak to law students and bar associations, judge moot courts, and conduct trainings and continuing legal education courses. I have not kept a comprehensive list of these events. The following is my best effort to recreate a list of speaking engagements based on my own records and Internet sources. It is possible that I have inadvertently omitted speeches or presentations for which I did not retain records.

April 24, 2023: Panelist, D.C. Bar: A Conversation with D.C. Court of Appeals Judges Howard, AliKhan, and Shanker, D.C. Court of Appeals, Washington, DC. I have no notes, transcript, or recording. The address of the D.C. Court of Appeals is 430 E Street, Northwest, Washington, DC 20001.

April 18, 2023: Panelist, Discussion about D.C. Appellate Courts with the 2023 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, DC. I used the same outline that was provided for the April 23, 2019, presentation.

March 24, 2023: Guest Lecturer, Law Reform and Impact Litigation Seminar, University of Virginia School of Law, Virtual Event. I spoke about defending the District of Columbia in impact litigation. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

March 21, 2023: Speaker, Judicial Brown Bag Lunch, The Appellate Project, Virtual Event. I spoke about my career path and answered questions about applying for judicial clerkships and working in public service. I have no notes, transcript, or recording. The address of the Appellate Project is 1835 7th Street, Northwest, #194, Washington, DC 20001.

February 27, 2023: Panelist, State Court Clerkships, Penn Carey Law School, Virtual Event. I spoke about judicial clerkships on the D.C. Court of Appeals. I have no notes, transcript, or recording. The address of the Penn Carey Law School is 3501 Sansom Street, Philadelphia, Pennsylvania 19104.

February 24, 2023: Moot Court Judge, 2023 D.C. Cup Moot Court Competition, D.C. Bar, Washington, DC. I served as the presiding judge for a moot court about a Fourth Amendment issue. I have no notes, transcript, or recording, but press coverage is supplied. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

February 23, 2023: Speaker, Brown Bag Lunch, American University Washington College of Law Appellate Advocacy Class, D.C. Court of Appeals, Washington, DC. I spoke to law students who visited the D.C. Court of Appeals as part of their appellate advocacy class. I have no notes, transcript, or recording. The address of the D.C. Court of Appeals is 430 E Street, Northwest, Washington, DC 20001.

February 4, 2023: Panelist, Appellate Courts, Robert E. Wone Annual Judicial Clerkship and Internship Conference, Asian Pacific American Bar Association of the District of Columbia, Washington, DC. I spoke about judicial clerkships on the D.C. Court of Appeals and my own experience clerking in federal court. I have no notes, transcript, or recording. The address of the Asian Pacific American Bar Association of the District of Columbia is P.O. Box 27223, Washington, DC 20038.

January 19, 2023: Panelist, Overview of the D.C. Courts, Office of the Attorney General for the District of Columbia Ruff Fellow Training, Washington, DC. I spoke about practicing in the D.C. Court of Appeals. I have no notes, transcript, or recording. The address of the Office of the Attorney General for the District of Columbia is 400 6th Street, Northwest, Washington, DC 20001.

January 17, 2023: Panelist, Appellate Advocacy, Vanderbilt Law School Chapter of the American Constitution Society, Virtual Event. I spoke about my career in

public service. I have no notes, transcript, or recording. The address of the Vanderbilt Law School is 131 21st Avenue South, Nashville, Tennessee 37203.

December 22, 2022: Speaker, South Asian Bar Association of Washington, D.C., Washington, DC. I issued the oath of office to incoming SABA-DC board members and thanked them for their time and efforts. I have no notes, transcript, or recording. The address of the South Asian Bar Association of Washington, D.C. is P.O. Box 65349, Washington, DC 20035.

November 15, 2022: Moderator, Practicing in the D.C. Court of Appeals, Edward Coke Appellate Inn of Court, Washington, DC. Notes supplied.

November 6, 2022: Moot Court Judge, 2022 Burton D. Wechsler National First Amendment Moot Court Competition, American University Washington College of Law, Washington, DC. I served as the presiding judge for a moot court. I have no notes, transcript, or recording. The address of the American University Washington College of Law is 4300 Nebraska Avenue, Northwest, Washington, DC 20016.

November 2, 2022: Presenter, Brown Bag Lunch, Yale Law School Chapter of the American Constitution Society, Virtual Event. I spoke about my career in public service and transition to the bench. I have no notes, transcript, or recording. The address of the Yale Law School is 127 Wall Street, New Haven, Connecticut 06511.

August 2, 2022: Presenter, High School Advisory Council, Office of the Attorney General for the District of Columbia, Washington, DC. I spoke with a group of high school students about the D.C. Court of Appeals. I have no notes, transcript, or recording. The address of the Office of the Attorney General for the District of Columbia is 400 6th Street, Northwest, Washington, DC 20001.

July 20, 2022: Panelist, Career Opportunities in State Solicitor General Offices, American Constitution Society, Virtual Event. I spoke about working in the D.C. Office of the Solicitor General. I have no notes, transcript, or recording. The address of the American Constitution Society is 601 13th Street, Northwest, Suite 610, Washington, DC 20005.

July 13, 2022: Presenter, Brown Bag Lunch with the Hispanic Bar Association of the District of Columbia Judicial Council Intern Program, Virtual Event. I spoke about my career in public service and transition to the bench. I have no notes, transcript, or recording. The address of the Hispanic Bar Association of the District of Columbia is P.O. Box 1011, Washington, DC 20013.

July 6, 2022: Remarks at the D.C. Bar Swearing-In Ceremony, Virtual Event. Video available at https://www.youtube.com/live/aaNS__81r0g?

June 14, 2022: Remarks at the American Constitution Society's Virtual Graduation Ceremony, Virtual Event. Video available at <https://www.youtube.com/watch?v=GGwZ-nszZpk>.

May 25, 2022: Panelist, 2022 APA Heritage Month Celebration: Judicial Panel Discussion, United States Attorney's Office for the District of Columbia, Virtual Event. I spoke about my career in public service and transition to the bench. I have no notes, transcript, or recording. The address of the United States Attorney's Office for the District of Columbia is 601 D Street, Northwest, Washington, DC 20001.

March 30, 2022: Moot Court Judge, Beaudry Moot Court Competition, Georgetown University Law Center, Washington, DC. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, Northwest, Washington, DC 20001.

February 25, 2022: Moot Court Judge, 2022 D.C. Cup Moot Court Competition, D.C. Bar, Virtual Event. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

July 26, 2021: Presenter, Supreme Court Update for Municipal Lawyers, 21st Annual Municipal Law Institute, Practising Law Institute, Virtual Event. Notes supplied.

July 19, 2021: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers LLP, Virtual Event. Notes supplied.

July 14, 2021: Panelist, Discussion about the Office of the Attorney General for the District of Columbia, Hispanic Bar Association of the District of Columbia Judicial Council Intern Program, Virtual Event. I spoke about working in the Office of the Attorney General for the District of Columbia. I have no notes, transcript, or recording. The address of the Hispanic Bar Association of the District of Columbia is P.O. Box 1011, Washington, DC 20013.

May 7, 2021: Guest Contributor, Was That Justice Breyer's Last Argument?, Bloomberg Law's *Cases and Controversies* Podcast, Virtual Recording. Recording available at <https://dcs.megaphone.fm/BL3054122755.mp3?key=4de634b365edd14db19ad918fbd241c6>.

April 19, 2021: Guest Lecturer, Appellate Courts Immersion Clinic, Georgetown University Law Center, Virtual Event. I used the same outline that was provided for the March 4, 2020, presentation.

April 15, 2021: Panelist, A Day in the Life of a Litigator, South Asian Bar Association of North America, Virtual Event. I spoke about litigating in local and federal courts in the District of Columbia. I have no notes, transcript, or recording. The address of the South Asian Bar Association of North America is 4930 Balboa Avenue, #260468, Encino, California 91426.

March 24, 2021: Panelist, Power Plays: Advocating for Yourself and Others in the Workplace, Penn State Professional Women's Network of Washington, DC, Virtual Event. Notes supplied.

March 16, 2021: Guest Lecturer, Law and Public Service Class, University of Virginia School of Law, Virtual Event. I spoke about my career in public service. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

February 26, 2021: Moot Court Judge, 2021 D.C. Cup Moot Court Competition, D.C. Bar, Virtual Event. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

February 18, 2021: Panelist, ACS at 20: Honoring Two Decades of Shaping Debate, Building the Network, and Making a Difference, American Constitution Society, Virtual Event. Video available at <https://www.acslaw.org/video/acs-at-20-honoring-two-decades-of-shaping-debate-building-the-network-and-making-a-difference>.

January 27, 2021: Presenter, Training: Writing a Decision to Withstand Appellate Scrutiny, D.C. Office of Administrative Hearings, Virtual Event. I used the same outline that was provided for the February 21, 2019, presentation.

October 16, 2020: Panelist, Excessive Force Claims: Arrestees, Detainees, and Prisoners, 37th Annual Section 1983 Civil Rights Litigation Program, Practising Law Institute, Virtual Event. I spoke about defending suits under 42 U.S.C. § 1983. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 Avenue of the Americas, Second Floor, New York, New York 10036.

October 14, 2020: Panelist, The Role of a Solicitor General, co-hosted by the Georgetown University Law Center Chapter of the American Constitution Society and the Georgetown University Law Center Chapter of the Federalist Society, Virtual Event. Notes supplied.

October 8, 2020: Presenter, Coffee Chat with *Harvard Law Review* Editors, Harvard Law School, Virtual Event. I spoke about my legal career. I have no notes, transcript, or recording. The address of the *Harvard Law Review* is 1511 Massachusetts Avenue, Cambridge, Massachusetts 02138.

October 1, 2020: Panelist, Fighting the Big Fights: Litigating at the Supreme Court, co-hosted by the *Harvard Law Review*, the Harvard Law School Chapter of the American Constitution Society, and the Harvard Law School Chapter of the Federalist Society, Virtual Event. I spoke about litigating in the U.S. Supreme Court. I have no notes, transcript, or recording. The address of the Harvard Law School is 1585 Massachusetts Avenue, Cambridge, Massachusetts 02138.

August 13, 2020: Presenter, Training: Motions for Summary Adjudication, D.C. Office of Administrative Hearings, Virtual Event. I spoke to new administrative law judges about drafting opinions in summary adjudication matters. I have no notes, transcript, or recording. The address of the D.C. Office of Administrative Hearings is 441 4th Street, Northwest, Suite 450, Washington, DC 20001.

August 12, 2020: Panelist, Supreme Court Review, Apple, Inc., Virtual Event. Notes supplied.

August 4, 2020: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers LLP, Virtual Event. Notes supplied.

July 20, 2020: Presenter, Supreme Court Update for Municipal Lawyers, 20th Annual Municipal Law Institute, Practising Law Institute, Virtual Event. Notes supplied.

June 26, 2020: Panelist, Supreme Court Term Review, South Asian Bar Association of North America Annual Conference, Virtual Event. Video available at <https://www.youtube.com/watch?v=WG2YIYyvpec&feature>.

June 10, 2020: Panelist, Appellate Practice Group Dinner, American Constitution Society, Virtual Event. I spoke about my career in litigation. I have no notes, transcript, or recording. The address of the American Constitution Society is 601 13th Street, Northwest, Suite 610, Washington, DC 20005.

March 4, 2020: Guest Lecturer, Georgetown Appellate Litigation Clinic, Georgetown University Law Center, Washington, DC. Notes supplied.

February 28, 2020: Moot Court Judge, 2020 D.C. Cup Moot Court Competition, D.C. Bar, Washington, DC. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

February 12, 2020: Panelist, Nationwide Injunctions and Federal Regulatory Programs, Administrative Conference of the United States, Washington, DC. Transcript supplied.

January 24, 2020: Panelist, Working in an Attorney General's Office, Yale Law School Chapter of the American Constitution Society, Washington, DC. I spoke

about working in the Office of the Attorney General for the District of Columbia. I have no notes, transcript, or recording. The address of the Yale Law School is 127 Wall Street, New Haven, Connecticut 06511.

January 21, 2020: Panelist, Discussion with members of the Harvard Law Supreme Court Clinic, Goldstein & Russell, P.C., Bethesda, Maryland. I spoke about litigating in the U.S. Supreme Court. I have no notes, transcript, or recording. The address of Goldstein & Russell, P.C. is 7475 Wisconsin Avenue, Northwest, Suite 850, Bethesda, Maryland 20814.

October 15, 2019: Guest Lecturer, Federal Practice Seminar: Contemporary Issues, Georgetown University Law Center, Washington, DC. Notes supplied.

October 10, 2019: Panelist, Supreme Court Term Preview, University of Virginia Chapter of the American Constitution Society, Charlottesville, Virginia. I spoke about the 2019-20 Supreme Court Term. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

September 26, 2019: Panelist, Supreme Court Advocacy: Where Are the Women?, Women's Bar Association of the District of Columbia, Washington, DC. I spoke about litigating in the U.S. Supreme Court. I have no notes, transcript, or recording. The address of the Women's Bar Association of the District of Columbia is 2020 Pennsylvania Avenue, Northwest, Suite 446, Washington, DC 20006.

July 29, 2019: Presenter, Supreme Court Update for Municipal Lawyers, 19th Annual Municipal Law Institute, Practising Law Institute, New York, New York. Notes supplied.

July 11, 2019: Moderator, Supreme Court Term Review, National Association of Attorneys General State Solicitors General and Appellate Chiefs Conference, Washington, DC. Notes supplied.

July 2, 2019: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers LLP, Washington, DC. Notes supplied.

June 22, 2019: The Role and Impact of Solicitors General, South Asian Bar Association of North America Annual Conference, Atlanta, Georgia. Video available at <https://www.youtube.com/watch?v=nODqpl70DHA>.

June 18, 2019: Speaker, Brown Bag Lunch with D.C. Court of Appeals law clerks, D.C. Court of Appeals, Washington, DC. Notes supplied.

June 17, 2019: Panelist, Discussion with delegates from the Academy of Public Administration of Kazakhstan, Office of the Attorney General for the District of

Columbia, Washington, DC. I spoke about working in the Office of the Attorney General for the District of Columbia. I have no notes, transcript, or recording. The address of the Office of the Attorney General for the District of Columbia is 400 6th Street, Northwest, Washington, DC 20001.

June 3, 2019: Remarks at the U.S. District Court for the District of Columbia's Attorney Admissions Ceremony, Washington, DC. Copy supplied.

May 9, 2019: Panelist, Appellate Strategies: Insights on the Many Strategic Issues Facing an Appellate Advocate Before Putting Pen to Paper, National Association of Attorneys General Appellate Advocacy Conference, National Harbor, Maryland. Notes supplied.

April 24, 2019: Moderator, Panel on D.C. Appellate Courts for the 2019 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, DC. Notes supplied.

April 23, 2019: Panelist, Discussion about U.S. Supreme Court arguments with the 2019 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, DC. I spoke with visiting law clerks about the differences between practice in the U.S. Supreme Court and the U.K. Supreme Court. I have no notes, transcript, or recording. The address of the American Inns of Court Foundation is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

April 10, 2019: Panelist, Advanced Legal Writing Training, Mayor's Office of Legal Counsel, Washington, DC. Notes supplied.

March 28, 2019: Guest Lecturer, Appellate Courts Immersion Clinic, Georgetown University Law Center, Washington, DC. I used the same outline that was provided for the January 23, 2019, presentation.

February 23, 2019: Panelist, Working at State Attorney General's Offices, American Constitution Society 2019 Student Convention, Charlottesville, Virginia. I spoke about working in the Office of the Attorney General for the District of Columbia. I have no notes, transcript, or recording. The address of the American Constitution Society is 601 13th Street, Northwest, Suite 610, Washington, DC 20005.

February 21, 2019: Training for Administrative Law Judges, D.C. Office of Administrative Hearings, Washington, DC. Notes supplied.

February 7, 2019: Panelist, Golden Gate University School of Law Appellate Advocacy Class, Virtual Event. I spoke on a panel about *Nieves v. Bartlett* (17-1174). I have no notes, transcript, or recording. The address of the Golden Gate University School of Law is 536 Mission Street, San Francisco, California 94105.

January 23, 2019: Guest Lecturer, Georgetown Appellate Litigation Clinic, Georgetown University Law Center, Washington, DC. Notes supplied.

December 5, 2018: Panelist, Implications of an Increasingly Conservative Federal Judiciary on GVP Laws, Center for American Progress 2018 Annual National Gun Violence Prevention Meeting, Washington, DC. I spoke about recent Second Amendment cases in the District of Columbia. I have no notes, transcript, or recording. The address for the Center for American Progress is 1333 H Street, Northwest, Suite 1, Washington, DC 20005.

November 2, 2018: Panelist, Nationwide Injunctions: The Good, the Bad, and the Ugly, American Bar Association Administrative Law Conference, Washington, DC. Notes supplied.

October 24, 2018: Panelist, Discussion with members of the Lagos State Judicial Services Commission, Office of the Attorney General for the District of Columbia, Washington, DC. I spoke about working in the Office of the Attorney General for the District of Columbia. I have no notes, transcript, or recording. The address of the Office of the Attorney General for the District of Columbia is 400 6th Street, Northwest, Washington, DC 20001.

October 19, 2018: Panelist, The Law Student's Guide to Becoming Solicitor General, University of Virginia Chapter of the American Constitution Society, Charlottesville, Virginia. Recording available at <https://soundcloud.com/uva-law/the-law-students-guide-to-becoming-solicitor-general>.

October 13, 2018: Opening remarks at the Robert E. Wone Annual Judicial Clerkship and Internship Conference, Asian Pacific American Bar Association of the District of Columbia, Washington, DC. I spoke about my legal career and the importance of judicial clerkships. I have no notes, transcript, or recording. The address of the Asian Pacific American Bar Association of the District of Columbia is P.O. Box 27223, Washington, DC 20038.

October 10, 2018: Panelist, Gun Safety Law and Policy in the D.C. Metro Area, co-hosted by the American University Washington College of Law Chapter of the American Constitution Society and the D.C. Lawyer Chapter of the American Constitution Society, Washington, DC. I spoke about recent Second Amendment cases in the District of Columbia. I have no notes, transcript, or recording. The address of the American University Washington College of Law is 4300 Nebraska Avenue, Northwest, Washington, DC 20016.

September 20, 2018: Panelist, Seeking and Defending Certiorari, VBA Appellate Summit, Virginia Bar Association, Richmond, Virginia. I spoke about drafting petitions for certiorari and briefs in opposition to certiorari in the U.S. Supreme Court. I have no notes, transcript, or recording. The address of the Virginia Bar Association is 1111 East Main Street, Suite 905, Richmond, Virginia 23219.

July 30, 2018: Presenter, Supreme Court Update for Municipal Lawyers, 18th Annual Municipal Law Institute, Practising Law Institute, New York, New York. Notes supplied.

July 11, 2018: Guns and Home Rule: 10 Years After *Heller*, D.C. Bar, Washington, DC. I spoke about recent Second Amendment cases in the District of Columbia. I have no notes, transcript, or recording. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

June 30, 2018: Panelist, Supreme Court Term Review, South Asian Bar Association of North America Annual Conference, New York, New York. Notes supplied.

June 8, 2018: Deregulation, Defunding, and Deference: The Administrative State in the Age of Trump, American Constitution Society 2018 National Convention, Washington, DC. I spoke about recent administrative law cases in the District of Columbia. I have no notes, transcript, or recording. The address of the American Constitution Society is 601 13th Street, Northwest, Suite 610, Washington, DC 20005.

June 5, 2018: Training for Administrative Law Judges, D.C. Office of Administrative Hearings, Washington, DC. Notes supplied.

April 27, 2018: Panelist, Discussion about U.S. Supreme Court arguments with the 2018 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, DC. I spoke with visiting law clerks about the differences between practice in the U.S. Supreme Court and the U.K. Supreme Court. I have no notes, transcript, or recording. The address of the American Inns of Court Foundation is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

April 20, 2018: Panelist, Framing the Question Presented and Drafting the Petition for Certiorari, International Municipal Lawyers Association Supreme Court and Appellate Practice Program, Washington, DC. Notes supplied.

March 19, 2018: Moot Court Judge, 2018 D.C. Cup Moot Court Competition, D.C. Bar, Washington, DC. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

March 15, 2018: Panelist, Supreme Court Midterm Review, State and Local Law Center, Virtual Event. I spoke about the 2017-18 Supreme Court Term. I have no notes, transcript, or recording. The address of the State and Local Law Center is 444 North Capitol Street, Suite 515, Washington, DC 20001.

February 12, 2018: Panelist, Getting Involved in State and Local Government: A Conversation About Careers in Offices of Attorneys General in the D.C. Area,

D.C. Lawyer Chapter of the American Constitution Society, Washington, DC. I spoke about working in the Office of the Attorney General for the District of Columbia. I have no notes, transcript, or recording. The address of the American Constitution Society is 601 13th Street, Northwest, Suite 610, Washington, DC 20005.

December 11, 2017: Moot Court Judge, Georgetown University Law Center, Washington, DC. I served as a judge for an undergraduate communications class's moot court. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, Northwest, Washington, DC 20001.

October 25, 2017: Guest Speaker, Discussion with Georgetown University's undergraduate Courtroom Communications class about oral argument preparation, Georgetown University Law Center, Washington, DC. I spoke with an undergraduate communications class about courtroom advocacy. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, Northwest, Washington, DC 20001.

August 14, 2017: Presenter, Supreme Court Update for Municipal Lawyers, 17th Annual Municipal Law Institute, Practising Law Institute, New York, New York. Notes supplied.

July 14, 2017: Panelist, Supreme Court Term Review, South Asian Bar Association of North America Annual Conference, Washington, DC. Notes supplied.

May 8, 2017: Panelist, Appellate Strategies: Insights on the Many Strategic Issues Facing an Appellate Advocate Before Putting Pen to Paper, National Association of Attorneys General Appellate Practice Conference, Washington, DC. Notes supplied.

April 25, 2017: Panelist, Discussion about U.S. Supreme Court arguments with the 2017 U.K. Supreme Court clerks, American Inns of Court Foundation, Washington, DC. I spoke with visiting law clerks about the differences between practice in the U.S. Supreme Court and the U.K. Supreme Court. I have no notes, transcript, or recording. The address of the American Inns of Court Foundation is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

December 12, 2016: Moot Court Judge, Georgetown University Law Center, Washington, DC. I served as a judge for an undergraduate communications class's moot court. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, Northwest, Washington, DC 20001.

September 23, 2016: Moot Court Advocate, American Inns of Court Foundation, Washington, DC. I presented a mock argument on behalf of the University of Texas in *Fisher v. University of Texas* (14-981) for visiting barristers as part of a comparative moot exercise. I have no notes, transcript, or recording. The address of the American Inns of Court Foundation is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

August 15, 2016: Presenter, Supreme Court Update for Municipal Lawyers, 16th Annual Municipal Law Institute, Practising Law Institute, New York, New York. I spoke about the 2015-16 Supreme Court Term. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 Avenue of the Americas, Second Floor, New York, New York 10036.

March 11, 2016: Moot Court Judge, 2016 D.C. Cup Moot Court Competition, D.C. Bar, Washington, DC. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of the D.C. Bar is 901 4th Street, Northwest, Washington, DC 20001.

February 11, 2016: Panelist, U.S. Supreme Court: A Look Forward and Back, DRI Appellate Advocacy Seminar, Scottsdale, Arizona. I spoke about the 2015-16 Supreme Court Term. I have no notes, transcript, or recording. The address of DRI is 222 South Riverside Plaza, Suite 1870, Chicago, Illinois 60606.

August 17, 2015: Presenter, Supreme Court Update for Municipal Lawyers, 15th Annual Municipal Law Institute, Practising Law Institute, New York, New York. I spoke about the 2014-15 Supreme Court Term. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 Avenue of the Americas, Second Floor, New York, New York 10036.

July 1, 2015: Moot Court Judge, Advocacy Institute, O'Melveny & Myers LLP, Washington, DC. I served as a judge for a moot court. I have no notes, transcript, or recording. The address of O'Melveny & Myers LLP is 1625 Eye Street, Northwest, Washington, DC 20006.

June 10, 2015: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers LLP, Washington, DC. I have no notes, transcript, or recording. The address of O'Melveny & Myers LLP is 1625 Eye Street, Northwest, Washington, DC 20006.

July 7, 2014: Moot Court Advocate, American Inns of Court Foundation, London, U.K. I presented a mock argument based on the Michael Lewis book, *The Big Short: Inside the Doomsday Machine*, as part of a comparative moot exercise. I have no notes, transcript, or recording. The address of the American Inns of Court Foundation is 225 Reinekers Lane, Suite 770, Alexandria, Virginia 22314.

July 1, 2014: Moot Court Judge, Advocacy Institute, O'Melveny & Myers LLP, Washington, DC. I served as a judge for a moot court about a securities issue. I have no notes, transcript, or recording. The address of O'Melveny & Myers LLP is 1625 Eye Street, Northwest, Washington, DC 20006.

June 25, 2014: Panelist, Alumni Panel for Summer Associates, O'Melveny & Myers LLP, Washington, DC. I have no notes, transcript, or recording. The address of O'Melveny & Myers LLP is 1625 Eye Street, Northwest, Washington, DC 20006.

January 31, 2014: Panelist, Ms. JD Presents: Women in Appellate Law, O'Melveny & Myers LLP, Washington, DC. I spoke about my career as a litigator. I have no notes, transcript, or recording. The address of O'Melveny & Myers LLP is 1625 Eye Street, Northwest, Washington, DC 20006.

March 21, 2012: Presenter, Legally Speaking, Voice of Russia Radio, Washington, DC. I spoke about the Supreme Court's opinions in *Lafler v. Cooper* (10-209) and *Missouri v. Frye* (10-444). I have no notes, transcript, or recording. Voice of Russia Radio closed its Washington, DC bureau in 2014.

December 6, 2011: Panelist, *Fisher v. University of Texas: Are Campus Racial Preferences Out of Control?*, Heritage Foundation, Washington, DC. I spoke about *Fisher v. University of Texas* (14-981). I have no notes, transcript, or recording. The address of the Heritage Foundation is 214 Massachusetts Avenue, Northeast, Washington, DC 20002.

November 2, 2011: Presenter, Legally Speaking, Voice of Russia Radio, Washington, DC. I spoke about the Supreme Court's oral arguments in *Lafler v. Cooper* (10-209) and *Missouri v. Frye* (10-444). I have no notes, transcript, or recording. Voice of Russia Radio closed its Washington, DC bureau in 2014.

April 10, 2006: Panelist, Do I Have To?, Georgetown University Law Center Office of Public Interest and Community Service, Washington, DC. I spoke to first-year law students about activities, internships, and employment opportunities. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, Northwest, Washington, DC 20001.

February 7, 2005: Speaker, Introducing Congresswoman Jane Harmon for the 2005 Congress and the Courts Address, Georgetown University Law Center Chapter of the American Constitution Society. Recording available at <https://www.c-span.org/video/?185460-1/intelligence-issues>.

- 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.

John Murph, "Loren AliKhan, John Howard Take Oath as New D.C. Court of Appeals Judges," D.C. Bar, February 2022. Copy supplied.

Kimberly Strawbridge Robinson, "Women Litigators See More Job Prospects With State SG Offices," *Bloomberg Law*, February 2019. Copy supplied.

Barbara Grzincic, "The School for SCOTUS," *Georgetown Law Magazine*, Fall/Winter 2018. Copy supplied.

Press Release, "Attorney General Racine Appoints Loren AliKhan as the District's Second Solicitor General," March 2018. Copy supplied.

Bee Shapiro, "Two Piece Wedding Dresses Make Their Statement," *New York Times*, September 2015. Copy supplied.

Zoe Tillman, "40 Under 40 – Loren AliKhan," *Legal Times*, September 2014. Copy supplied.

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

Since February 2022, I have served as an Associate Judge of the D.C. Court of Appeals. I was nominated by President Joseph R. Biden in September 2021, confirmed by the United States Senate in February 2022, and took the oath of office on February 18, 2022. The D.C. Court of Appeals is the highest appellate court for the District of Columbia. It hears appeals from the Superior Court of the District of Columbia and more than 50 local administrative agencies.

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

I have not presided over any cases that have gone to verdict or judgment. During my tenure as an appellate judge, I estimate that I have heard approximately 100 appeals as a member of a merits panel and issued approximately 200 decisions as a member of a motions panel.

- i. Of these cases, approximately what percent were:

jury trials:	0%
bench trials:	0%

- ii. Of these cases, approximately what percent were:

civil proceedings: 65%
criminal proceedings: 35%

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

In re Paul, 2023 WL 3012151 (D.C. Apr. 20, 2023)

In re S.U., 2023 WL 2920926 (D.C. Apr. 13, 2023)

Smith v. United States, 288 A.3d 766 (D.C. 2023)

In re Tun, 286 A.3d 538 (D.C. 2022)

U Street Music Hall, LLC v. JRC Standard Properties, LLC,
285 A.3d 1250 (D.C. 2022)

Pleasant v. Gibson, 285 A.3d 1246 (D.C. 2022)

Decuir v. United States, 285 A.3d 512 (D.C. 2022)

In re Chapman, 284 A.3d 395 (D.C. 2022)

Caesar v. Westchester Corporation, 280 A.3d 176 (D.C. 2022)

Geary v. National Newspaper Publishers Association, 279 A.3d 371 (D.C. 2022)

I noted a dissent from judgment, but did not write separately, in *Richardson v. United States*, 277 A.3d 940 (D.C. 2022).

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

I have not generally “presided” over cases in the sense that this term usually connotes. I have identified ten representative cases that I participated in.

1. *Khan v. Orbis Business Intelligence, Ltd.*, 2023 WL 2920883 (Apr. 13, 2023)

In this case, the D.C. Court of Appeals considered an award of attorney’s fees and costs to prevailing defendants under the fee-shifting provision of the District of Columbia Anti-SLAPP Act, D.C. Code §§ 16-5501 to -5505. The plaintiffs had filed a defamation action against the defendants, and after the defendants prevailed on a special motion to dismiss under the Anti-SLAPP Act, they sought

fees and costs, which the trial court awarded. On appeal, the plaintiffs raised several arguments against the fee award, including that “special circumstances” made the award unjust, that the fee-shifting provision violated the First Amendment both facially and as-applied, that the fee-shifting provision impermissibly deviated from the Federal Rules of Civil Procedure, and that the trial court had abused its discretion. On appeal, in a decision authored by Senior Judge Glickman, the court rejected each of the plaintiffs’ arguments and affirmed.

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2. *Trump v. Carroll*, 2023 WL 2920882 (Apr. 13, 2023) (en banc)

After the U.S. Court of Appeals for the Second Circuit certified a question of District of Columbia *respondeat superior* law to the D.C. Court of Appeals, the en banc court held that the District of Columbia generally follows the scope-of-employment test set forth in the Restatement (Second) of Agency. The court was unable to apply the District’s scope-of-employment test to the facts of the case, however, because the scope-of-employment question was both fact-intensive and implicated questions of federal law under the Westfall Act, 28 U.S.C. § 2679(d)(2), making it more appropriate for resolution by the U.S. District Court for the Southern District of New York. Chief Judge Blackburne-Rigsby authored

the opinion for the en banc court, and Associate Judge McLeese issued an opinion concurring in part and dissenting in part.

Counsel for appellant:

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Counsel for intervenor:

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3. *Corcoran Gallery of Art v. Petty*, 2023 WL 2604592 (Mar. 23, 2023)

After a probate court in California issued a judgment requiring the Corcoran Gallery of Art to return certain artwork and funds to the trust that owned them, the trust sought to enforce that judgment in the District of Columbia. The Corcoran Gallery opposed the motion, arguing that the California probate court had lacked jurisdiction to enter the order. While the matter was pending in the D.C. Superior Court, the California Court of Appeal affirmed the California probate decision—rejecting the Corcoran Gallery’s jurisdictional arguments—and the D.C. Superior Court thereafter granted the motion to enforce after giving full faith and credit to the California Court of Appeal’s decision. The D.C. Court of Appeals affirmed, holding that the California Court of Appeal’s decision was entitled to full faith and credit. Associate Judge Deahl authored the panel’s opinion.

Counsel for appellants:

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Paul Werner, Esq.
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4. *Rayner v. Yale Steam Laundry Condominium Association*,
289 A.3d 387 (D.C. 2023)

In this dispute between a condominium unit owner and the condominium association concerning the owner's two dogs, the D.C. Court of Appeals affirmed the D.C. Superior Court's orders dismissing the owner's complaint, denying leave to amend, and denying leave to vacate the dismissal and reinstate the complaint. The D.C. Court of Appeals held that the condominium association had complied with its own procedures and with due process in connection with its disciplinary proceedings against the owner, that the owner could not bring claims of negligence, breach of fiduciary duty, or retaliation, that the \$100 fine the association had imposed on the owner was reasonable, and that there was no basis for reopening the judgment against the owner. Senior Judge Ferren authored the panel's opinion.

Appellant proceeded *pro se*

Counsel for appellee:

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5. *Smith v. United States*, 288 A.3d 766 (D.C. 2023)

The defendant appealed his conviction for first-degree sexual abuse, alleging a violation of *Batson v. Kentucky*, 476 U.S. 79 (1986), and the subsequent denial of his motion for a new trial under D.C. Code § 23-110, alleging ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984). In a decision I authored, the D.C. Court of Appeals affirmed, concluding that the trial court had not clearly erred in crediting the government's race-neutral reasons for striking three jurors, had not clearly erred in crediting the testimony of the defendant's trial attorneys that they had prepared the defendant to testify, and had not abused its discretion in finding that the defendant's trial attorneys had made a reasonable tactical choice in not calling a police witness to testify on behalf of the defense.

Counsel for appellant:

Sean R. Day, Esq.
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Counsel for appellee:

Nicholas P. Coleman, Esq.

Elizabeth Gabriel, Esq.
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6. *In re Joseph*, 287 A.3d 1248 (D.C. 2023) (per curiam)

In this per curiam opinion, the D.C. Court of Appeals denied a disbarred attorney's petition for reinstatement to the D.C. Bar. The panel concluded that the petitioner had not satisfied the criteria for reinstatement because he had brought vexatious *pro se* litigation after his disbarment and had not shown that the traits that had led to his disbarment no longer existed.

Petitioner proceeded *pro se*

Counsel for respondent:

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Hamilton P. Fox III, Esq.
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7. *Pleasant v. Gibson*, 285 A.3d 1246 (D.C. 2022)

In an opinion I authored, the D.C. Court of Appeals held that the trial court had erred in finding that a paternal grandfather lacked standing to intervene in a custody proceeding involving his grandchild because the court had misapplied the three-step process for third-party custody set forth in D.C. Code §§ 16-831.01 to -.07.

Counsel for appellant:

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Stephanie McClellan, Esq.
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Appellee proceeded pro se

8. *Decuir v. United States*, 285 A.3d 512 (D.C. 2022)

The jury convicted the defendant of several offenses at his first trial but was unable to reach a verdict on charges of second-degree murder and a related weapons offense. The second trial on these two charges ended in a mistrial, but the defendant was ultimately convicted of both charges after a third trial. The defendant appealed all of his convictions. In an opinion I authored, the D.C. Court of Appeals concluded that the admission of a witness's testimony from the second trial at his third trial violated the Confrontation Clause because the government had not met its burden of establishing that the witness was unavailable to testify at the third trial. The court concluded that this error was not harmless beyond a reasonable doubt and required vacatur and remand of the convictions for second-degree murder and the related weapons offense. The court affirmed the convictions from the first trial, rejecting the defendant's claims of error.

Counsel for appellant:

Jennifer Williams, Esq.
Public Defender Service for the District of Columbia
633 Indiana Avenue, Northwest
Washington, DC 20004
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Counsel for appellee:

Ethan L. Carroll, Esq.
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9. *In re T.S.*, 279 A.3d 382 (D.C. 2022) (per curiam)

In this per curiam decision, the D.C. Court of Appeals determined that it lacked jurisdiction to consider the merits of a magistrate judge's order placing a child in shelter care because the order had not been reviewed in the first instance by an associate judge of the D.C. Superior Court in accordance with D.C. Code § 11-1732(k). The court further held that the associate judge had erred in dismissing an appeal of the magistrate judge's ruling because the associate judge had not considered Section 11-1732(k) and had misinterpreted a local procedural rule. The court remanded the matter so that an associate judge could review the merits of the magistrate judge's order.

Counsel for appellant:

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Melissa Colangelo, Esq.
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Counsel for appellee:

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10. *McDuffie v. D.C. Board of Elections*, 273 A.3d 838 (D.C. 2022) (per curiam)

In this expedited appeal, the D.C. Court of Appeals affirmed the decision of the D.C. Board of Elections that an individual was not eligible to be a candidate for Attorney General for the District of Columbia because he did not meet the statutory criteria for office under D.C. Code § 1-301.83(a). Specifically, the court concluded that a legislator who has a law degree but does not practice law could not satisfy the requirement that he have “been actively engaged, for at least 5 of the [past] 10 years . . . as . . . [a]n attorney employed in the District of Columbia by . . . the District of Columbia,” *id.* § 1-301.83(a)(5)(D), because this provision is most naturally read to require employment in a position for which membership in a bar is a condition.

Counsel for petitioner:

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- 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 Paul*, 2023 WL 3012151 (D.C. Apr. 20, 2023)

Appellant proceeded pro se

Counsel for appellee:

Julia Porter, Esq.
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2. *In re S.U.*, 2023 WL 2920926 (D.C. Apr. 13, 2023)

Appellants proceeded pro se

Appellee proceeded pro se

3. *Smith v. United States*, 288 A.3d 766 (D.C. 2023)

Counsel for appellant:

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Counsel for appellee:

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4. *In re Tun*, 286 A.3d 538 (D.C. 2022)

Counsel for appellant:

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5. *U Street Music Hall, LLC v. JRC Standard Properties, LLC*,
285 A.3d 1250 (D.C. 2022)

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6. *Pleasant v. Gibson*, 285 A.3d 1246 (D.C. 2022)

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Appellee proceeded *pro se*

7. *Decuir v. United States*, 285 A.3d 512 (D.C. 2022)

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Counsel for appellee:

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U.S. Attorney's Office for the District of Columbia
601 D Street, Northwest
Washington, DC 20001
(202) 252-6829

8. *In re Chapman*, 284 A.3d 395 (D.C. 2022)

Appellant proceeded *pro se*

Counsel for appellee:

Myles V. Lynk, Esq.
Hamilton P. Fox III, Esq.
Office of Disciplinary Counsel
515 5th Street, Northwest
Building A, Room 117
Washington, DC 20001
(202) 638-1501

9. *Caesar v. Westchester Corporation*, 280 A.3d 176 (D.C. 2022)

Counsel for appellant:

Sander M. Davidson, Esq.
Law Offices of Sander M. Davidson
1700 Rockville Pike, Suite 400
Rockville, MD 20852
(301) 881-4488

Appellant proceeded, in part, *pro se*

Counsel for appellee:

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Aaron L. Handleman, Esq.
Eccleston & Wolf, P.C.
1629 K Street, Northwest, Suite 260
Washington, DC 20006
(202) 857-1696

10. *Geary v. National Newspaper Publishers Association*,
279 A.3d 371 (D.C. 2022)

Counsel for appellant:

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1310 L Street, Northwest, Suite 750
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Counsel for appellee:

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McLean, VA 22102
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e. Provide a list of all cases in which certiorari was requested or granted.

None.

- 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.

None.

- 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.

Approximately 50 percent of my decisions have been unpublished memorandum opinions and judgments. The D.C. Court of Appeals Clerk's Office maintains a record of these decisions. All of my other decisions are available on legal databases such as Westlaw or Lexis.

- 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.

Khan v. Orbis Business Intelligence, Ltd., 2023 WL 2920883 (Apr. 13, 2023)
Smith v. United States, 288 A.3d 766 (D.C. 2023)
Decuir v. United States, 285 A.3d 512 (D.C. 2022)

- 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.

I have not sat by designation on any federal court of appeals.

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.

Pursuant to the D.C. Courts Code of Judicial Conduct, judges are disqualified from “any proceeding in which the judge’s impartiality might reasonably be questioned.” D.C. Code of Jud. Conduct R. 2.11 (2018 ed.). Out of an abundance of caution, I have sua sponte recused myself from all cases involving the Office of the Attorney General for the District of Columbia that were pending before the District of Columbia courts and administrative tribunals during my tenure with the office (2013 – 2022). No party has ever sought my recusal from a case.

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.

From February 2018 to February 2022, I served as Solicitor General for the District of Columbia. I was appointed by Attorney General Karl A. Racine.

From November 2017 to February 2018, I served as Acting Solicitor General for the District of Columbia. I was appointed by Attorney General Karl A. Racine.

From November 2013 to November 2017, I served as Deputy Solicitor General for the District of Columbia. I was appointed by Attorney General Irvin B. Nathan.

I have never run for elective office or had an unsuccessful nomination for appointed office.

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

I have not held any office in or rendered services to any political party or election committee.

16. Legal Career: Answer each part separately.

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

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

From 2006 to 2007, I served as a law clerk to the Honorable Louis H. Pollak on the U.S. District Court for the Eastern District of Pennsylvania.

From 2007 to 2008, I served as a law clerk to the Honorable Thomas L. Ambro on the U.S. Court of Appeals for the Third Circuit.

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

I have never practiced law alone.

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

2008 – 2009
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, Northwest
Washington, DC 20530
Bristow Fellow

2010 – 2013
O'Melveny & Myers LLP
1625 Eye Street, Northwest
Washington, DC 20006
Associate (2010 – 2012)
Counsel (2012 – 2013)

2013 – 2022
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
400 6th Street, Northwest, Suite 8100
Washington, DC 20001
Deputy Solicitor General (2013 – 2017)
Acting Solicitor General (2017 – 2018)
Solicitor General (2018 – 2022)

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

I have never served as a mediator or an arbitrator.

b. Describe:

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

The majority of my practice was litigating complex cases in trial courts and handling appellate litigation across a wide variety of subjects (including civil, criminal, and administrative matters).

As a Bristow Fellow in the Office of the Solicitor General at the U.S. Department of Justice from 2008 to 2009, I drafted briefs in opposition to petitions for certiorari, prepared recommendations regarding the authorization of government appeals, and assisted more senior attorneys with their merits briefs and oral arguments in the U.S. Supreme Court. I also briefed and argued an appeal in the U.S. Court of Appeals for the District of Columbia Circuit.

As a litigator with O'Melveny & Myers LLP from 2010 to 2013, I represented Fortune 500 companies in matters involving contract interpretation, statutory interpretation, class certification, antitrust, patent infringement, and products liability in state and federal trial and appellate courts. I also had a robust pro bono practice, through which I represented individual parties and non-profit amici curiae.

During my tenure with the Office of the Attorney General for the District of Columbia, I had substantial responsibility for the District of Columbia's litigation in local and federal trial and appellate courts on a wide range of issues including administrative law, constitutional law, consumer protection, criminal law, employment discrimination, tax, and torts.

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

As a Bristow Fellow in the Office of the Solicitor General at the U.S. Department of Justice, my sole client was the United States.

At O'Melveny & Myers LLP, I represented a wide variety of clients, including airlines, financial institutions, health care companies, criminal defendants, and non-profit institutions.

At the Office of the Attorney General for the District of Columbia, my client was the District of Columbia, its approximately 50 subordinate agencies, and its employees.

- 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.

While working as a practicing attorney for 14 years (not including the years I spent clerking and serving as a judge), my practice was almost exclusively in litigation. I appeared in court with some frequency between 2008 and 2013, and with even greater frequency while serving in the Office of the Attorney General for the District of Columbia from 2013 to 2022. I have argued in the Supreme Court of the United States once, in the U.S. Courts of Appeals twelve times, in state appellate courts six times, and in federal district courts six times.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 33% |
| 2. state courts of record: | 66% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 1% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 85% |
| 2. criminal proceedings: | 15% |

- 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.

While at O'Melveny & Myers LLP, I was associate counsel on three cases tried to jury verdict. I also served as associate or chief counsel during discovery, in class certification proceedings, and on dispositive motions for several more cases. During my tenure with the Office of the Attorney General for the District of Columbia, I was supervisory counsel on numerous bench and jury trials, primarily advising on motions in limine, evidentiary objections, jury instructions, and post-trial motions.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 50% |
| 2. non-jury: | 50% |

- 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.

During my tenure with the Office of the Attorney General for the District of Columbia, I drafted merits briefs in two cases (*District of Columbia v. Wesby*, No. 15-1485, and *Artis v. District of Columbia*, No. 16-460), argued one merits case

Artis v. District of Columbia, No. 16-460), and drafted several certiorari-stage briefs and amicus briefs. The full list is as follows:

Concepcion v. United States, No. 20-1650, Amicus Brief of the District of Columbia, et al., 2021 WL 5507308 (Nov. 2021)

CVS Pharmacy, Inc. v. Doe, No. 20-1374, Amicus Brief of the District of Columbia, et al., 2021 WL 4220962 (Sept. 2021)

United States v. Vaello Madero, No. 20-303, Amicus Brief of the District of Columbia, et al., 2021 WL 4121484 (Sept. 2021)

Safehouse v. U.S. Department of Justice, No. 21-276, Amicus Brief of the District of Columbia, et al. in support of Certiorari, 2021 WL 4462996 (Sept. 2021) (cert. denied)

Arizona v. City & County of San Francisco, No. 20-1775, Brief in Opposition, 2021 WL 3773258 (Aug. 2021)

Houston Community College System v. Wilson, No. 20-804, Amicus Brief of the State of Texas, et al., 2021 WL 3145958 (July 2021)

Sanchez v. Mayorkas, No. 20-315, Amicus Brief of the District of Columbia, et al., 2021 WL 826695 (Mar. 2021)

Mahanoy Area School District v. B.L., No. 20-255, Amicus Brief of the State of Massachusetts, et al., 2021 WL 859697 (Mar. 2021)

Terry v. United States, No. 20-5904, Amicus Brief of the District of Columbia, et al., 2021 WL 2316772 (Feb. 2021)

Brnovich v. Democratic National Committee, No. 19-1257, Amicus Brief of the District of Columbia, et al., 2021 WL 260089 (Jan. 2021)

Trump v. District of Columbia, No. 20-331, Brief in Opposition, 2020 WL 7495402 (Dec. 2020) (cert. granted, judgment vacated, and case remanded with instructions to dismiss as moot)

Texas v. Pennsylvania, No. 22O155, Motion for Leave to File Amicus Brief, 2020 WL 7315116 (Dec. 2020)

FCC v. Prometheus Radio Project, No. 19-1231, Amicus Brief of the District of Columbia, et al., 2020 WL 7775034 (Dec. 2020)

Uzuegbunam v. Preczewski, No. 19-968, Amicus Brief of the District of Columbia, et al., 2020 WL 7060009 (Nov. 2020)

Andino v. Middleton, No. 20A55, Motion for Leave to File Amicus Brief, 2020 WL 5898735 (Oct. 2020)

Kerpen v. Metropolitan Washington Airports Authority, No. 18-1240, Brief in Opposition, 2019 WL 3496275 (July 2019) (cert. denied)

Nieves v. Bartlett, No. 17-1174, Amicus Brief of the District of Columbia, et al., 2018 WL 4142615 (Aug. 2018)

Lozman v. City of Riviera Beach, No. 17-21, Amicus Brief of the District of Columbia, et al., 2018 WL 637352 (Jan. 2018)

Artis v. District of Columbia, No. 16-460, Transcript, 2017 WL 4961308 (Nov. 2017); Brief for Respondent, 2017 WL 3485557 (Aug. 2017); Brief in Opposition, 2017 WL 75309 (Jan. 2017)

District of Columbia v. Wesby, No. 15-1485, Reply Brief for Petitioners, 2017 WL 3888198 (Sept. 2017); Brief for Petitioners, 2017 WL 1832042 (May 2017); Reply Brief in support of Certiorari, 2016 WL 5807832 (Oct. 2016); Petition for Certiorari, 2016 WL 3194594 (June 2016)

Corr v. Metropolitan Washington Airports Authority, No. 13-1559, Motion to Intervene, 2014 WL 11510275 (Nov. 2014)

Bank of America v. District of Columbia, No. 13-1035, Brief in Opposition, 2014 WL 1365456 (Apr. 2014) (cert. denied)

Abramski v. United States, No. 12-1493, Amicus Brief of the State of Hawaii, et al., 2013 WL 6907723 (Dec. 2013)

My name also appears on the following briefs drafted by other state attorneys general offices:

California v. Texas, No. 19-840, Response and Reply Brief for Petitioners/Cross-Respondents, 2020 WL 4450448 (July 2020); Brief for Petitioners, 2020 WL 2475940 (May 2020); Reply Brief in support of Certiorari, 2020 WL 730290 (Feb. 2020); Petition for Writ of Certiorari, 2020 WL 58603 (Jan. 2020)

As an attorney with O'Melveny & Myers LLP from 2010 to 2013, I drafted the following petitions for certiorari, merits briefs, and amicus briefs:

Heath v. United States, No. 12-11003, Amicus Brief of NACDL in support of Certiorari, 2013 WL 3895248 (July 2013) (cert. denied)

Arizona v. The Inter Tribal Council of Arizona, No. 12-71, Amicus Brief of Community Voter Registration Organizations, 2013 WL 266610 (Jan. 2013)

McNeil-PPC, Inc. v. Hutto, No. 12-122, Reply Brief in support of Certiorari, 2012 WL 4042967 (Sept. 2012); Petition for Writ of Certiorari, 2012 WL 3058321 (July 2012) (cert. denied)

Fisher v. University of Texas, No. 11-345, Amicus Brief of National Latino Organizations, 2012 WL 3418592 (Aug. 2012)

Hynix Semiconductor Inc. v. Rambus Inc., No. 11-549, Reply Brief in support of Certiorari, 2012 WL 105552 (Jan. 2012); Petition for Writ of Certiorari, 2011 WL 5128964 (Oct. 2011) (cert. denied)

Harrison v. Gillespie, No. 11-168, Reply Brief in support of Certiorari, 2011 WL 4400335 (Sept. 2011); Petition for Writ of Certiorari, 2011 WL 3511030 (Aug. 2011) (cert. denied)

Hosanna-Tabor Evangelical Lutheran Church & School v. Perich, No. 10-553, Brief for Respondent, 2011 WL 3380507 (Aug. 2011)

Lafler v. Cooper, No. 10-209, Amicus Brief of the NACDL, et al., 2011 WL 3099713 (July 2011)

Board of Trustees of the Leland Stanford Junior University v. Roche Molecular Systems, Inc., No. 09-1159, Amicus Brief of the National Venture Capital Association, 2010 WL 5385331 (Dec. 2010)

Matrixx Initiatives, Inc. v. Siracusano, No. 09-1156, Reply Brief for Petitioners, 2010 WL 5099373 (Dec. 2010); Brief for Petitioners, 2010 WL 3334501 (Aug. 2010)

Altus Finance S.A. v. SAFG Retirement Services, Inc., No. 09-1578, Brief in Opposition, 2010 WL 4022692 (Oct. 2010) (cert. denied)

Carachuri-Rosendo v. Holder, No. 09-60, Reply Brief for Petitioner, 2010 WL 1130159 (Mar. 2010); Brief for Petitioner, 2010 WL 342042 (Jan. 2010)

As a Bristow Fellow in the Office of the Solicitor General at the U.S. Department of Justice from 2008 to 2009, I did research in support of briefs filed by the United States in the Supreme Court, drafted oppositions to petitions for certiorari, and participated in moot courts for Supreme Court arguments. I did not, however, personally practice before the Supreme Court during that time.

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.

1. *Artis v. District of Columbia*, 135 A.3d 334 (D.C. 2016) (Fisher, Blackburne-Rigsby, Pryor, JJ.), *rev'd*, 138 S. Ct. 594 (2018); *Artis v. District of Columbia*, 51 F. Supp. 3d 135 (D.D.C. 2014) (Boasberg, J.)

From 2014 to 2018, I represented the District of Columbia in this dispute over the proper interpretation of the federal supplemental jurisdiction statute, 28 U.S.C. § 1367, which provides that if a litigant brings a supplemental state-law claim in federal court and the federal court declines to exercise supplemental jurisdiction, the statute of limitations for refiling that claim in state court is “tolled” during the pendency of the federal suit and for 30 days thereafter. After the U.S. District Court for the District of Columbia dismissed Ms. Artis’s claims arising under federal law and declined to exercise supplemental jurisdiction over her claims arising under District of Columbia law, Ms. Artis refiled her District of Columbia law claims in D.C. Superior Court. The Superior Court dismissed her claims as barred by the statute of limitations, and the D.C. Court of Appeals affirmed, holding that Ms. Artis had 30 days after the dismissal of her federal suit to refile in D.C. Superior Court. In a 5-4 decision, the Supreme Court reversed, holding that Section 1367 stopped the statute of limitations from running on Ms. Artis’s claims during the pendency of her federal suit, thereby giving Ms. Artis the time remaining on the limitations period for her state-law claims as of the date she filed her federal suit, plus an additional 30 days, to refile her claims in D.C. Superior Court. The case went to trial after I left the Office of the Attorney General for the District of Columbia.

Co-Counsel:

Assistant Attorney General Todd S. Kim, Esq. (formerly with the Office of the Attorney General for the District of Columbia)

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Opposing Counsel:

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2. *Wesby v. District of Columbia*, 765 F.3d 13 (D.C. Cir. 2014) (Brown, Pillard, Edwards, JJ.), *rehearing denied*, 816 F.3d 96 (D.C. Cir. 2016), *rev'd sub nom.*, *District of Columbia v. Wesby*, 138 S. Ct. 577 (2018) (merits); *Wesby v. District of Columbia*, 189 F. Supp. 3d 31 (D.D.C. 2016) (Contreras, J.), *rev'd*, 2018 WL 11432150 (D.C. Cir. May 31, 2018) (Millett, Pillard, Katsas, JJ.) (fees); *Wesby v. District of Columbia*, 393 F. Supp. 3d 34 (D.D.C. 2019) & 502 F. Supp. 3d 136 (D.D.C. 2020) (Contreras, J.), *aff'd*, 2021 WL 5262578 (D.C. Cir. Nov. 9, 2021) (restitution) (Tatel, Millett, Walker, JJ.)

From 2013 to 2022, I represented the District of Columbia in this suit brought under 42 U.S.C. § 1983. The legal issues were whether police officers had probable cause to arrest individuals who were partying in a vacant home after the homeowner told police that no one had permission to be there, and, in the alternative, whether the officers were entitled to qualified immunity. The U.S. District Court for the District of Columbia granted summary judgment and attorney's fees to the plaintiffs, and the U.S. Court of Appeals for the D.C. Circuit affirmed and subsequently denied rehearing. In 2018, the Supreme Court held (7-2) that the officers had probable cause and (9-0) that they were shielded by qualified immunity. On remand, the district court held, and the D.C. Circuit affirmed, that the District of Columbia was entitled to recover monies paid to satisfy the judgment that was later vacated.

Co-Counsel:

Assistant Attorney General Todd S. Kim, Esq. (formerly with the Office of the Attorney General for the District of Columbia)
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Environment and Natural Resources Division
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Carl J. Schifferle, Esq.
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
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Opposing Counsel:

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(415) 875-5731

Aderson B. Francois, Esq.
Institute for Public Representation Civil Rights Law Clinic
600 New Jersey Avenue, Northwest
Washington, DC 20001
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3. *Accenture Sub, Inc. v. District of Columbia*, 283 A.3d 130 (D.C. 2022) (Beckwith, McLeese, Thompson, JJ.)

From 2018 to 2022, I represented the District of Columbia in this tax dispute in which Accenture Sub, Inc., was seeking a tax refund of more than \$6 million. After the D.C. Superior Court granted summary judgment in favor of the District, Accenture appealed. I led the team that briefed the case and personally argued the matter in the D.C. Court of Appeals, contending that the appeal should be dismissed as untimely and, if not, the judgment should be affirmed on the merits. The D.C. Court of Appeals agreed that the appeal was untimely and dismissed it.

Co-Counsel:

Mary L. Wilson, Esq. (retired)
Caroline S. Van Zile, Esq.
Office of the Attorney General for the District of Columbia
Office of the Solicitor General
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Opposing Counsel:

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Williams Mullen
Boro Tower
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4. *Banks v. Booth*, 459 F. Supp. 3d 143 (D.D.C. 2020) (Kollar-Kotelly, J.) (TRO); *Banks v. Booth*, 468 F. Supp. 3d 101 (D.D.C. 2020) & 518 F. Supp. 3d 57 (D.D.C. 2021)

(Kollar-Kotelly, J.) (PI), *rev'd*, 3 F.4th 445 (D.C. Cir. 2021) (Henderson, Rogers, Sentelle, JJ.)

From 2020 to 2022, I represented the Director of the District of Columbia Department of Corrections in a class action under 42 U.S.C. § 1983 and a habeas petition related to conditions of confinement at the D.C. Jail during the COVID-19 pandemic. The U.S. District Court for the District of Columbia had entered a preliminary injunction requiring the Department of Corrections to take certain corrective actions, but the U.S. Court of Appeals for the D.C. Circuit agreed with the Department of Corrections that the preliminary injunction had expired after 90 days in accordance with the Prison Litigation Reform Act, 18 U.S.C. § 3626(a)(2).

Co-Counsel:

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Caroline S. Van Zile, Esq.

Micah Bluming, Esq.

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Opposing Counsel:

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5. *In re District of Columbia*, 792 F.3d 96 (D.C. Cir. 2015) (Kavanaugh, Millett, Wilkins, JJ.); *Brown v. District of Columbia*, 322 F.R.D. 51 (D.D.C. 2017) (Huvelle, J.), *rev'd*, 928 F.3d 1070 (D.C. Cir. 2019) (Henderson, Wilkins, Edwards, JJ.)

From 2014 to 2022, I represented the District of Columbia in this class action brought by Medicaid recipients alleging non-compliance with the “integration mandate” of the Americans with Disabilities Act. After the U.S. District Court for the District of Columbia certified a class, I briefed and argued a Rule 23(f) appeal in the U.S. Court of Appeals for the D.C. Circuit, asserting that the district court had failed to comply with Fed. R. Civ. P. 23(b). Although the D.C. Circuit expressed “some doubts” about the class-certification ruling, it ultimately denied the Rule 23(f) petition. The case then proceeded to a bench trial, after which the district court entered judgment for the District of Columbia. Plaintiffs appealed, and the D.C. Circuit reversed. I left the Office of the Attorney General for the District of Columbia before the second bench trial was scheduled to begin.

Co-Counsel:

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Opposing Counsel:

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Maame Gyamfi, Esq.
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6. *American Council of Life Insurers v. D.C. Health Benefit Exchange Authority*, 815 F.3d 17 (D.C. Cir. 2016) (Tatel, Pillard, Williams, JJ.); *Unum Life Insurance Co. v. District of Columbia*, 238 A.3d 222 (D.C. 2020) (Beckwith, Easterly, Kravitz, JJ.)

From 2015 to 2020, I defended the District of Columbia Health Benefit Exchange Authority against a challenge to its funding mechanism. After the U.S. District Court for the District of Columbia concluded that the challengers had failed to state a claim upon which relief could be granted, the challengers appealed. On appeal to the U.S. Court of Appeals for the D.C. Circuit, I argued that the federal suit ran afoul of D.C. Code § 11-1201—a statute in which Congress has vested exclusive authority over challenges to District of Columbia taxes in the District’s local courts, rather than the federal courts—meaning that the D.C. Circuit lacked jurisdiction over the appeal. In 2016, the D.C. Circuit agreed with this argument and vacated the district court’s judgment with instructions to dismiss the case for lack of jurisdiction. A group of related plaintiffs then filed suit in D.C. Superior Court, which granted judgment to the Exchange, and I successfully defended that judgment on appeal.

Co-Counsel:

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Opposing Counsel:

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7. *Westgate Ford Truck Sales, Inc. v. Ford Motor Company*, 971 N.E.2d 967 (Ohio Ct. App. 2012) (Stewart, Rocco, Jones, JJ.)

I represented Ford Motor Company in this matter from 2011 to 2013. I joined the trial team after an Ohio judge entered summary judgment on liability against Ford in a class-action breach-of-contract case and scheduled the case for a damages-only trial. I worked with local counsel on the damages-only trial, which resulted in the trial court extrapolating a jury verdict on the named plaintiff's damages into a \$2 billion class-wide judgment. On behalf of Ford, I authored the appellate briefs asking, *inter alia*, for the judgment on liability to be overturned because the contract was ambiguous, foreclosing summary judgment, and because a jury was required to consider Ford's affirmative defenses of waiver, estoppel, and failure to provide notice. I also argued that the trial court had erroneously excluded critical rebuttal evidence at the damages trial that would have significantly reduced any damages—an error that was further compounded by the trial court's extrapolation of the named plaintiff's damages award to the entire class. In 2012, the Ohio Court of Appeals agreed, reversing the liability and damages rulings and remanding for further proceedings. I was then involved in the second jury trial, which resulted in a defense verdict in 2013.

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8. *Calhoun v. Murray*, 507 F. App'x 251 (3d Cir. 2012) (Scirica, Fisher, Jordan, JJ.)

In this case, a prisoner filed a civil over-detention suit in Pennsylvania state court asserting that he had been illegally detained in state custody during his federal trial despite having posted bail on the charges. After the federal defendants removed the suit to federal district court under 28 U.S.C. § 1442(a) and all defendants sought dismissal, the district court dismissed the case without providing the plaintiff an opportunity to respond. The plaintiff appealed and, after an initial round of briefing, the U.S. Court of Appeals for the Third Circuit appointed me as counsel for appellant and asked me to brief whether the federal courts lacked jurisdiction under the doctrine of derivative jurisdiction, as well as any other meritorious issues. In 2011, I briefed and argued the appeal, contending that the doctrine of derivative jurisdiction did not deprive the federal courts of jurisdiction to hear the case, but that the district court's judgment should be reversed on the merits because the court had granted the motions to dismiss without first allowing the plaintiff to respond, had erroneously dismissed the claims against the federal defendants on the basis of res judicata when there was no final judgment in the earlier action, and had dismissed the claims against the remaining defendant without providing its reasoning. The Third Circuit agreed with these arguments, holding that the federal courts had jurisdiction over the case, vacating the district court's dismissal orders on the merits, and remanding the matter for further proceedings.

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9. *United States v. Morgan*, 687 F.3d 688 (6th Cir. 2012) (Martin, Gilman, White, JJ.)

From 2011 to 2013, I served as appointed counsel for Mr. Morgan in his criminal-sentencing appeal and subsequent resentencing. Mr. Morgan had initially been sentenced to a 201-month term of imprisonment for possession of marijuana and a weapons offense. I argued to the U.S. Court of Appeals for the Sixth Circuit that the trial judge had misapplied the Federal Sentencing Guidelines, resulting in certain offense conduct being double-counted. The Sixth Circuit agreed and remanded for resentencing. In late 2012, I represented Mr. Morgan at his resentencing in the U.S. District Court for the Eastern District of Kentucky, where I secured him a two-year reduction in his sentence. I then represented Mr. Morgan in a second appeal to the Sixth Circuit, but a colleague took over the matter when I left O'Melveny & Myers LLP to return to the government.

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10. *Hynix Semiconductor Inc. v. Rambus Inc.*, 645 F.3d 1336 (Fed. Cir. 2011) (Newman, Lourie, Bryson, Gajarsa, Linn, JJ.)

This case involved the enforceability of Rambus's patents concerning a form of computer memory. The district court granted judgment in favor of Rambus, and from 2010 to 2011, I was part of the team representing Hynix on appeal. We argued that the patents were unenforceable for a number of reasons, including that Rambus had engaged in

spoliation of material documents notwithstanding the reasonable foreseeability of litigation, that Rambus's objectionable conduct in connection with a standard-setting organization triggered defenses of implied waiver and equitable estoppel, that a proper construction of the claim rendered the scope of the claimed invention unduly broad, that the patents were invalid for lack of a written description, and that the claims were obvious. The U.S. Court of Appeals for the Federal Circuit ruled in favor of Hynix on the issue of spoliation (but otherwise affirmed the district court) and thus vacated and remanded the case to the district court for further proceedings on the issue of spoliation.

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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.)

As a judge, I have designed and taught a number of short seminars for new magistrate and associate judges on the Superior Court of the District of Columbia. These seminars are intended to provide an overview of the appellate process and to give advice on handling trial matters with an eye toward an eventual appeal. During my tenure in the Office of the Attorney General for the District of Columbia (2013 – 2022), I designed and taught similar courses for agency general counsel, trial and appellate attorneys, and administrative hearing officers, and I also led writing-skills trainings.

From 2017 to 2022, I was a member of the U.S. Court of Appeals for the D.C. Circuit's Advisory Committee on Procedures, and from 2010 to 2013, I served as the administrative coordinator of the National Association of Criminal Defense Lawyers' Amicus Curiae Committee.

From 2013 to 2021, I led the Charles F.C. Ruff Fellowship program at the Office of the Attorney General for the District of Columbia, which recruited, trained, and mentored a class of sixteen recent law school graduates each year.

I have not performed any lobbying activities or registered as a lobbyist.

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.

During my time at O'Melveny & Myers LLP (2010 – 2013), I worked with students in O'Melveny's Supreme Court and Appellate Litigation Clinic at Harvard Law School, both supervising case work and co-leading class discussions.

In Spring 2013, I was an instructor in Professor Noah Messing's class, "Legal Writing Through a Lawsuit," at Yale Law School. Syllabus supplied.

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 anticipated receipts, expected future benefits, or arrangements to be compensated in the future for any financial or business interest.

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.

If confirmed, I have no plans, commitments, or agreements to pursue any outside employment during judicial service.

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).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Statement of Net Worth.

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.

It is possible that a conflict could arise concerning a case I handled as an Associate Judge of the D.C. Court of Appeals or during my time with the Office of the Attorney General for the District of Columbia. If confirmed, I would recuse myself from any case in which I had previously participated as a judge or attorney. I am unaware of any individuals, whether relatives or otherwise, who would be likely to present a conflict of interest. I would review, on a case-by-case basis, the existence of a potential conflict of interest arising from any personal or former client relationships or financial interests, and would apply generally applicable principles and rules concerning ethics and conflicts of interest in conducting such an inquiry and assessing whether a recusal is warranted.

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

If confirmed, I would address any actual or potential conflicts of interest by applying the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any other relevant laws, canons, rules, practices, and guidelines.

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 sought to serve my community, both through pro bono work and public service.

During my time at O'Melveny & Myers LLP, I devoted thousands of hours to pro bono legal service, representing indigent defendants and plaintiffs in several cases, including *Carachuri-Rosendo v. Holder*, 560 U.S. 563 (2010) (immigration), *United States v.*

Morgan, 687 F.3d 688 (6th Cir. 2012) (criminal sentencing), and *Calhoun v. Murray*, 507 F. App'x 251 (3d Cir. 2012) (prisoner litigation). I also served as the Administrative Coordinator for the National Association of Criminal Defense Lawyers' Amicus Curiae Committee and drafted amicus briefs for the Association, including in *Lafler v. Cooper*, 566 U.S. 156 (2012) (ineffective assistance), and *Missouri v. Frye*, 566 U.S. 134 (2012) (ineffective assistance). Finally, I represented national Latino organizations and community voter registration organizations in various cases in the Supreme Court of the United States and the federal courts of appeals.

During my tenure with the Office of the Attorney General for the District of Columbia, I spent nearly a decade representing the interests of District of Columbia residents, and I worked frequently with community organizations and *pro se* litigants to achieve just outcomes in litigation. As a government employee, I was restricted from providing pro bono legal services, but I continued to participate in non-legal community service by serving on the boards of Bard College at Simon's Rock and the American Inns of Court Foundation, and by serving as a mentor with The Appellate Project and the South Asian Bar Association of Washington, D.C.

As a judicial officer, I have been focused on access to justice issues through court committees and projects.

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.

In December 2022, Congresswoman Eleanor Holmes Norton posted that she was accepting applications for the vacancy on the United States District Court for the District of Columbia created by District Judge Amy Berman Jackson's decision to take senior status. On January 4, 2023, I submitted my application to Congresswoman Norton's Federal Law Enforcement Nominating Commission. On January 18, I was interviewed by the Norton Commission, and on January 24, I was interviewed by Congresswoman Norton. On February 1, I interviewed with attorneys from the White House Counsel's Office. On February 16, an attorney from the White House Counsel's Office notified me that I was under consideration for the vacancy. Since February 16, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 3, 2023, the President announced his intent to nominate me.

- 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.