

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Rachel Elise Barkow
(maiden name: Rachel Elise Selinfreund)

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

Member, United States Sentencing Commission

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.

New York University School of Law
40 Washington Square South Rm. 310F
New York, New York 10012

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

1971; Denver, Colorado

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.

1993 – 1996, Harvard Law School; J.D. (*magna cum laude*), 1996

1989 – 1993, Northwestern University; B.A. (with honors), 1993

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.

2002 – present
New York University School of Law
40 Washington Square
New York, New York 10012

Segal Family Professor of Regulatory Law and Policy (2011 – present)
Faculty Director, Center on the Administration of Criminal Law (2008 – present)
Professor of Law (2007 – 2011)
Associate Professor (2005 – 2006)
Assistant Professor (2002 – 2005)

2010 – present
Themis Bar Review
320 West Ohio Street, Suite 4W
Chicago, Illinois 60654
Lecturer

2007 – 2012
Law Preview LLC
10 Cordage Park Circle, Suite 122
Plymouth, Massachusetts 02360
Lecturer

2008 – 2009
Emanuel Bar Review
Wolters Kluwer Law & Business
130 Turner Street
Waltham, Massachusetts 02453
Lecturer

Fall 2008
Harvard Law School
1563 Massachusetts Avenue
Cambridge, Massachusetts 02138
Beneficial Visiting Professor of Law

1998 – 2002
Kellogg Huber Hansen Todd & Evans, P.L.L.C.
(now Kellogg Huber Hansen Todd Evans & Figel, P.L.L.C.)
1615 M Street, NW, Suite 400
Washington, DC 20036
Associate
(Please note that I took a leave from the firm during 2001 to serve as a John M. Olin Fellow at Georgetown. During that year, I worked on a few matters for Kellogg Huber on a part-time basis.)

2001
Georgetown University Law Center (on leave from Kellogg Huber)
600 New Jersey Avenue, NW
Washington, DC 20001
John M. Olin Fellow in Law

1997 – 1998

The Honorable Antonin Scalia
Supreme Court of the United States
1 First Street, NW
Washington, DC 20543
Law Clerk

1996 – 1997

The Honorable Laurence H. Silberman
U.S. Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue, NW
Washington, DC 20001
Law Clerk

Summer 1996

Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Summer Associate

1995 – 1996

Professor Richard Fallon
Harvard Law School
Cambridge, Massachusetts 02138
Research Assistant

Summer 1995

Kirkland & Ellis
655 15th Street, NW
Washington, DC 20005
Summer Associate

Summer 1995

Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20044
Summer Associate

Summer 1994

Montgomery Little & McGrew
(now Montgomery Little Soran & Murray, PC)
The Quadrant
5445 DTC Parkway, Suite 800
Englewood, Colorado 80111
Summer Associate

Summer 1993
Michael Selinfreund, Esq
55 Madison Street, Suite 755
Denver, Colorado 80206
Office Assistant

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 am not required to register for 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.

NYU Distinguished Teaching Award (2013)

American Law Institute, Elected Member (2008)

Exemplary Legal Writing Nominee in Green Bag for *The Ascent of the Administrative State and the Demise of Mercy*, 121 HARV. L. REV. 1332 (2008)

Podell Distinguished Teaching Award, NYU School of Law (2007)

Winner of the Association of American Law Schools, Section on Criminal Justice Outstanding Paper Competition for *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006)

John M. Olin Fellowship (2001)

Law Clerk of the Year, awarded by the Supreme Court Publications Office (1998)

Editor, Harvard Law Review (1994 – 1996)

Sears Prize, Harvard Law School (awarded for the two highest grade point averages in the first year of law school) (1994)

Best Memorandum Award: First Year Ames Moot Court Competition, Harvard Law School (1994)

Phi Beta Kappa, Northwestern University (1993)

Mortar Board, Northwestern University (1993)

Dean's List, Northwestern University (1993)

James Alton James Scholar (most distinguished social science academic, junior year), Northwestern University (1992)

Valedictorian, Gateway High School (1989)

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

American Bar Association (2004 – 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.

District of Columbia, 1999
Maryland, 1998 (inactive)

There have been no lapses in membership, though, as indicated, my membership in Maryland is inactive.

- 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, 2002
United States Court of Appeals for the District of Columbia Circuit, 2000

There have been no lapses in membership.

11. **Memberships:**

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

American Law Institute (2008 – present)

Conviction Integrity Policy Advisory Panel, Manhattan District Attorney's Office (2010 – present)

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

To the best of my knowledge, neither organization listed in response to 11a currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

12. Published Writings and Public Statements:

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

Prosecutorial Administration, 99 U. VA. L. REV. (forthcoming 2013). Copy supplied.

Law versus Politics: Comments on William J. Stuntz's The Collapse of American Criminal Justice, 63 U. TORONTO L.J. 138 (2012). Copy supplied.

The Problem with Mandatory Minimums, N.Y. Times Room for Debate, August 19, 2012. Copy supplied.

Clarify What's Cruel and Unusual, N.Y. Times Room for Debate, July 8, 2012. Copy supplied.

CRIMINAL LAW AND ITS PROCESSES: CASES AND MATERIALS (Aspen 9th Ed., 2012) (with Sanford Kadish, Stephen J. Schulhofer & Carol S. Steiker). Copy supplied.

Save the Jury, Slate.com, May 30, 2012. Copy supplied.

Sentencing Guidelines at the Crossroads of Politics and Expertise, 160 U. PA. L. REV. 1599 (2012). Copy supplied.

Life without Parole and the Hope for Real Sentencing Reform, in LIFE WITHOUT PAROLE: AMERICA'S NEW DEATH PENALTY? (Charles J. Ogletree, Jr., & Austin Sarat eds., NYU Press, 2012). Copy supplied.

PROSECUTORS IN THE BOARDROOM: USING CRIMINAL LAW TO REGULATE CORPORATE CONDUCT (Anthony Barkow & Rachel Barkow eds., NYU Press, 2011). I was the co-editor of the book, co-authored the introduction and was the sole author of the chapter, *The Prosecutor as Regulatory Agency*. Copy supplied.

Federalism and Criminal Law: What the Feds Can Learn from the States, 109 MICH. L. REV. 519 (2011). Copy supplied.

Insulating Agencies: Avoiding Capture Through Institutional Design, 89 TEX. L. REV. 15 (2010). Copy supplied.

Organizational Guidelines for the Prosecutor's Office, 31 CARDOZO L. REV. 2089 (2010). Copy supplied.

Categorizing Graham, 23 FED. SENTENCING REP. 49 (2010). Copy supplied.

With David B. Edwards, *How Health Care Can Reduce Crime*, Forbes.com, June 22, 2010. Copy supplied.

With Anne Milgram, *Keeping Consumer Cops on the Beat*, May 13, 2010. Copy supplied.

The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity, 107 MICH. L. REV. 1145 (2009). Copy supplied.

Institutional Design and the Policing of Prosecutors: Lessons from Administrative Law, 61 STAN. L. REV. 869 (2009). Copy supplied.

The Politics of Forgiveness: Reconceptualizing Clemency, 21 FED. SENTENCING REP. 153 (2009). Copy supplied.

Mercy's Decline and Administrative Law's Ascendancy and Reply, in CRIMINAL LAW CONVERSATIONS (Paul H. Robinson et al. eds., 2009). Copy supplied.

An Ounce of Prevention: Realistic Treatment for Our Pathological Politics, in CRIMINAL LAW CONVERSATIONS (Paul H. Robinson et al. eds., 2009). Copy supplied.

The Ascent of the Administrative State and the Demise of Mercy, 121 HARV. L. REV. 1332 (2008). Copy supplied.

With Joshua J. Libling, *Sentencing Laws Needn't Drain Us*, BOSTON HERALD, Dec. 6, 2008. Copy supplied.

Confronting Mortality, Huffington Post, Oct. 31, 2008. Copy supplied.

Electing Administrations, Not Just Presidents, Huffington Post, Oct. 13, 2008. Copy supplied.

The Feminist Threat, Huffington Post, June 27, 2008. Copy supplied.

The Rise and Fall of the Political Question Doctrine, in *THE POLITICAL QUESTION DOCTRINE AND THE SUPREME COURT OF THE UNITED STATES* (Bruce Cain & Nada Mourtada-Sabbah eds., 2007). Copy supplied.

Originalists, Politics, and Criminal Law on the Rehnquist Court, 74 GEO. WASH. L. REV. 1043 (2006). Copy supplied.

Delegating Punitive Power: The Political Economy of Sentencing Commission and Guideline Formation, 84 TEX. L. REV. 1973 (2006) (with Kathleen M. O'Neill). Copy supplied.

The Political Market for Criminal Justice, 104 MICH. L. REV. 1713 (2006). Copy supplied.

Tribute to Justice Antonin Scalia, 62 N.Y.U. ANN. SURV. AM. L. 15 (2006). Copy supplied.

Crimes and Constitutions, THE NYU LAW SCHOOL MAGAZINE at 69 (Autumn 2006). Copy supplied.

Separation of Powers and the Criminal Law, 58 STAN. L. REV. 989 (2006). Copy supplied.

Our Federal System of Sentencing, 58 STAN. L. REV. 119 (2005). Copy supplied.

Federalism and the Politics of Sentencing, 105 COLUM. L. REV. 1276 (2005). Copy supplied.

Administering Crime, 52 UCLA L. REV. 715 (2005). Copy supplied.

Criminal Trials, in *THE HERITAGE GUIDE TO THE CONSTITUTION* (Edwin Meese III et al. eds., 2005). Copy supplied.

Op-ed in *NEWSDAY*, October 20, 2005, at B20. Copy supplied.

The Devil You Know: Federal Sentencing After Blakely, 16 FED. SENTENCING REP. 312 (Aug. 2004). Copy supplied.

Recharging the Jury, THE NYU LAW SCHOOL MAGAZINE at 14 (Autumn 2003). Copy supplied.

Recharging the Jury: The Criminal Jury's Constitutional Role in an Era of Mandatory Sentencing, 152 U. PA. L. REV. 33 (2003). Copy supplied.

More Supreme than Court?: The Fall of the Political Question Doctrine and the Rise of Judicial Supremacy, 102 COLUM. L. REV. 237 (2002). Copy supplied.

A Tale of Two Agencies: A Comparative Analysis of FCC and DOJ Review of Telecommunications Mergers, 2000 U. CHI. LEGAL F. 29 (with Peter Huber). Copy supplied.

Mergers and Acquisitions, in P. HUBER ET AL., FEDERAL TELECOMMUNICATIONS LAW (2d ed. 1999) (with Peter Huber et al.). Copy supplied.

Note, *And Justiciability for All?: Future Injury Plaintiffs and the Separation of Powers*, 109 HARV. L. REV. 1066 (1996). Copy supplied.

Book Note, *A Bold Leap Backward?*, 108 HARV. L. REV. 2047 (1995) (reviewing MARY ANN GLENDON, A NATION UNDER LAWYERS (1994)). 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.

Center on the Administration of Criminal Law, Establishing Conviction Integrity Programs in Prosecutors' Offices (2012). Copy supplied.

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

Joint Letter to Senate Judiciary Committee supporting nomination of Srikanth Srinivasan to become a judge on the United States Court of Appeals for the District of Columbia Circuit (April 4, 2013). Copy supplied.

Comments of the Center on the Administration of Criminal Law to the Federal Communications Commission regarding the rates charged for interstate inmate calling services (March 25, 2013). Copy supplied.

Joint Letter to Senate Judiciary Committee regarding the need for examination of the Office of the Pardon Attorney's Conduct (June 26, 2012). Copy supplied.

Joint letter to Senate Judiciary Committee supporting nomination of Caitlin Halligan to become a judge on the United States Court of Appeals for the District of Columbia Circuit (Feb. 28, 2011). Copy supplied.

Regional Hearing on the 25th Anniversary of the Sentencing Reform Act of 1984, Hearing before the United States Sentencing Commission (July 10, 2009). Copy supplied.

The Proposed Consumer Financial Protection Agency: Implications for Consumers and the FTC, Hearing before the Subcommittee on Commerce, Trade, and Consumer Protection of the House Committee on Energy and Commerce (July 8, 2009). Copy supplied and video is available here: <http://www.c-spanvideo.org/program/AgencyP>.

Letter from the Center on the Administration of Criminal Law to the United States Sentencing Commission regarding the need for the Commission to include among its priorities the consideration of fiscal costs and racial and ethnic impact statements (August 29, 2008).

Blakely v. Washington and the Future of the Federal Sentencing Guidelines, Hearing before the Senate Committee on the Judiciary (July 13, 2004). Copy 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 have compiled this list of my speeches and talks based on a careful review of my personal records and calendars, as well as Internet searches. To the best of my knowledge this list is substantially complete, although it is possible there may be some events that I was unable to recall or locate.

April 5-6, 2013: "Theorizing the Modern Criminal System," NYU School of Law, New York, NY. Notes supplied.

April 5, 2013: "Class on Statutory Interpretation for Admitted Students Day," NYU School of Law, New York, NY. Notes supplied.

February 12, 2013: “The Financial Crisis and the Revolving Door,” Panel Discussion, New York City Bar Association, New York, NY. Notes supplied and a recording is available here: <https://www.youtube.com/watch?v=2qf3yIGNUBo>.

February 7, 2013: “Regulatory State, Capture, and Financial Regulatory Reform,” Conference on The Political Economy of Financial Regulation, The George Washington University Law School, Washington, DC. This presentation was based on *Insulating Agencies: Using Institutional Design To Limit Agency Capture*, 89 TEX. L. REV. 15 (2010), which is attached in response to question 12a. Notes supplied and a recording is available here: <http://www.law.gwu.edu/News/2012-2013Events/Pages/PoliticalEconomy.aspx>.

February 4, 2013: “Considering Careers in Criminal Justice: Prosecution v. Defense,” New York, NY. I spoke on a panel to NYU students about different career paths in criminal justice. I have no notes, transcript or recording. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

January 28, 2013: “Prosecutorial Administration,” Criminal Theory Colloquium, NYU School of Law, New York, NY. This talk was based on *Prosecutorial Administration*, 99 U. VA. L. REV. (forthcoming 2013), which is attached in response to question 12a. I have no notes, transcripts or recording. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

November 9, 2012: “Exploring the Drug Court Alternative,” Conference on Exploding Prison Population and Drug Offenders: Rethinking State Drug Sentencing, Valparaiso, IN. Notes supplied.

August 7, 2012: “Overview of Criminal Law,” Sponsors for Educational Opportunity, Corporate Law Institute, New York, NY. Outline and reading handout supplied.

July 20, 2012: “Current Problems in Criminal Law,” Panel Discussion, Institute of Judicial Administration, New York, NY. Notes supplied.

June 8, 2012: “William Stuntz, The Collapse of American Criminal Justice,” Roundtable Discussion, Law and Society Annual Conference, Honolulu, HI. I have no notes, transcript or recording, but this presentation was based on *Law versus Politics: Comments on William J. Stuntz’s The Collapse of American Criminal Justice*, 63 U. TORONTO L.J. 138 (2012) (book review), which is attached in response to question 12a. The Law and Society Association is located at 380 South 1400 East, #313, Salt Lake City, UT 84112.

June 1, 2012: Commented on Joshua Kleinfeld, “A Theory of Criminal Victimization,” Junior Faculty Forum, Hosted by Harvard, Stanford, and Yale Law Schools, Cambridge, MA. Notes supplied.

May 21, 2012: “Alternatives to Incarceration: The Use of ‘Drug Courts’ in the Federal and State Systems,” Panel Discussion, Federal Bar Council and NYU Center on the Administration of Criminal Law, New York, NY. Notes supplied.

May 10, 2012: Moderator, Judicial Panel on Sentencing, Levenson Foundation Symposium, Federal Bar Association, Washington, DC. Notes supplied.

May 4, 2012: Commented on Youngjae Lee, “Military Service, Culpability, and Blame,” Criminal Law Roundtable, Columbia Law School, New York, NY. Notes supplied.

April 17, 2012: Organizer, Conference on New Frontiers in Race and Criminal Justice, Center on the Administration of Criminal Law, NYU School of Law, New York, NY. I have attached my notes. My introduction to the event is here: <http://www.c-spanvideo.org/program/NYU>, and a recording of my introduction of Michelle Alexander is available here: <http://www.youtube.com/watch?v=hg2AjQbIESs>.

April 17, 2012: “Race, Sentencing and the Problem of Mass Incarceration,” Panel Discussion, Conference on New Frontiers in Race and Criminal Justice, Center on the Administration of Criminal Law, NYU School of Law, New York, NY. A recording is available here: <http://www.youtube.com/watch?v=QSxZd10HovU>.

April 13, 2012: Commented on David Zaring, “The Interface Problem in Administrative Law,” Administrative Law Roundtable, Columbia Law School, New York, NY. Notes supplied.

April 4, 2012: Moderator, “Fraud, Bribery, and Corruption: Are Corporate Cops Fighting a Losing Battle?,” The Milbank Tweed Forum, NYU School of Law, New York, NY. Notes supplied and a recording is available here: <http://www.youtube.com/watch?v=T5GINwRmhQI>.

March 8, 2012: “What Went Wrong with the Preemption Regulatory Framework,” Panel Discussion, Consumer Financial Protection After Dodd-Frank: The New Legislation’s Enhanced Enforcement Structure, City Bar of New York, New York, NY. Notes supplied.

February 2, 2012: Introduction of Cyrus R. Vance, Jr., “Conversation on Urban Crime,” Center on the Administration of Criminal Law, NYU School of Law, New York, NY. Notes supplied and a recording is available here: http://www.law.nyu.edu/news/VANCE_CYRUS_URBAN_CRIME.

October 29, 2011: “Sentencing Guidelines at the Crossroads of Politics and Expertise,” *University of Pennsylvania Law Review* Symposium, “Sentencing Law: Rhetoric and Reality,” Philadelphia, PA. This presentation was based on

Sentencing Guidelines at the Crossroads of Politics and Expertise, 160 U. PA. L. REV. 1599 (2012), which is attached in response to question 12a. Notes supplied.

October 21, 2011: “The Need for Cost-Benefit Analysis in Criminal Justice Reform,” Panel Discussion, Society for Benefit-Cost Analysis, Washington, DC. Notes supplied.

July 28, 2011: “Overview of Criminal Law,” Sponsors for Educational Opportunity, Corporate Law Institute, New York, NY. I used the same notes provided for the August 7, 2012 event.

July 15, 2011: “Current Problems in Criminal Law,” Panel Discussion, Institute of Judicial Administration, New York, NY. Notes supplied.

June 10, 2011: “Defining White-Collar Crime and the Scope of the White-Collar Crime Problem,” The Committee on Law and Justice, National Academy of Sciences, Washington, DC. Notes supplied.

April 30, 2011: Moderator, Criminal Justice Roundtable, Yale Law School, New Haven, CT. Notes supplied.

February 28, 2011: “Life Without Parole and the Hope for Real Sentencing Reform,” Faculty Workshop, Temple University Beasley School of Law, Philadelphia, PA. This presentation was based on *Life without Parole and the Hope for Real Sentencing Reform*, in LIFE WITHOUT PAROLE: AMERICA’S NEW DEATH PENALTY? (Charles J. Ogletree, Jr., & Austin Sarat eds., NYU Press, 2012), which is attached in response to question 12a. Notes supplied.

February 7, 2011: “Life Without Parole and the Hope for Real Sentencing Reform,” Faculty Workshop, NYU School of Law, New York, NY. This presentation was based on *Life without Parole and the Hope for Real Sentencing Reform*, in LIFE WITHOUT PAROLE: AMERICA’S NEW DEATH PENALTY? (Charles J. Ogletree, Jr., & Austin Sarat eds., NYU Press, 2012), which is attached in response to question 12a. I used the same notes provided for the February 28, 2011 event.

December 4, 2010: “Life Without Parole and the Hope for Real Sentencing Reform,” Conference on Life Without Parole: America’s New Death Penalty, Amherst College, Amherst, MA. This presentation was based on *Life without Parole and the Hope for Real Sentencing Reform*, in LIFE WITHOUT PAROLE: AMERICA’S NEW DEATH PENALTY? (Charles J. Ogletree, Jr., & Austin Sarat eds., NYU Press, 2012), which is attached in response to question 12a. I used the same notes provided for the February 28, 2011 event.

December 4, 2010: Commented on Marie Gottschalk, “Life Sentences and Penal Reform,” Conference on Life Without Parole: America’s New Death Penalty, Amherst College, Amherst, MA. Notes supplied.

October 28, 2010: “Insulating Agencies: Avoiding Capture Through Institutional Design,” Yale Law Women Workshop, Yale Law School, New Haven, CT. I have no notes, transcript or recording, but this presentation was based on *Insulating Agencies: Using Institutional Design To Limit Agency Capture*, 89 TEX. L. REV. 15 (2010), which is attached in response to question 12a. Yale Law School is located at 127 Wall Street, New Haven, CT 06511.

September 23, 2010: “Insulating Agencies: Avoiding Capture Through Institutional Design,” Furman Scholars Workshop, NYU School of Law, New York, NY. I have no notes, transcript or recording, but this presentation was based on *Insulating Agencies: Using Institutional Design To Limit Agency Capture*, 89 TEX. L. REV. 15 (2010), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

September 15, 2010: “Crime and Punishment: The Costs and Benefits of Criminal Justice Policy,” Panel Discussion, Institute for Policy Integrity, New York, NY. I spoke about the importance of taking into account the costs and benefits of criminal justice policies to promote rational decision-making. I have no notes, transcript or recording. Institute for Policy Integrity is located at NYU School of Law, Wilf Hall, 139 MacDougal Street, Third Floor, New York, NY 10012.

September 8, 2010: “Originalism and Criminal Law,” Discussion with Professor Stephanos Bibas, Federalist Society of NYU, New York, NY. This presentation was based on *Originalists, Politics, and Criminal Law on the Rehnquist Court*, 74 GEO. WASH. L. REV. 1043 (2006), which is attached in response to question 12a. Notes supplied.

August 26, 2010: “Orientation: On Becoming a Law Student,” NYU School of Law, New York, NY. Notes supplied.

July 28, 2010: “Overview of Criminal Law,” Sponsors for Educational Opportunity, Corporate Law Institute, New York, NY. I used the same notes provided for the August 7, 2012 event.

July 16, 2010: “Current Problems in Criminal Law,” Panel Discussion, Institute of Judicial Administration, New York, NY. Notes supplied.

May 24, 2010: “Federal Sentencing at a Crossroads: A Call for Leadership,” Panel Discussion, Federal Bar Council and NYU Center on the Administration of Criminal Law, New York, NY. Notes supplied and a recording is available here: <http://www.youtube.com/watch?v=5ehTL2ChTfE>.

April 23, 2010: Panelist and Moderator, “Competition and Cooperation Within the State,” Panel Discussion, Conference on Allocating Prosecutorial Power, NYU Center on the Administration of Criminal Law, New York, NY. Notes supplied and video is available here:

http://www.law.nyu.edu/centers/adminofcriminallaw/events/allocatingprosecutorialpower/CONFERENCE_VIDEOS.

April 9, 2010: “Rethinking the Administration of Criminal Justice,” Admitted Students Day Talk, NYU School of Law, New York, NY. Notes supplied.

March 22, 2010: “Scholarship in the Public Interest,” Panel Discussion, Leaders in the Public Interest Series, NYU School of Law, New York, NY. My talk was about my scholarship and pro bono work. I have no notes, transcript or recording. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

March 12, 2010: “Financial Reform Is Essential for Economic Recovery,” Panel Discussion, National Community Reinvestment Coalition, Washington, DC. My talk was based on designing an agency to regulate consumer financial products. I have no notes, transcript or recording, but to the best of my recollection, I would have made similar remarks to those I made at the January 6, 2010 event. The National Community Reinvestment Coalition is located at 727 15th Street, NW, Suite 900, Washington, DC 20005.

March 10, 2010: “Does the United States Incarcerate Too Many People?” Panel Discussion, NYU School of Law, New York, NY. Notes supplied and a recording is available here: <http://www.youtube.com/watch?v=B42WRT2WOYU>.

March 5, 2010: “Federalism and Criminal Law: What the Feds Can Learn from the States,” Public Law Workshop, Columbia Law School. This presentation was based on *Federalism and Criminal Law: What the Feds Can Learn from the States*, 109 MICH. L. REV. 519 (2011), which is attached in response to question 12a. Notes supplied.

February 19, 2010: “The Roberts Court: A View from the Supreme Court Bar and the Academy,” Panel Discussion, Institute of Judicial Administration, New York, NY. A recording is available here: <http://www.youtube.com/watch?v=1R-ZaufYBVk>.

January 6, 2010: “Designing a Consumer Financial Protection Agency,” Conference on Regulating Consumer Financial Products, Federal Reserve Bank of New York and NYU School of Law, New York, NY. Notes supplied and a recording is available here: http://www.youtube.com/watch?v=H_IP4YRTxT4.

November 15, 2009: “Organizational Guidelines for the Prosecutor’s Office,” Symposium on New Perspectives on *Brady* and Other Disclosure Obligations,

Benjamin N. Cardozo School of Law, New York, NY. This presentation was based on Organizational Guidelines for the Prosecutor's Office, 31 Cardozo L. Rev. 2089 (2010), which is attached in response to question 12a. Notes supplied.

October 21, 2009: "The Supreme Court's New Term (and New Justice)," Panel Discussion, NYU School of Law, New York, NY. Notes supplied and a recording is available here: <http://www.law.nyu.edu/centers/adminofcriminallaw/events/supremecourtterm/index.htm>.

October 18, 2009: "Sentencing Law and Policy," Family Day, NYU School of Law, New York, NY. Notes supplied.

July 30, 2009: "Overview of Criminal Law," Sponsors for Educational Opportunity, Corporate Law Institute, New York, NY. I used the same notes provided for the August 7, 2012 event.

July 7, 2009: Podcast Discussion of *Boyle v. United States*, Federalist Society. Notes supplied and a recording of the podcast is available here: http://www.fed-soc.org/publications/pubID.1497/pub_detail.asp.

May 8, 2009: "Regulation by Prosecutors: Competing Regulators," Panel Discussion, Center on the Administration of Criminal Law, NYU School of Law, New York, NY. A recording is available here: http://www.law.nyu.edu/centers/adminofcriminallaw/events/regulationbyprosecutors/ECM_PRO_062107.

May 1, 2009: "The Prosecutor as Regulatory Agency," Criminal Justice Roundtable, University of Chicago Law School, Chicago, IL. I have no notes, transcript or recording, but this workshop presentation was based on *The Prosecutor as Regulatory Agency*, in PROSECUTORS IN THE BOARDROOM: USING CRIMINAL LAW TO REGULATE CORPORATE CONDUCT (Anthony Barkow & Rachel Barkow, eds., NYU Press, 2011), which is attached in response to question 12a. University of Chicago Law School is located at 1111 East 60th Street, Chicago, IL 60637.

April 17, 2009: "The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity," Faculty Workshop, Cornell Law School, Ithaca, NY. This presentation was based on *The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity*, 107 MICH. L. REV. 1145 (2009), which was attached in response to question 12a. Notes supplied.

"Prosecutorial Activism," Faculty Workshop, NYU School of Law, New York, NY, April 6, 2009. I have no notes, transcript or recording, but this workshop was based on *The Prosecutor as Regulatory Agency*, in PROSECUTORS IN THE

BOARDROOM: USING CRIMINAL LAW TO REGULATE CORPORATE CONDUCT (Anthony Barkow & Rachel Barkow, eds., NYU Press, 2011), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

December 8, 2008: “The Politics of Forgiveness: Reconceptualizing Clemency,” ABA Commission on Effective Criminal Sanctions Roundtable on “Second Look” Sentencing Reforms, Washington, DC. This presentation was based on *The Politics of Forgiveness: Reconceptualizing Clemency*, 21 FED. SENTENCING REP. 153 (2009), which is attached in response to question 12a. Notes supplied.

November 19, 2008: Discussion and Q&A regarding my work at the Center on the Administration of Criminal Law with Harvard Law School students enrolled in my Legislation and Regulation Course, Harvard Law School, Cambridge, MA. Notes supplied.

October 20, 2008: “The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity,” Faculty Workshop, George Washington University Law School, Washington, DC. This presentation was based on *The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity*, 107 MICH. L. REV. 1145 (2009), which is attached in response to question 12a. Notes supplied.

October 17, 2008: Commented on Stuart Chinn, “The Supreme Court as Regime Stabilizer,” Justin Crowe, “Amendments as Causes,” Willy Forbath, “Courting the State,” and Karen Orren, “Crime and American Constitutional Development,” American Constitutional Development Conference, Harvard Law School, Cambridge, MA. Notes supplied.

October 6, 2008: “Institutional Design and the Policing of Prosecutors: Lessons from Administrative Law,” Faculty Workshop, Harvard Law School, Cambridge, MA. This workshop was based on *Institutional Design and the Policing of Prosecutors: Lessons from Administrative Law*, 61 STAN. L. REV. 869 (2009), which is attached in response to question 12a. Notes supplied.

August 7, 2008: “The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity,” NYU Summer Brown Bag Series, New York, NY. I have no notes, transcript or recording, but this presentation was based on *The Court of Life and Death: The Two Tracks of Constitutional Sentencing Law and the Case for Uniformity*, 107 MICH. L. REV. 1145 (2009), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

July 15, 2008: “Elections and the Courts: *Bush v. Gore* and the 2000 Presidential Election Revisited,” Panel Discussion, NYU School of Law Roundtable, Florence, Italy. I have no notes, transcript or recording, but I discussed the

political question doctrine based on my article, *More Supreme than Court?: The Fall of the Political Question Doctrine and the Rise of Judicial Supremacy*, 102 COLUM. L. REV. 237 (2002), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

May 6, 2008: "Institutional Design and the Policing of Prosecutors: Lessons from Administrative Law," Law and Politics Workshop, University of Chicago Law School, Chicago, IL. This workshop was based on *Institutional Design and the Policing of Prosecutors: Lessons from Administrative Law*, 61 STAN. L. REV. 869 (2009), which is attached in response to question 12a. Notes supplied.

May 2, 2008: Commented on Marie-Eve Sylvestre, "Rethinking Criminal Responsibility for Poor Offenders and Criminal Law Reform in Light of Sociological Evidence," Criminal Justice Roundtable, Harvard Law School, Cambridge, MA. Notes supplied.

February 1, 2008: "Sentencing Theories," Panel Discussion, Federal Bar Council, Nevis, West Indies. This presentation consisted of a series of skits acted out by lawyers in the Federal Bar Council. (I was not one of the actors.) My role was to raise questions about the skits in terms of larger theories of sentencing. I have no notes, transcript or recording. The Federal Bar Council is located at 123 Main Street, #L100, White Plains, NY 10601.

November 27, 2007: "An Administrative Law Paradigm for Criminal Justice," NYU Hoffinger Criminal Justice Colloquium, New York, NY. Notes supplied.

October 27, 2007: Young Law Professor Meeting on the Future of the American Law Institute, Roundtable Discussion, American Law Institute Invitational Conference, Montchanin, DE. This was an informal roundtable to discuss possible future goals for the American Law Institute. I have no notes, transcript or recording. American Law Institute is located at 4025 Chestnut Street, Philadelphia, PA 19104.

October 10, 2007: Moderator, Conference on Prosecuting Terrorism, The Center on Law and Security, NYU School of Law, New York, NY. As moderator, I kept the queue for people interested in asking questions regarding terrorism prosecutions. I have no notes, transcript or recording. The Center on Law and Security is located at NYU School of Law, Wilf Hall, 139 MacDougal Street, Fourth Floor, New York, NY 10012.

October 5, 2007: The Process of Publishing a Law Review Article, Lecture to Prospective Teaching Candidates, NYU School of Law, New York, NY. This was a short lecture informing students how to get their work published in law reviews. I have no notes, transcript or recording. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

August 27, 2007: Speech on Thurgood Marshall to the Thurgood Marshall Class of LL.M.s at NYU School of Law, New York, NY. Notes supplied.

July 30, 2007: "Sentencing and Incarceration," Institute of Judicial Administration Training and Education Program for the Chinese Judiciary, New York, NY. Notes supplied.

July 10, 2007: "Current Issues in Criminal Law," Panel Discussion, Institute of Judicial Administration, New York, NY. Notes supplied.

April 13, 2007: Moderator, Criminal Justice Roundtable, Yale Law School, New Haven, CT. As moderator, I kept the queue for people interested in asking questions. I have no notes, transcript or recording. Yale Law School is located at 127 Wall Street, New Haven, CT 06511.

January 29, 2007: "Adjudication Without Representation? Exploring the Lack of Diversity Among Supreme Court Clerks," Panel Discussion, NYU School of Law, New York, NY. This was a discussion with former Supreme Court law clerks about the role of law clerks and how they are selected. I have no notes, transcript or recording, but press coverage is supplied. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

July 12, 2006: "Current Issues in Criminal Law," Panel Discussion, Institute of Judicial Administration, New York, NY. Notes supplied.

May 12, 2006: "Delegating Punitive Power: The Political Economy of Sentencing Commission and Guideline Formation," Criminal Justice Roundtable, University of Chicago Law School, Chicago, IL. I have no notes, transcript or recording, but this presentation was based on *Delegating Punitive Power: The Political Economy of Sentencing Commission and Guideline Formation*, 84 TEX. L. REV. 1973 (2006) (with Kathleen M. O'Neill), which is attached in response to question 12a. University of Chicago Law School is located at 1111 East 60th Street, Chicago, IL 60637.

April 7, 2006: "Separation of Powers and the Criminal Law," Constitutional Theory Conference, Philadelphia, PA. This presentation was based on *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006), which is attached in response to question 12a. I have no notes, transcript or recording, but to the best of my recollection, I would have made similar remarks to those I made at the January 4, 2006 event.

March 2, 2006: "Federal Sentencing After *United States v. Booker*: One Year Later," New York City Bar Panel Discussion, New York, NY. Notes supplied.

February 4, 2006: "Delegating Punitive Power: The Political Economy of Sentencing Commission and Guideline Formation," *Texas Law Review*

Symposium, "Punishment Law and Policy," The University of Texas School of Law, Austin, TX. I have no notes, transcript or recording, but this presentation was based on *Delegating Punitive Power: The Political Economy of Sentencing Commission and Guideline Formation*, 84 TEX. L. REV. 1973 (2006) (with Kathleen M. O'Neill), which is attached in response to question 12a. The University of Texas Law School is located at 727 East Dean Keeton Street, Austin, TX 78705.

February 4, 2006: Commented on Susan Klein, "Enhancing the Judicial Role in Criminal Plea and Sentence Bargaining," *Texas Law Review* Symposium, "Punishment Law and Policy," The University of Texas School of Law, Austin, TX. Notes supplied.

January 5, 2006: "Separation of Powers and the Criminal Law," University of Chicago Law School Constitutional Law Workshop, Chicago, IL. This talk was based on *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006), which is attached in response to question 12a. I have no notes, transcript or recording, but to the best of my recollection, I would have made similar remarks to those I made at the January 4, 2006 event.

January 4, 2006: "Separation of Powers and the Criminal Law," American Association of Law Schools, Section on Criminal Justice Lunch, Washington, DC. This talk was based on *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006), which is attached in response to question 12a. Notes supplied.

October 28, 2005: "Originalists, Politics, and Criminal Law on the Rehnquist Court," *George Washington Law Review* Symposium, "The Legacy of the Rehnquist Court," George Washington University Law School, Washington, DC. This talk was based on *Originalists, Politics, and Criminal Law on the Rehnquist Court*, 74 GEO. WASH. L. REV. 1043 (2006), which is attached in response to question 12a. Notes supplied.

October 19, 2005: "Separation of Powers and the Criminal Law," Faculty Workshop, Emory School of Law, Atlanta, GA. This talk was based on *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006), which is attached in response to question 12a. Notes supplied.

September 30, 2005: Moot Job Talk Panel to Advise Prospective Teaching Candidates, NYU School of Law, New York, NY. This was a session with NYU students to help them prepare for job interviews and presentations on the law teaching market. I have no notes, transcript or recording. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

September 29, 2005: “The Future and Force of the Guidelines,” Panel Discussion, Federal Judicial Center, Workshop for Judges of the First and Seventh Circuits, Chicago, IL. Notes supplied.

July 28, 2005: Co-Organizer, Junior Criminal Law Professors’ Gathering, George Washington University Law School, Washington, DC. This was an informal event for junior faculty who focus on criminal law. Others presented papers at this event, and I took part in the discussion. I have no notes, transcript or recording. There was no sponsoring organization for this event.

July 14, 2005: “Current Issues in Criminal Law,” Panel Discussion, Institute of Judicial Administration, New York, NY. Notes supplied.

July 11, 2005: “Influences on Federal Sentencing Policy: Post *Booker*,” Panel Discussion, Federal Judicial Center, National Sentencing Policy Institute, Washington, DC. I spoke about the state of sentencing law after the Supreme Court’s decision in *Booker*, which made the Guidelines no longer mandatory. I have no notes, transcript or recording. The Federal Judicial Center is located at 1 Columbus Circle, NE, Washington, DC 20544.

June 2, 2005: “Separation of Powers and the Criminal Law,” NYU Summer Brown Bag Series, New York, NY. I have no notes, transcript or recording, but this talk was based on *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

May 16, 2005: “Separation of Powers and the Criminal Law,” May Gathering of Law School Junior Faculty, Georgetown University Law Center, Washington, DC. This talk was based on *Separation of Powers and the Criminal Law*, 58 STAN. L. REV. 989 (2006), which is attached in response to question 12a. Outline supplied.

May 14, 2005: Commented on William J. Stuntz, “The Political Constitution of Criminal Justice,” Criminal Justice Roundtable, Harvard Law School, Cambridge, MA. Notes supplied.

April 29, 2005: “Federalism and the Politics of Sentencing,” New York Junior Faculty Colloquium, Fordham Law School, New York, NY. This presentation was based on *Federalism and the Politics of Sentencing*, 105 COLUM. L. REV. 1276 (2005), which is attached in response to question 12a. I have no notes, transcript or recording, but to the best of my recollection, I would have made similar remarks to those I made at the February 15, 2005 event.

April 22, 2005: Moderator, “Global Rules for National Administrative Law,” NYU Global Administrative Law Conference, New York, NY. Notes supplied.

April 12, 2005: "Justice Scalia's Criminal Law Jurisprudence," *NYU Annual Survey of American Law* Dedication Ceremony, New York, NY. This talk was printed in, *Tribute to Justice Antonin Scalia*, 62 N.Y.U. ANN. SURV. AM. L. 15 (2006), which is attached in response to question 12a.

March 3, 2005: "The Future of Federal Sentencing After *Booker/Fanfan*," *Harvard Journal on Legislation* Symposium, "Criminal Sentencing at the Crossroads," Harvard Law School, Cambridge, MA. Notes supplied.

February 16, 2005: "The Future of Federal Sentencing After *Booker/Fanfan*," American Constitution Society, NYU School of Law, New York, NY. Notes supplied.

February 15, 2005: "Administering Crime," Advanced Criminal Law Seminar, Fordham University Law School, New York, NY. This talk was based on *Administering Crime*, 52 UCLA L. REV. 715 (2005), which is attached in response to question 12a. Notes supplied.

January 31, 2005: "Federalism and the Politics of Sentencing," Faculty Workshop, NYU School of Law, New York, NY. I have no notes, transcript or recording, but this presentation was based on *Federalism and the Politics of Sentencing*, 105 COLUM. L. REV. 1276 (2005), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

January 22, 2005: "Federalism and the Politics of Sentencing," *Columbia Law Review* Symposium, "Sentencing: What's at Stake for the States?," Columbia Law School, New York, NY. This presentation was based on *Federalism and the Politics of Sentencing*, 105 COLUM. L. REV. 1276 (2005), which is attached in response to question 12a. Notes supplied.

December 10, 2004: "*Blakely* and the Future of the Federal Sentencing Guidelines," Board of Trustees Meeting, NYU School of Law, New York, NY. Notes supplied.

November 12, 2004: "Administering Crime," Faculty Workshop, George Washington University Law School, Washington, DC. This talk was based on *Administering Crime*, 52 UCLA L. REV. 715 (2005), which is attached in response to question 12a. I have no notes, transcript or recording, but to the best of my recollection, I would have made similar remarks to those I made at the September 16, 2004 event.

October 28, 2004: "The Media and the Democratic Process," Panel Discussion on the 2004 Election, NYU School of Law, New York, NY. Notes supplied.

September 16, 2004: “Administering Crime,” Public Law Colloquium, Harvard Law School, Cambridge, MA. This talk was based on *Administering Crime*, 52 UCLA L. REV. 715 (2005), which is attached in response to question 12a. Notes supplied.

September 8, 2004: “*Blakely* and the Future of the Federal Sentencing Guidelines,” Criminal Law Lunch Group, NYU School of Law, New York, NY. Notes supplied.

August 16, 2004: “*Blakely* and the Model Penal Code Revisions on Sentencing,” National Association of Sentencing Commissions Conference, Santa Fe, NM. Notes supplied.

April 16, 2004: “Administering Crime,” Faculty Workshop, University of Notre Dame Law School, Notre Dame, IN. This talk was based on *Administering Crime*, 52 UCLA L. REV. 715 (2005), which is attached in response to question 12a. I have no notes, transcript or recording, but to the best of my recollection, I would have made similar remarks to those I made at the September 16, 2004 event.

February 4, 2004: “Guantanamo: The Supreme Court Case and the Extent of U.S. Power Over ‘Illegal Combatants’ – What Will it Mean?” Panel Discussion, Center on Law and Security, NYU School of Law, New York, NY. Notes supplied.

November 21, 2003: Commented on Christine Harrington & Umut Turem, “Neoliberal Regulatory Regimes and State Legitimation Crises,” Law and Society Workshop, NYU Law and Society Program, New York, NY. Notes supplied.

August 11, 2003: “A Review of the Supreme Court’s 2002 Term Criminal Law Cases,” Institute of Judicial Administration Panel at the American Bar Association Annual Meeting, San Francisco, CA. Notes supplied.

July 1, 2003: “Politics, Federalism, and Sentencing Reform,” NYU Summer Brown Bag Series, New York, NY. I have no notes, transcript or recording, but this presentation was based on an earlier version of *Federalism and the Politics of Sentencing*, 105 COLUM. L. REV. 1276 (2005), which is attached in response to question 12a. NYU School of Law is located at 40 Washington Square South, New York, NY 10012.

April 15, 2003: Moderator, Drug Law Symposium, NYU School of Law, New York, NY. Notes supplied.

October 29, 1999: “A Tale of Two Agencies: A Comparative Analysis of FCC and DOJ Review of Telecommunications Mergers,” Antitrust in the Information Age Symposium, University of Chicago Law School Legal Forum, Chicago, IL. I have no notes, transcript or recording, but this presentation was based on *A Tale*

of Two Agencies: A Comparative Analysis of FCC and DOJ Review of Telecommunications Mergers, 2000 U. CHI. LEGAL F. 29 (with Peter Huber), which is attached in response to question 12a. The University of Chicago Legal Forum is located at 1111 East 60th Street, Chicago, IL 60637.

June 1989: Valedictorian Speech, Gateway High School, Aurora, CO. I have no notes, transcript or recording. Gateway High School is located at 1300 South Sable Boulevard, Aurora, CO 80012.

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

I have searched through my notes and files and performed searches on electronic databases to try to obtain all media interviews. The following list is the result of those searches:

Maggie Clark, *Governors Balance Pardons With Politics*, THE PEW CHARITABLE TRUSTS, February 8, 2013. Copy supplied.

Alan Neuhauser, *NYPD Captain Tweets Warnings About Felons Released from Prison*, DNAINFO.COM: NEW YORK, December 20, 2012. Copy supplied.

Rajat Gupta Could Get Prison Term of 6 Years: Legal Experts, INDIA TIMES, October 14, 2012. [Please note that I was misquoted in this article. The reporter claims that I said that “[i]t is not necessary to give Gupta a high sentence . . . particularly in light of his unblemished record,” when in fact I said that I had no opinion on what sentence was appropriate because I did not know all the facts of the case or his background. I had no idea whether his record was “unblemished” or not, and would have never commented on it. I gave her factors the judge could consider and various arguments, and was misquoted as endorsing one of those arguments.] Copy supplied.

Jennifer Frey, *Introducing Adam Samaha*, THE LAW SCHOOL MAGAZINE: NYU SCHOOL OF LAW, 2012. Copy supplied.

Michael Rothfeld, *Corporate Probation: Punishing or Punting?*, THE WALL ST. J., August 31, 2012. Copy supplied.

Ann Givens, *Recusal in trial of 3 cops baffles*, NEWSDAY, July 22, 2012. Copy supplied.

Robert Iafolla, *Justices lean toward discretion in criminal cases*, LOS ANGELES DAILY JOURNAL, July 12, 2012. Copy supplied.

Emily Bazelon, *Supreme Court Year in Review: The justices seem to understand that juveniles aren't like the rest of us*, SLATE, June 25, 2012. Copy supplied.

Bob Ortega, *Arizona Prisoners Rarely Granted Clemency*, AZCENTRAL.COM, May 12, 2012. Copy supplied.

Benjamin Weiser, *Jury Statute Not Violated by Protester, Judge Rules*, N.Y. TIMES, April 19, 2012. Copy supplied.

Emily Bazelon, *If George Zimmerman Were on Trial; Which evidence about the shooting of Trayvon Martin could a jury hear?*, SLATE, April 2, 2012. Copy supplied.

Jess Bravin, *Rulings Expand Right to Counsel*, WALL ST. J., March 22, 2012. Copy supplied.

Nina Totenberg, *High Court Expands Defendants' Plea Bargain Rights*, NPR, March 21, 2012. Copy supplied.

Juvenile Justice, Afternoon Shift, March 19, 2012. A recording of the interview is available here: <http://www.wbez.org/blog/bez/2012-03-19/mondays-game-plan-afternoon-shift-shaky-starts-97438>.

Ashby Jones and Joanna Chung, *Care for Aging Inmates Puts Strains on Prisons*, WALL ST. J., January 27, 2012. Copy supplied.

June Grasso, Bloomberg News, Interview regarding *Lafler* and *Frye* oral argument, Fall 2011. Audio recording supplied.

Richard A. Oppel, Jr., *Sentencing Shift Gives New Leverage to Prosecutors*, N.Y. TIMES, September 25, 2011. Copy supplied.

Tamer El-Ghobashy, *Judges Acquit More Often Than Juries*, WALL ST. J., August 8, 2011. Copy supplied.

Colin Ross, *Prosecutors in the Boardroom*, MAIN JUSTICE, June 30, 2011. Copy supplied.

Carter Dougherty, *Warren Says Consumer Bureau Foes Should Look at Wall Street 'Behemoths'*, BLOOMBERG.COM, March 25, 2011. Copy supplied.

Noeleen G. Walder, *Conviction Integrity Panel Aims to Create 'Best Practices'*, N.Y.L.J., November 26, 2010. Copy supplied.

Mara Gay, *Could Drug Charges Against Judge Affect His Past Cases?*, AOL News, October 5, 2010. Copy supplied.

Michael Rothfeld, *Fraud Cases Get Rehashed After Court Ruling*, WALL ST. J., September 25, 2010. Copy supplied.

Monica Davey, *Missouri Tells Judges Cost of Sentences*, N.Y. TIMES, September 18, 2010. Copy supplied.

Larry Reibstein, *The Libertarian Among Us*, NYU Magazine, 2010. Copy supplied.

Mimi Hall, *Record Number Seek President's Clemency*, USA TODAY, April 27, 2010. Copy supplied.

June Grasso, Bloomberg News, Interview regarding New York case, *Rosario*, April 2010. Audio recording supplied.

Terry Morgan & Hanna Siegel, *The Fight Against Sex Offenders*, ABC WORLD NEWS, March 2, 2010. Copy supplied.

Ann Givens, *Woman: In escape, I had to drive drunk*, NEWSDAY, July 15, 2009. Copy supplied.

SCOTUScast featuring Rachel Barkow, THE FEDERALIST SOCIETY, July 7, 2009. A recording of the interview is available here: <http://www.fed-soc.org/publications/detail/scotuscast-7-7-09-featuring-rachel-barkow>.

Interview with WPIX regarding nomination of Judge Sonia Sotomayor, May 26, 2009. I do not have a transcript or video of this interview.

Interview with NY1 regarding nomination of Judge Sonia Sotomayor, May 26, 2009. I do not have a transcript or video of this interview.

Sue Reisinger, *Feds Seize Assets of Companies Suspected of Hiring Illegal Aliens*, CORPORATE COUNSEL, April 21, 2009. Copy supplied.

Ann Givens, *Experts: Tough road for Nassau DA to reopen Tinies case*, NEWSDAY, March 4, 2009. Copy supplied.

Sophia Chang & Keith Herbert, *Criminal investigation in Wal-Mart trampling death under way*, NEWSDAY, December 12, 2008. Copy supplied.

Jodi Kantor, *Young Voters Flock to Polls*, N.Y. TIMES, February 6, 2008. Copy supplied.

Michal Lando, *Jews join struggle to end New Jersey death penalty*, JERUSALEM POST, December 13, 2007. Copy supplied.

Pamela A. MacLean, *Change is Foreseen in Next Era of the DOJ*, NAT'L L.J., September 3, 2007. Copy supplied.

Pamela A. MacLean, *Clement, Mukasey Stand Out as Possible AG Candidates*, NAT'L L.J., August 29, 2007. Copy supplied.

Joseph Goldstein, *Bush Faces Void at Justice Department*, N.Y. SUN, August 28, 2007. Copy supplied.

Radio Interview With Brian Lehrer, *Following Up: Commuting Costs* (about possible ramifications of the Libby commutation on federal sentencing), July 6, 2007. A recoding of the interview is available here:
<http://www.wnyc.org/shows/bl/episodes/2007/07/06/segments/81747>.

Anemona Hartocollis, *Disease Drove Sex Attack*, N.Y. TIMES, April 30, 2007. Copy supplied.

Jeff Vandam, *Stroke and Scam*, N.Y. TIMES, January 21, 2007. Copy supplied.

Seth Stern, *Lean Times Spur Hard Look at Prison Population Boom*, CONG. Q. WKLY., September 8, 2006. Copy supplied.

Matt Phillips, *Q&A: Balance of Powers*, WALL ST. J., May 26, 2006. Copy supplied.

Jason McLure, *Sex Crimes and Punishment*, LEGAL TIMES, April 24, 2006. Copy supplied.

Anna Schneider-Mayerson, *The Little Supremes*, N.Y. OBSERVER, November 14, 2005. Copy supplied.

Marcie Samartino, *Should there be a religious test for Supreme Court nominees?*, NEWSDAY, October 25, 2005. Copy supplied.

Jodi Balsam, *Partners in Crime*, NYU Magazine, 2004. Copy supplied.

David Ho, *Mistrial Declared in Tyco Case After Juror Threatened*, COX NEWS SERVICE, April 2, 2004. Copy supplied.

Andrew Ross Sorkin, *Increasing Turmoil on Jury Threatens Tyco Trial*, N.Y. TIMES, March 27, 2004. Copy supplied.

David Ho, *Splintered Jury Leaves Tyco Executives Fate in Limbo*, COX NEWS SERVICE, March 26, 2004. Copy supplied.

Interview with ABC-7 NY regarding Martha Stewart case, March 5, 2004. I do not have a transcript or video of this interview.

Introducing Rachel Barkow, NYU Magazine, 2002. Copy supplied.

Margie Kelley, *Teaching Lessons*, HARVARD LAW BULLETIN, Summer 2002. Copy supplied.

Eric Zorn, *Trying Our Best to Stop Clichés, N-*, CHICAGO TRIBUNE, February 23, 1992. Copy supplied.

13. Public Office, Political Activities and Affiliations:

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

I have never held a public office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

Advisor to the Department of Justice Agency Review Transition Team for President-Elect Barack Obama, January 2009

Criminal Justice Policy Team, Barack Obama for President, April 2007 to November 2008

Law and Judiciary Committee, Barack Obama for President, July 2007 to November 2008

Justice Policy Team, John Kerry for President, 2004

14. Legal Career: Answer each part separately.

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

From 1996 to 1997, I was a law clerk to Judge Laurence H. Silberman, U.S. Court of Appeals for the District of Columbia Circuit.

From 1997 to 1998, I was a law clerk to Justice Antonin Scalia, Supreme Court of the United States.

- 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.

Summer 1996
Davis Polk & Wardwell
450 Lexington Avenue
New York, NY 10017
Summer Associate

1998 – 2002
Kellogg Huber Hansen Todd & Evans, P.L.L.C.
(now Kellogg Huber Hansen Todd Evans & Figel, P.L.L.C.)
1615 M Street, NW, Suite 400
Washington, DC 20036
Associate
(Please note that I took a leave from the firm during 2001 to serve as a John M. Olin Fellow at Georgetown. During that year, I worked on a few matters for Kellogg Huber on a part-time basis.)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

Before I started teaching and after my judicial clerkships, I worked at Kellogg Huber Hansen Todd & Evans as an associate. During that time, I worked primarily on telecommunications, administrative law, and antitrust issues in matters before the Federal Communications Commission and in

the federal courts. I primarily drafted comments before the FCC and appellate briefs.

Since I started teaching at NYU School of Law in 2002, I have devoted most of my time to my teaching and scholarship. But I have worked on several pro bono matters while working as a professor, typically filing amicus briefs in appellate courts in criminal law matters.

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

When I worked for Kellogg Huber from 1998 to 2002, my typical clients were telecommunications companies and the issues involved administrative law, telecommunications, and antitrust.

Since I started teaching at NYU School of Law in 2002, virtually all of my legal work has been pro bono and on criminal law issues. I have filed several briefs on behalf of the Center on the Administration of Criminal Law and one brief on behalf of the Charles Hamilton Houston Institute for Race and Justice.

- 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.

When I worked for Kellogg Huber from 1998 to 2002, my practice was divided between administrative law matters (roughly 70% of my work) and appellate cases (roughly 30% of my work). I was not a trial lawyer. I worked on matters before the Federal Communications Commission and then the appeals of those matters. In those matters, I was frequently a primary drafter of any comments filed with the agency or briefs filed with the court of appeals. I did not argue any of the cases in which I filed appellate briefs.

As a law professor, I now only work on appellate briefs as a consultant or editor. Those briefs have been in federal court.

- i. Indicate the percentage of your practice in:

- 1. federal courts; 65%
- 2. state courts of record; 5%
- 3. other courts;
- 4. administrative agencies 30%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings; 50%
- 2. criminal proceedings. 50%

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

I have never tried a case before a court or an administrative law judge.

- i. What percentage of these trials were:
1. jury;
 2. non-jury.
- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have consulted on or helped write several amicus briefs in the Supreme Court. The following is a list of those briefs:

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in Support of a Petition for a Writ of Certiorari in *Burwell v. United States*, No. 12-7099, *petition for cert. filed*, Dec. 6, 2012. Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *Alleyne v. United States*, No. 11-9335 (2012). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *Moncrieffe v. Holder*, No. 11-702 (2012). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *Missouri v. Frye*, 132 S.Ct. 1399 (2012) and *Lafler v. Cooper*, 132 S.Ct. 1376 (2012). Copy supplied.

Assisted with the drafting/consulted on Brief of Amicus Curiae Center on the Administration of Criminal Law in *Dorsey v. United States*, 132 S.Ct. 2321 (2012). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law et al. in *Brown v. Plata*, 131 S.Ct. 1910 (2011). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law et al. in *Connick v. Thompson*, 131 S.Ct. 1350 (2011). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *Carachuri-Rosendo v. Holder*, 130 S.Ct. 2577 (2010). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *United States v. O'Brien*, 130 S.Ct. 2169 (2010). Copy supplied.

Assisted with the drafting/consulted on Brief of Amicus Curiae Center on the Administration of Criminal Law in *Graham v. Florida*, 130 S.Ct. 2011 (2010). Copy supplied.

Assisted with the drafting/consulted on Brief of Amicus Curiae Center on the Administration of Criminal Law in *United States v. Stevens*, 130 S.Ct. 1577 (2010). Copy supplied.

Assisted with the drafting/consulted on Petition for a Writ of Certiorari in *Triple S Management Corp. v. Municipal Revenue Collection Center*, No. 09-233, *petition for cert. filed*, Aug 25, 2009 (cert. denied). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *Reid v. United States*, No. 08-1011, *petition for cert. filed*, Feb. 10, 2009 (cert. denied). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in Support of a Petition for a Writ of Certiorari and Brief of Amicus Curiae Center on the Administration of Criminal Law in *Abuelhawa v. United States*, 556 U.S. 816 (2009). Copies supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae Center on the Administration of Criminal Law in *Boyle v. United States*, 556 U.S. 938 (2009). Copy supplied.

Assisted with the drafting/consulted on (with co-counsel) Brief of Amicus Curiae The Charles Hamilton Houston Institute for Race and Justice, *Gonzalez v. United States*, 553 U.S. 242 (2008). Copy supplied.

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

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

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Alleyne v. United States*, No. 11-9335 (2012). I helped draft and edit the amicus brief in this case, which was filed on behalf of the Center on the Administration of Criminal Law. The brief argued that facts that are necessary to trigger mandatory minimum sentences must be found by a jury beyond a reasonable doubt. The Center was represented by a law firm that took the case pro bono. Our brief was filed on November 26, 2012, and a decision is pending.

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Counsel for Respondent:

Donald B. Verrilli, Jr.
Solicitor General
Department of Justice
Washington, DC 20530
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2. *Missouri v. Frye*, 132 S.Ct. 1399 (2012) and *Lafler v. Cooper*, 132 S.Ct. 1376 (2012). I helped draft and edit the amicus brief for the Center on the Administration of Criminal Law in these cases, which raised the question of whether the Sixth Amendment right to effective assistance of counsel extends to plea negotiations—including situations where defense counsel fails to communicate a plea offer, as was the case in *Missouri v. Frye*, or the defendant

rejects a plea offer based on bad advice from defense counsel, as was the case in *Lafler v. Cooper*. The Center filed its brief on July 22, 2011, and I worked on the briefs from approximately June 2011 through July 2011. The Center was represented by a law firm that took the case pro bono. The Supreme Court ruled in favor of the defendants and recognized claims for ineffective assistance of counsel at the plea bargaining stage.

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Counsel for respondent Cooper:
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Counsel for respondent Frye:
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3. *Dorsey v. United States*, 132 S.Ct. 2321 (2012). This case, along with a companion case of *Hill v. United States*, raised the question of whether the Fair Sentencing Act, which reduced the disparity between crack and powder cocaine

sentences from a ratio of 100 to 1 to 18 to 1, applied to offenders who committed their crime before the date the statute was enacted but were not sentenced until after its effective date. The Center filed its amicus brief on February 1, 2012, and I worked on the briefs from approximately December 2011 through February 2012. The Center was represented by a law firm that took the case pro bono. The Supreme Court ruled in favor of the defendants and held that the Fair Sentencing Act applied to offenders who committed their crime before the statute was enacted but who were not sentenced until after the statute's effective date.

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Staff Attorney
Federal Public Defender's Office
Central District of Illinois
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4. *Gonzalez v. United States*, 553 U.S. 242 (2008). I helped draft the amicus brief on behalf of The Charles Hamilton Houston Institute for Race and Justice in support of the petitioner in the Supreme Court case of *Gonzalez v. United States*. The case raised the question whether a federal criminal defendant must explicitly and personally waive his right to have an Article III judge preside over *voir dire*. The Institute filed a brief emphasizing the importance of juries and jury selection and arguing that the Federal Magistrates Act should be construed to require the express, personal consent of the defendant to avoid the constitutional question of

whether jury selection can be supervised by anyone other than a life-tenured, Article III judge. The Supreme Court ruled in favor of the United States. The Institute's brief was filed on November 12, 2007. I worked on the briefs from approximately October 2007 to November 2007.

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The Lyric Centre
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Counsel for Respondent:
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Bancroft, PLLC
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5. *Graham v. Florida*, 130 S.Ct. 2011 (2010). I helped draft and edit the amicus brief and formulate the arguments for the Center on the Administration of Criminal Law in the Supreme Court cases of *Sullivan v. Florida* and *Graham v. Florida*. These cases involved the question whether juveniles can be sentenced to life without parole for crimes not resulting in the death of another person. The Center filed an amicus brief in support of the petitioners in both cases, arguing that the sentences violate the Eighth Amendment. The Center filed an amicus brief on July 23, 2009. I worked on the case from approximately May 2009 to July 2009. The Center was represented by a law firm that took the case pro bono. The Supreme Court ruled in favor of the defendants.

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6. *Reid v. United States*, No. 08-1011, *petition for cert. filed*, Feb. 10, 2009 (cert. denied). I helped draft the amicus brief in support of the petition for a writ of certiorari in the Supreme Court for the Center on the Administration of Criminal Law in the case of *United States v. Reid*. The Center filed an amicus brief in support of a petition for a writ of certiorari on March 13, 2009. I worked on the briefs from approximately February 2009 through March 2009. The Center was represented by a law firm that took the case pro bono. The defendant was convicted at trial of multiple counts of firearms and Hobbs Act robbery offenses. At trial, the defendant was not allowed to cross-examine a government cooperator who testified against him regarding the sentence the witness would have faced absent his cooperation with the government. The Center filed a brief in support of the defendant's petition for a writ of certiorari arguing that the defendant's constitutional right to confront a witness regarding bias and motive to lie outweighed the judicially-created prophylactic rule aimed at limiting jury nullification that was used to prohibit the cross-examination. The petition was denied.

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Counsel for Petitioner:
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Counsel for Respondent:
Associate Justice Elena Kagan
Supreme Court of the United States
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7. *GTE Service Corp. v. FCC*, 205 F.3d 416 (D.C. Cir. 2000). I represented GTE, US West, and the United States Telephone Association in proceedings before the Federal Communications Commission and later on appeal in the D.C. Circuit in a matter involving the duties of incumbent local exchange carriers (ILECs) to allow competitors to physically or virtually collocate the competitors' property on the ILECs' property. To the best of my recollection, I worked on all comments and briefs associated with this matter, and did so from 1999 to 2000. The FCC issued an order requiring the ILECs to allow collocation, 14 FCC Rcd 4761 (1999). I represented GTE, US West, and the United States Telephone Association on appeal before Chief Judge Edwards, Judge Ginsburg, and Judge Sentelle of the D.C. Circuit. The D.C. Circuit held that the 1996 Telecommunications Act did not permit the FCC to require local exchange carriers to provide physical collocation of competitors' equipment that was merely used or useful for either interconnection or access to unbundled network elements (UNEs), and remanded to the agency for further consideration. I did not argue the case on appeal.

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Counsel for the FCC:
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8. *WorldCom v. FCC*, 238 F.3d 449 (D.C. Cir. 2001). I represented incumbent local exchange carriers (ILECs) in proceedings before the Federal Communications Commission and later on appeal in the D.C. Circuit regarding an FCC decision granting the ILECs greater pricing flexibility. I served as a primary drafter of the ILECs' brief in the D.C. Circuit. The FCC granted the ILECs greater pricing flexibility, 14 FCC Rcd 14221 (1999), 1999 WL 669188. The D.C. Circuit appeal was before Chief Judge Edwards, Judge Sentelle, and Judge Randolph. The FCC decision was upheld. To the best of my recollection, I worked on this matter from 1999 to 2000.

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Counsel for the FCC:
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Counsel for intervenors:
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Kellogg Huber Hansen Todd Evans & Figel, PLLC
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9. I represented SBC Communications in proceedings before the Federal Communications Commission that considered what network elements had to be

shared by incumbent local exchange carriers with their competitors and also whether ILECs had to unbundle the high-frequency spectrum of their copper loop. Most of my work in these matters was at the agency level, where I filed substantial comments over a period of many years. But I also helped draft initial versions of the appellate briefs for the argument in the D.C. Circuit. I was on leave from the firm when the briefs were finalized, so the final versions were completed by someone else. I did not argue the case. The D.C. Circuit granted the petition and remanded to the FCC. I worked on these and related matters throughout my time at Kellogg Huber, so from roughly 1998 to 2002. The FCC issued an order on unbundled network elements in 15 FCC Rcd 3696 (1999). It issued an order on line sharing in 14 FCC Rcd 20912. The D.C. Circuit decision reviewing these orders is *United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002).

Counsel for petitioners:

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Counsel for FCC:

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Counsel for intervenors:

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Sidley & Austin
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10. I represented SBC Communications Inc. in regard to its merger with Ameritech. This case took up a large chunk of my time for two years, but my involvement consisted primarily of helping to file the necessary comments and materials with the Federal Communications Commission to get approval for the merger. The case was ultimately appealed, so I have included it on this list of litigated matters

even though I did not handle the appeal. To the best of my recollection, I worked on this matter from the time I started at the firm, October 1998 through December 1999. The merger was ultimately approved by the FCC in an order available at 14 F.C.C.R. 14,712, 1999 WL 1337659 (F.C.C. Oct. 6, 1999). The D.C. Circuit reviewed the FCC's decision in *Association of Communications Enterprises v. FCC*, 235 F.3d 662 (D.C. Cir. 2001). The judges on the DC Circuit panel were Chief Judge Edwards, Judge Rogers, and Judge Silberman.

Counsel for SBC:
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Counsel for intervenor AT&T:
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(202) 736-8027

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s).

(Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In addition to the matters described in response to prior questions, I wrote comments to the FCC in several major proceedings. I represented SBC Communications, Inc. in proceedings before the FCC regarding the merger of AT&T and TCI and regarding the merger of Comcast and AT&T. I represented incumbent local exchange carriers in proceedings before the FCC regarding the merger of AOL and Time Warner. I also represented SBC Communications in its opposition to a petition by the Association of Local Telecommunications Services to get a declaratory ruling from the FCC regarding broadband loop provisioning. And I represented ILECs in their efforts to gain approval to offer long distance in various states. I also recently assisted with comments filed by the Center on the Administration of Criminal Law in an FCC proceeding addressing the interstate calling rates charged prison inmates.

In my role as the Faculty Director of the Center on the Administration of Criminal Law, I edited our report, Establishing Conviction Integrity Programs in Prosecutor's Offices, which outlines best practices to support prosecutors' efforts to ensure public confidence in the convictions they obtain and to reduce the incidence of wrongful convictions. The Report is the outgrowth of the Center's empirical research into best practices, as well as a roundtable with participants that included a number of current and former District Attorneys from across the country, representatives from the Department of Justice, and individuals from various state law enforcement agencies and research institutes. The Roundtable brought together these leading figures to develop templates that prosecutors can use to implement conviction integrity reforms in their offices. I have also worked on these issues as a member of the Manhattan District Attorney's Conviction Integrity Policy Advisory Panel.

I have not engaged in lobbying activities.

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

Administrative and Regulatory State, NYU School of Law.

Taught in 2003, 2004, 2005, 2006, 2010, 2011, 2012

The course covered statutory interpretation and basic principles of administrative law, including separation of powers and judicial review of agency decisions under the Administrative Procedure Act.

Spring 2003, 2004, 2005, 2006, 2010, 2011 and 2012 syllabi supplied.

Administrative Law, NYU School of Law.

Taught in 2003.

This course was a basic course in administrative law, covering separation of powers, agency rulemaking and adjudication, judicial review of agencies, and the Administrative Procedure Act.

Fall 2003 syllabus supplied.

Advanced Administrative Law (now: Advanced Topics in Administrative Law), NYU School of Law.

Taught as a seminar in 2005 and 2011 and a course in 2008.

The course covered advanced topics in administrative law including executive oversight, agency choice of procedure, exceptions to notice and comment rulemaking, agency decisionmaking structures, preclusion of judicial review, standing, ripeness, exhaustion, finality, ex parte contact restrictions, Freedom of Information Act and other sunshine laws, and judicial management of agencies.

Spring 2005 and 2008 syllabi supplied.

Constitutional Law Colloquium, NYU School of Law.

Co-taught in 2006 with Professor Cristina Rodriguez.

The course was a colloquium that consisted of a series of presentations by law professors on topics in constitutional law and theory. The colloquium was attended by students and interested faculty members.

Fall 2006 syllabus supplied.

Criminal Law, NYU School of Law.

Taught in 2004, 2007, 2010, 2011, and 2012.

This course was the basic 1L course on criminal law, covering culpability, elements of offenses, homicide, rape, theft offenses, attempt, group criminality, defenses, and criminal punishment.

Fall 2004, 2007, 2010, 2011, and 2012 syllabi supplied.

Legislation and Regulation, Harvard Law School.

Taught in 2008.

The course covered statutory interpretation and basic principles of administrative law, including separation of powers and judicial review of agency decisions under the Administrative Procedure Act.

Fall 2008 syllabus supplied.

The Power of Prosecutors Reading Group, Harvard Law School.

Taught in 2008.

This course analyzed the scope of prosecutorial power, including prosecutorial power over plea bargaining and charging decisions, and considered possible reforms for addressing unchecked prosecutorial discretion.

Fall 2008 syllabus supplied.

Public Law Colloquium, NYU School of Law.

Co-taught in 2008 with Professor Cristina Rodriguez.

The course was a colloquium that consisted of a series of presentations by law professors on topics in public law, including constitutional law, criminal law, and administrative law. The colloquium was attended by students and interested faculty members. Spring 2008 syllabus supplied.

Punishment in Law, Politics, and Society, NYU Abu Dhabi
Taught in 2011, 2012, and 2013.

This course investigates the state's power to punish through readings in philosophy, sociology, political science, and law. This is an undergraduate course offered in NYU's January Term that meets every day for three weeks and has an extensive field trip component.

January 2011, 2012, and 2013 syllabi supplied.

Criminal Law, Law Preview

Taught in 2007, 2008, 2009, 2010, 2011, and 2012.

This course is a four-hour lecture that gave a basic overview of criminal law to students in the summer before they start law school. I did not prepare a syllabus.

Criminal Law and Procedure, Emanuel Bar Review

Taught in 2008 and 2009.

This course covered the basic doctrine in criminal law and procedure that is typically covered on the multi-state bar exam. I did not prepare a syllabus.

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

I do not have any anticipated receipts from previous business relationships, professional services, firm memberships, former employers, clients or customers.

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

I intend to continue my employment as a professor with NYU School of Law if I am appointed to the United States Sentencing Commission.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest:**

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

I am currently the Faculty Director of the Center on the Administration of Criminal Law at NYU. If I were to be appointed to the Commission, the Center would no longer participate in any hearing or other matter before the Commission, nor would it litigate cases involving the Sentencing Guidelines. If necessary under the relevant ethics rules, I would also be willing to relinquish my position as Faculty Director.

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

I am currently the Faculty Director of the Center on the Administration of Criminal Law at NYU. If I were to be appointed to the Commission, the Center would no longer participate in any hearing or other matter before the Commission, nor would it litigate cases involving the Sentencing Guidelines. If necessary under the relevant ethics rules, I would also be willing to relinquish my position as Faculty Director.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Most of my pro bono legal work is done under the auspices of the Center on the Administration of Criminal Law. Since the founding of the Center in 2008, I have worked on fifteen amicus briefs before the Supreme Court, all on a pro bono basis. Each brief consumed approximately 35-50 hours of my time. My work on the Center's Conviction Integrity Report was also entirely pro bono, and my service on the Manhattan District Attorney's Conviction Integrity Policy Advisory Panel is uncompensated. I am

currently working on comments to the FCC on the interstate long distance rates charged to prisoners, and that is also pro bono.

In addition to these briefs, virtually of my scholarship is devoted to improving government practices in criminal cases. In fact, my pro bono litigation work is often an outgrowth of that scholarship. I participate in numerous panels and conferences on topics of criminal justice reform.

I am also active in many activities at NYU that aim to help the disadvantaged. I have participated in the Root-Tilden-Kern selection program to help select students committed to service in the public interest. I have served as a mentor to students who are admitted under the An-Bryce program, which is a program for disadvantaged students who are the first in their family to attend law school. I have also counseled countless students on possible careers in public service, either in government positions or working as defense lawyers.

I have worked on criminal justice reform in other respects as well. For example, I have filed comments and testified before the United States Sentencing Commission. I have testified before the Senate Judiciary Committee, and I have discussed sentencing policy at judicial conferences. I have also worked on corporate criminal law reform. I have talked with the Government Accountability Office about improving deferred prosecution agreement practices and, through the Center on the Administration of Law, have organized a conference on the same topic and edited a book that explores these issues.

In addition to my work in criminal law, I have also done work on consumer protection reform, testifying before the Subcommittee on Commerce, Trade, and Consumer Protection of the House Committee on Energy and Commerce, and attending numerous conferences and panels on the same subject.

**FINANCIAL DISCLOSURE REPORT
NOMINATION FILING**

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

1. Person Reporting (last name, first, middle initial) Barkow, Rachel E.	2. Court or Organization United States Sentencing Commission	3. Date of Report 04/15/2013
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Commissioner	5a. Report Type (check appropriate type) ☒ Nomination Date 04/15/2013 ☐ Initial ☐ Annual ☐ Final	6. Reporting Period 1/1/2012 to 04/01/2013
	5b. ☐ Amended Report	
7. Chambers or Office Address NYU School of Law 40 Washington Square South, #310F New York, NY 10012		
IMPORTANT NOTES: <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Insert signature on last page.</i>		

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

☐ NONE *(No reportable positions.)*

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Segal Family Professor of Regulatory Law and Policy	NYU School of Law
2. Faculty Director	Center on the Administration of Criminal Law, NYU School of Law
3.	
4.	
5.	

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

☐ NONE *(No reportable agreements.)*

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1. 2012	NYU Section 457(b) Deferred Compensation Plan (participant since 2008)
2.	
3.	

FINANCIAL DISCLOSURE REPORT

Page 2 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2013	NYU School of Law, compensation	\$121,954.44
2. 2013	Wolters Kluwer, royalties	\$19,071.13
3. 2012	NYU School of Law, compensation	\$283,817.44
4. 2012	NYU School of Law, summer grant	\$81,670.00
5. 2012	Law Preview, compensation	\$2,400.00
6. 2012	Valparaiso University, honorarium	\$1,500.00
7. 2012	NYU School of Law, royalties	\$460.47
8. 2012	Duke Law School, honorarium	\$300.00
9. 2012	Yeshiva/Cardozo School of Law, honorarium	\$300.00
10. 2012	Themis Bar Review, compensation	\$12,000.00
11. 2012	Shapiro, Arato & Isserles, consulting fee	\$500.00
12. 2012	University of Virginia School of Law, honorarium	\$300.00
13. 2011	NYU School of Law, compensation	\$256,176.85
14. 2011	NYU School of Law, summer grant	\$75,000.00
15. 2011	Law Preview, compensation	\$3,600.00
16. 2011	Themis Bar Review, compensation	\$6,000.00
17. 2011	Duke Law School, honorarium	\$300.00
18. 2011	George Washington University Law School, honorarium	\$300.00

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	

FINANCIAL DISCLOSURE REPORT

Page 3 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

2.

3.

4.

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

1. Exempt

2.

3.

4.

5.

FINANCIAL DISCLOSURE REPORT

Page 4 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

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

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

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

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

FINANCIAL DISCLOSURE REPORT

Page 5 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Citibank Checking Account	A	Interest	K	T					
2. Vanguard 500 Index Fund	B	Dividend	L	T					
3. Vanguard Intermediate-Term Bond Index Fund	B	Dividend	K	T					
4. Vanguard Intermediate Term Tax-Exempt Fund	A	Dividend	L	T					
5. Vanguard Mid-Cap Index Fund	A	Dividend	L	T					
6. Vanguard New York Tax-Exempt Money Market Fund	A	Dividend	K	T					
7. Vanguard Prime Money Market Fund	A	Dividend	K	T					
8. Vanguard Total International Stock Index Fund	B	Dividend	L	T					
9. Vanguard Total Stock Market Index Fund	C	Dividend	M	T					
10. IRA #1	C	Dividend	L	T					
11. -Vanguard Equity Income Fund									
12. -Vanguard Total Bond Market Index Fund									
13. IRA #2	B	Dividend	L	T					
14. -Vanguard GNMA Fund									
15. IRA #3	A	Dividend	J	T					
16. -Vanguard Total Bond Market Index Fund									
17. IRA #4	A	Dividend	K	T					

1. Income Gain Codes:
(See Columns B1 and D4)

2. Value Codes
(See Columns C1 and D3)

3. Value Method Codes
(See Column C2)

A = \$1,000 or less
F = \$50,001 - \$100,000
J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000
Q = Appraisal
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000
R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000
L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000
S = Assessment
W = Estimated

D = \$5,001 - \$15,000
H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000
T = Cash Market

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

FINANCIAL DISCLOSURE REPORT

Page 6 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. -Vanguard Equity Income Fund									
19. Vanguard Total Bond Market Index Variable Annuity		None	K	T					
20. 403(b) Plan #1	D	Dividend	M	T					
21. -Vanguard Total Bond Index Fund									
22. -Vanguard Total International Stock Index Fund									
23. -Vanguard Total Stock Market Index Fund									
24. NYU Deferred Compensation Plan	A	Dividend	M	T					
25. -Vanguard Target Retirement 2040 Fund									
26. -Vanguard Target Retirement 2050 Fund (y)									
27. JP Morgan Chase Bank Tenant Lease Security Deposit	A	Interest	J	T					
28. Vanguard Moderate Growth Portfolio (NY 529 Plan)		None	L	T					
29. Janus Global Technology Fund	A	Dividend	J	T					
30. 403(b) Plan #2		None	M	T					
31. -CREF Bond Market Fund									
32. -CREF Global Equities Fund									
33. -CREF Growth Fund									
34. -CREF Stock Fund									

1. Income Gain Codes:
(See Columns B1 and D4)

2. Value Codes
(See Columns C1 and D3)

3. Value Method Codes
(See Column C2)

A = \$1,000 or less
F = \$50,001 - \$100,000
J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000
Q = Appraisal
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000
R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000
L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000
S = Assessment
W = Estimated

D = \$5,001 - \$15,000
H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000
T = Cash Market

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

FINANCIAL DISCLOSURE REPORT

Page 7 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. -TIAA Real Estate Fund									
36. -TIAA Traditional Fund									
37.									
38.									

1. Income Gain Codes:
(See Columns B1 and D4)
2. Value Codes
(See Columns C1 and D3)

A = \$1,000 or less
F = \$50,001 - \$100,000
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B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000
R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000
L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000
S = Assessment
W = Estimated

D = \$5,001 - \$15,000
H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000
T = Cash Market

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

FINANCIAL DISCLOSURE REPORT

Page 8 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

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

FINANCIAL DISCLOSURE REPORT

Page 9 of 9

Name of Person Reporting

Barkow, Rachel E.

Date of Report

04/15/2013

IX. CERTIFICATION.

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

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

Signature: s/ **Rachel E. Barkow**

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

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		38	303	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	395	984	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		285	133
Real estate owned – vacation home		480	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		60	000				
Cash value-life insurance							
Other assets itemize:							
				Total liabilities		285	133
				Net Worth	1	689	154
Total Assets	1	974	287	Total liabilities and net worth	1	974	287
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

CREF Bond Market Fund	21,330
CREF Global Equities Fund	45,644
CREF Growth Fund	44,446
CREF Stock Fund	68,457
Janus Global Technology Fund	3,514
TIAA Real Estate Fund	44,216
TIAA Traditional Fund	5,412
Vanguard 500 Index Fund	54,050
Vanguard Equity Income Fund	85,285
Vanguard GNMA Fund	58,531
Vanguard Intermediate-Term Bond Index Fund	36,518
Vanguard Intermediate-Term Tax Exempt Fund	74,079
Vanguard Mid-Cap Index Fund	59,823
Vanguard Moderate Growth Portfolio -529	64,551
Vanguard New York Tax-Exempt Money Market Fund	24,462
Vanguard Prime Money Market Fund	48,852
Vanguard Target Retirement 2040 Fund	116,297
Vanguard Total Bond Market Index Fund	130,459
Vanguard Total Bond Market Index Fund – Annuity	47,993
Vanguard Total International Stock Index Fund	58,959
Vanguard Total Stock Market Index Fund	303,106
Total Listed Securities	\$1,395,984

AFFIDAVIT

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

April 16, 2013
(DATE)

RE BL
(NAME)

Gail Thomas
Notary Public State of New York
No. 010N5066334
Qualified in Richmond County
Commission Expires September 23, 2014 -

Gail Thomas
(NOTARY)
04/16/2013 -