

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES**

PUBLIC

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

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

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

Office: Squire Patton Boggs
 201 East Fourth Street, Suite 1900
 Cincinnati, Ohio 45202

Residence: Louisville, Kentucky
4. **Birthplace**: State year and place of birth.

1981; Paducah, Kentucky
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.

2006 – 2009, Columbia University School of Law; J.D., 2009

1999 – 2003, Centre College of Kentucky; B.A. (*summa cum laude*), 2003
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.

2018 – present
Squire Patton Boggs (US) LLP
201 East Fourth Street, Suite 1900
Cincinnati, Ohio 45202
Appellate practice co-chair (2019 – present)
Partner (2018 – present)

2012 – 2018

Sidley Austin LLP
1501 K Street, Northwest
Washington, District of Columbia 20005
Associate

2011 – 2012
Honorable Ruth Bader Ginsburg
Supreme Court of the United States
1 First Street, Northeast
Washington, District of Columbia 20002
Law Clerk

2010 – 2011
Sidley Austin LLP
1501 K Street, Northwest
Washington, District of Columbia 20005
Associate

2009 – 2010
Honorable A. Raymond Randolph
United States Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue, Northwest
Washington, District of Columbia 20001
Law Clerk

Summer 2009
Sidley Austin LLP
1501 K Street, Northwest
Washington, District of Columbia 20005
Summer Associate

Summer 2008
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017
Summer Associate

Summer 2007
United States Attorney's Office for the Southern District of New York
1 Saint Andrews Plaza
New York, New York 10007
Intern (Criminal Division)

2004 – 2006
Kentucky Cabinet for Health and Family Services
275 East Main Street
Frankfort, Kentucky 40621
Deputy Chief of Staff

2003 – 2004
Honorable Ed Whitfield
United States House of Representatives
301 Cannon House Office Building
Washington, District of Columbia 20515
Legislative Assistant

Other Affiliations (uncompensated)

2017 – present
Centre College Board of Trustees
600 West Walnut Street
Danville, Kentucky 40422
Governance Committee (2020 – present)
Vice Chair, Finance Committee (2019 – present)
Academic Affairs Committee (2017 – 2019)
Planning Committee (2017 – 2019)

2012
Temple Bar Scholar
225 Reinekers Lane, Number 770
Alexandria, Virginia 22314
Exchange Scholar in London, United Kingdom

2010
International Justice Mission
15 Suuna Road, Plot 15
Ntinda, Kampala
Uganda
Legal Fellow

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 timely registered 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.

International Municipal Lawyers Association Amicus Service Award (2018)

D.C. Bar Pro Bono Honor Roll
High Honor Roll (2016, 2017)
Honor Roll (2014, 2018)

Sidley Austin Vincent F. Prada Pro Bono Award (2016 – 2017)

Centre College Distinguished Young Alumnus Award (2017)

Centre College Annual Constitution Day Lecturer (2015)

American Inns of Court Temple Bar Scholar (2012)

Columbia University School of Law

James Kent Scholar (2006 – 2007, 2007 – 2008)

Harlan Fiske Stone Scholar (2008 – 2009)

Alexander Hamilton Fellow

Columbia Law Review, Articles Editor (2008 – 2009)

Centre College

Degree awarded with highest honors, elected to Phi Beta Kappa (2003)

Welch Valedictorian Prize (2003)

Samuel Cheek Memorial Prize for Most Outstanding Student of Government (2003)

Presidential Scholar

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 (2011 – 2018)

American Inns of Court (2014 – 2017, 2019 – present)

· Louis D. Brandeis Inn of Court, Louisville, Kentucky (2019 – present)

Edward Coke Appellate Inn of Court, Washington, D.C. (2014 – 2017)

Federal Bar Association (2018 – 2020)

Federalist Society for Law and Public Policy Studies (2006 – 2009, 2019 – present)

Northern Kentucky Lawyers Chapter, Programming Coordinator (2019 – present)

Columbia Law School Chapter (2006 – 2009)

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.

Kentucky, 2010

District of Columbia, 2012

Ohio, 2019

There have been no lapses in membership.

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

Supreme Court of the United States, 2017

United States Court of Appeals for the District of Columbia Circuit, 2014

United States Court of Appeals for the Second Circuit, 2020

United States Court of Appeals for the Third Circuit, 2016

United States Court of Appeals for the Fourth Circuit, 2016

United States Court of Appeals for the Sixth Circuit, 2013

United States Court of Appeals for the Ninth Circuit, 2013

United States Court of Appeals for the Eleventh Circuit, 2020

United States Court of Appeals for the Federal Circuit, 2014

United States District Court for the District of Columbia, 2015

United States District Court for the Eastern District of Kentucky, 2019

United States District Court for the Western District of Kentucky, 2018

My Fifth Circuit bar membership lapsed for nonuse, and I have not renewed it. Other than this, 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.

Centre College Board of Trustees (2017 – present)

Governance Committee (2020 – present)

Vice Chair, Finance Committee (2019 – present)

Academic Affairs Committee (2017 – 2019)

Planning Committee (2017 – 2019)

Centre College President's Advisory Council (2014 – 2017)

Kentucky Business Council, Co-Founder (2017 – 2019)

Lakeside Swim Club (2019 – present)

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

implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

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

12. Published Writings and Public Statements:

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

Covid E-Signature Voter Case on (Very) Fast Track from Ohio to En Banc Review?, Sixth Circuit Appellate Blog, May 22, 2020. Copy supplied.

Sua sponte En Banc Rehearing Granted in Right-to-Education Case, Sixth Circuit Appellate Blog, May 19, 2020. Copy supplied.

With Justin DiCharia, *Michigan Settlement Attempts to Moot Potential En Banc Review of Right-to-Literacy Ruling*, Sixth Circuit Appellate Blog, May 14, 2020. Copy supplied.

With Benjamin Glassman, *Supreme Court Trims Wire Fraud Theory of Public Corruption in Bridgegate Decision*, Sixth Circuit Appellate Blog, May 13, 2020. Copy supplied.

Supreme Court to Review Split Sixth Circuit Decision on Judicial Review of Agency Guidance, Sixth Circuit Appellate Blog, May 4, 2020. Copy supplied.

Squire Patton Boggs, *Coronavirus Update: Sixth Circuit Judicial Conference Rescheduled for June 2021*, Sixth Circuit Appellate Blog, May 1, 2020. Copy supplied.

Opioid Update: Judge Kethledge Reclaims Solitude—and Civil Procedure, Sixth Circuit Appellate Blog, May 1, 2020. Copy supplied.

Sixth Circuit Holds Due Process Guarantees Right To Access Literacy, Sixth Circuit Appellate Blog, Apr. 27, 2020. Copy supplied.

Squire Patton Boggs, *Cert Watch: Supreme Court to review split Sixth Circuit FTCA decision on election-of-remedies*, Sixth Circuit Appellate Blog, Apr. 18, 2020. Copy supplied.

Squire Patton Boggs, *Always. Check. Jurisdiction.*, Sixth Circuit Appellate Blog, Apr. 13, 2020. Copy supplied.

Coronavirus Update: 6th Circuit Conference Postponed to 2021, Sixth Circuit Appellate Blog, Mar. 27, 2020. Copy supplied.

With Benjamin Glassman, *UPDATED Coronavirus Update: Potter Stewart Courthouse Closed 2 Weeks*, Sixth Circuit Appellate Blog, Mar. 23, 2020. Copy supplied.

UPDATED Coronavirus Update: Fed Courts Status Page, Sixth Circuit Appellate Blog, Mar. 22, 2020. Copy supplied.

**Updated* Coronavirus Update: A Moving Target*, Sixth Circuit Appellate Blog, Mar. 17, 2020. Copy supplied.

Coronavirus Update: The latest from Sixth Circuit courthouses, Sixth Circuit Appellate Blog, Mar. 16, 2020. Copy supplied.

A busy Sixth Circuit in “an Alice in Wonderland world,” Sixth Circuit Appellate Blog, Mar. 13, 2020. Copy supplied.

Former US Attorney & 6th Circuit Vet Ben Glassman Joins Squire Patton Boggs Appellate Practice, Sixth Circuit Appellate Blog, Mar. 7, 2020. Copy supplied.

Sixth Circuit Adds its Voice to the post-Janus Chorus: Good-Faith Defense Applies to Union “Fair-Share” Fees, Sixth Circuit Appellate Blog, Feb. 27, 2020. Copy supplied.

Opioid Update: Sixth Circuit Stays National Dispensing Discovery—For Now, Sixth Circuit Appellate Blog, Feb. 14, 2020. Copy supplied.

Opioid Update: Briefing Begins in Interlocutory Appeal of Negotiation-Class Ruling, Sixth Circuit Appellate Blog, Feb. 11, 2020. Copy supplied.

Bells Cannot Be Un-Rung: Gerrymandering Discovery Dispute Moot, Orders Vacated, Sixth Circuit Appellate Blog, Feb. 10, 2020. Copy supplied.

Opioid Update: MDL Defendants Return to the Sixth Circuit, Sixth Circuit Appellate Blog, Feb. 3, 2020. Copy supplied.

With Justin DiCharia, *Supreme Court Affirms Sixth Circuit: Bankruptcy Stay-Relief Denials Immediately Appealable*, Sixth Circuit Appellate Blog, Jan. 28, 2020. Copy supplied.

“PLEASE READ IT CAREFULLY,” Sixth Circuit reminds policyholders, Sixth Circuit Appellate Blog, Jan. 22, 2020. Copy supplied.

The Learned Sixth: “Run, Fun & Gun,” Sixth Circuit Appellate Blog, Dec. 31, 2019. Copy supplied.

Movant Beware: No right of action under HIPAA, and no class-cert absent notice, Sixth Circuit Appellate Blog, Dec. 10, 2019. Copy supplied.

The Learned Sixth: Kethledge, Hayek, and “executive activism,” Sixth Circuit Appellate Blog, Nov. 19, 2019. Copy supplied.

With Barrett Block, *Opioid Update: “Negotiation Class” Under Review*, Sixth Circuit Appellate Blog, Nov. 16, 2019. Copy supplied.

With Barrett Block, *Sixth Circuit certifies Pennsylvania security-screening comp question*, Sixth Circuit Appellate Blog, Nov. 7, 2019. Copy supplied.

With Barrett Block, *Opioid Update: Bellwether Settlement on Eve of Trial*, Sixth Circuit Appellate Blog, Oct. 22, 2019. Copy supplied.

With Barrett Block, *Opioid Update: Sixth Circuit Won’t Halt Bellwether Trial (and more)*, Sixth Circuit Appellate Blog, Oct. 10, 2019. Copy supplied.

With Scott Coyle, *Reviewing the Sixth Circuit’s Performance at the Supreme Court, OT2018 – Part One*, Sixth Circuit Appellate Blog, Oct. 7, 2019. Copy supplied.

With Barrett Block, *Opioid Update: More Irons in the Fire*, Sixth Circuit Appellate Blog, Oct. 2, 2019. Copy supplied.

With Justin DiCharia, *Tenn. Billboard Act Violates First Amendment, Says Sixth Circuit*, Sixth Circuit Appellate Blog, Sept. 27, 2019. Copy supplied.

With Barrett Block, *Opioid Update: Ohio Cities Now on Both Sides of Negotiation-Class Fight*, Sixth Circuit Appellate Blog, Sept. 27, 2019. Copy supplied.

Opioid Update: 6th Circuit Orders Mandamus Response from Judge Polster, Bellwether Counties, Sixth Circuit Appellate Blog, Sept. 25, 2019. Copy supplied.

With Justin DiCharia, *Sixth Circuit’s Plain-Meaning Approach to Foreign Arbitration Discovery*, Sixth Circuit Appellate Blog, Sept. 20, 2019. Copy supplied.

With Barrett Block, *Opioid Update: MDL Defendants Seek Judge Polster DQ*, Sixth Circuit Appellate Blog, Sept. 17, 2019. Copy supplied.

With Barrett Block, *Opioid Update: Ohio Asks Sixth Circuit for Mandamus while U.S. Chamber Says Muni Suits by Plaintiffs’ Firms Could Upend Civil Litigation*, Sixth Circuit Appellate Blog, Sept. 12, 2019. Copy supplied.

With Barrett Block, *En banc watch: “Death [or at least en banc denial] by distorted originalism,”* Sixth Circuit Appellate Blog, Sept. 9, 2019. Copy supplied.

With Thomas Zeno, *Sixth Circuit: Bank Fraud Requires ... a Bank*, Sixth Circuit Appellate Blog, Aug. 19, 2019. Copy supplied.

With Lauren Kuley, *Bargaining from Scratch is Alright. Sometimes.*, Sixth Circuit Appellate Blog, Aug. 15, 2019. Copy supplied.

With Lauren Kuley, *July Wrap-Up: First Amendment Arrest Edition*, Sixth Circuit Appellate Blog, Aug. 9, 2019. Copy supplied.

With Lauren Kuley, *Mid-July Recap: Barratry(!), ERISA Preemption(!!!), the Havis Trilogy and the Times*, Sixth Circuit Appellate Blog, July 18, 2019. Copy supplied.

With Zak Lutz, *"Lexis on Steroids": Corpus Linguistics receives mixed reception at the Sixth Circuit*, Sixth Circuit Appellate Blog, July 16, 2019. Copy supplied.

With Lauren Kuley, *Court Week(s): June's Oral Arguments and one Supreme Court affirmance*, Sixth Circuit Appellate Blog, July 9, 2019. Copy supplied.

The Learned Sixth: "Another Giant Tortoise," Sixth Circuit Appellate Blog, July 3, 2019. Copy supplied.

June Wrap-Up: Opioid non-disclosure and Obamacare non-discrimination, Sixth Circuit Appellate Blog, July 1, 2019. Copy supplied.

With Lauren Kuley, *En Banc Watch – New Decisions on Probable Cause and Sentencing Commission Authority*, Sixth Circuit Appellate Blog, June 20, 2019. Copy supplied.

With Colter Paulson and Lauren Kuley, *Late May Wrap-up: Another First Opinion, Another En Banc, Another Cert Grant*, Sixth Circuit Appellate Blog, June 6, 2019. Copy supplied.

En Banc Watch: Fight Over Substantive Due Process Sees Court Refuse to Rehear Flint Water Case, Sixth Circuit Appellate Blog, May 28, 2019. Copy supplied.

Last Week at the 6th Circuit: Substantive unreasonableness, maiden voyages, and railroaded state law, Sixth Circuit Appellate Blog, May 21, 2019. Copy supplied.

Last week at the Sixth Circuit: Suspended licenses, (Dis)honor Codes, and Re-redistricting, Sixth Circuit Appellate Blog, May 15, 2019. Copy supplied.

With Colter Paulson, *Trends in the Sixth Circuit – Time to a Decision*, Sixth Circuit Appellate Blog, May 7, 2019. Copy supplied.

Supreme Court Rejects Sixth and Eleventh Circuit's "Discretionary Function" Immunity for TVA, Sixth Circuit Appellate Blog, May 2, 2019. Copy supplied.

With Colter Paulson, *Trends in the Sixth Circuit – A Substantial Increase In Written Decisions*, Sixth Circuit Appellate Blog, Apr. 18, 2019. Copy supplied.

With Colter Paulson, "*The Learned Sixth*" – *Sixth Circuit Judges Busy Speaking and Writing*, Sixth Circuit Appellate Blog, Apr. 15, 2019. Copy supplied.

SEC Ends Hands-Off Approach to Rising Exchange Fees, Squire Patton Boggs Update, Oct. 16, 2018. Copy supplied.

Textualism in the Trenches: Judge Amul Thapar and the Administrative State, Notice & Comment, 36 Yale J. on Reg., July 3, 2018. Copy supplied.

With Amul Thapar, *The Pragmatism of Interpretation: A Review of Richard Posner's The Federal Judiciary*, 116 Mich. L. Rev. 819 (2018). Copy supplied.

En Banc Federal Circuit Rejects Rule of Automatic Exhaustion: Four Things You Should Know About Lexmark v. Impression, Sidley Update, Feb. 15, 2016. Copy supplied.

View from Temple Bar: Proximity and Professionalism in London, The Benchers, Mar./Apr. 2014. Copy supplied.

Temple Bar Scholarship, American Inns of Court, Jan. 2013. Copy supplied.

Walking the Federalist Tightrope: A National Policy of State Experimentation for Health Information Technology, 108 Colum. L. Rev. 1670 (2008). Copy supplied.

With Dr. James Holsinger, *Physician Professionalism for a New Century*, 19 Clinical Anatomy 473 (2006). Copy supplied.

With Lucas Chesnut, *The NCAA circus: coming to a school near you*, Cento, May 8, 2003. Copy supplied.

Beaton recounts top 5 Centre sports moments, Cento, May 8, 2003. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, May 8, 2003. Copy supplied.

The Numbers Game, Cento, Apr. 24, 2003. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Apr. 10, 2003. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Mar. 13, 2003. Copy supplied.

Coaches are human – even Tubby Smith, Cento, Feb. 20, 2003. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Feb. 20, 2003. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Jan. 23, 2003. Copy supplied.

Benjamin Beaton talking sticks with Tom Hobbs, Cento, May 9, 2002. Copy supplied.

Centre sports teams receive final exams, Cento, May 9, 2002. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, May 9, 2002. Copy supplied. .

Tubby must take responsibility for Team Turmoil, Cento, Apr. 18, 2002. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Apr. 18, 2002. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Mar. 21, 2002. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Mar. 7, 2002. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Feb. 21, 2002. Copy supplied.

Colonels find themselves in tough, but familiar, situation, Cento, Jan. 24, 2002. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Jan. 24, 2002. Copy supplied.

Affirmative Action for Dummies: revamping an archaic system, Cento, Dec. 6, 2001. Copy supplied.

A Dynasty is Born, Cento, Dec. 6, 2001. Copy supplied.

The Numbers Game, Cento, Dec. 6, 2001. Copy supplied.

Youthful Cross Country teams finish third in the SCAC, Cento, Nov. 8, 2001. Copy supplied.

The Numbers Game, Cento, Nov. 8, 2001. Copy supplied.

Trinity foils Colonels' bid for undefeated season, Cento, Oct. 25, 2001. Copy supplied.

The evils of sports ... and why we love it anyway, Cento, Oct. 25, 2001. Copy supplied.

The Numbers Game, Cento, Oct. 25, 2001. Copy supplied.

State, sports world mourn death of Centre alum, Cento, Sept. 20, 2001. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, May 17, 2001. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, May 3, 2001. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Mar. 29, 2001. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Mar. 15, 2001. Copy supplied.

Patterson's late heroics propel Colonels into second round, Cento, Mar. 1, 2001. Copy supplied.

With Lucas Chesnut, *Cowan catastrophe hits crazed campus*, Cento, Feb. 2, 2001. Copy supplied.

With Lucas Chesnut, *The Numbers Game*, Cento, Feb. 1, 2001. Copy supplied.

Big Blue looks to return to the top, Cento, Nov. 9, 2000. Copy supplied.

NCAA at-large process proves to be flawed, Cento, Nov. 9, 2000. Copy supplied.

Duh-bait 2000: The Cowboy and the Mouth, Cento, Oct. 3, 2000. Copy supplied.

Fall-en Olympics? Blame Australia, Cento, Sept. 21, 2000. Copy supplied.

Men's Soccer team plans for another success season, Cento, Sept. 21, 2000. Copy supplied.

Baseball fans loyalty lies heavily in the NL Central, Cento, May 4, 2000. Copy supplied.

Surprise Final Four teams excite viewers, Cento, Mar. 30, 2000. Copy supplied.

I served as co-editor of the sports section of the Cento, Centre College's school newspaper, between the fall term of 2000 and the spring term of 2002, as well as during the spring term of 2003. In that role a co-editor and I compiled and prepared for publication sports articles submitted by other students.

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

None.

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

Letter to Hon. Lindsey Graham, Chairman, and Hon. Dianne Feinstein, Ranking Member, Committee on the Judiciary, United States Senate, in support of nomination of Judge Justin Walker to the U.S. Court of Appeals for the D.C. Circuit (Apr. 29, 2020). Copy supplied.

Letter to Hon. Lindsey Graham, Chairman, and Hon. Dianne Feinstein, Ranking Member, Committee on the Judiciary, United States Senate, in support of nomination of Justin Walker to the U.S. District Court for the Western District of Kentucky (July 17, 2019). 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.

October 7, 2019: Speaker, "The First Amendment," Federalist Society Kentucky Chapters Conference, Louisville, Kentucky. Video available at <https://www.youtube.com/watch?v=SpRhTuja0h4>.

October 3, 2019: Panelist, "Supreme Court Preview," Federalist Society University of Kentucky Student Chapter, Lexington, Kentucky. The panel addressed major U.S. Supreme Court cases from the 2018 and 2019 terms. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

September 30, 2019: Panelist, "Supreme Court Preview," Federalist Society Northern Kentucky Lawyers Chapter, Covington, Kentucky. The panel addressed major U.S. Supreme Court cases from the 2018 and 2019 terms. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

September 18, 2019: Speaker, "Post-Kavanaugh Kumbaya? Civility and Professionalism at the US Supreme Court," Federalist Society The Ohio State University Student Chapter, Columbus, Ohio. Presentation slides supplied.

September 18, 2019: Speaker, "Litigation Watch: Trends Affecting Commercial, Medicare, Medicaid, and Medicare Part D Plans," Squire Patton Boggs CLE Seminar (with Kimberly Donovan), Columbus, Ohio. Presentation slides supplied.

June 28, 2019: Panelist, "U.S. Supreme Court Review," Louisville Bar Association & American Constitution Society Kentucky Lawyer Chapter, Louisville, Kentucky. Moderator notes supplied.

June 13, 2019: Panelist, "U.S. Supreme Court Review," Kentucky Bar Association Annual Convention, Louisville, Kentucky. Program handout supplied.

March 18, 2019: Speaker, "Civility and Professionalism at the U.S. Supreme Court," McCracken County Bar Association, Paducah, Kentucky. Presentation slides supplied.

March 15, 2019: Speaker, "The Pragmatism of Interpretation," Federalist Society Louisville Lawyers Chapter, Louisville, Kentucky. Notes supplied.

March 5, 2019: Speaker, "The Pragmatism of Interpretation," University of Louisville Louis D. Brandeis School of Law, Louisville, Kentucky. Notes supplied and recording available at <https://bit.ly/2AaZCLl>.

November 14, 2018: Speaker, "Civility and Professionalism at the U.S. Supreme Court," Western Kentucky University, Bowling Green, Kentucky. Presentation slides and media coverage supplied.

November 14, 2018: Speaker, "Civility and Professionalism at the U.S. Supreme Court," Warren County Bar Association, Bowling Green, Kentucky. Presentation slides supplied.

November 7, 2018: Speaker, "Civility and Professionalism at the U.S. Supreme Court," Daviess County Bar Association, Owensboro, Kentucky. Presentation slides supplied.

October 16, 2018: Speaker, "Civility and Professionalism at the U.S. Supreme Court," Salmon P. Chase Inn of Court, Covington, Kentucky. Presentation slides supplied.

September 26, 2018: Speaker, "Practicing in Your Home State," Federalist Society Yale Law School Chapter, New Haven, Connecticut. Notes supplied.

September 25, 2018: Speaker, "The Pragmatism of Interpretation," Federalist Society Columbia Law School Chapter, New York, New York. Notes supplied.

October 21, 2017: Speaker, Acceptance of Young Alumnus Award, Centre College Homecoming, Danville, Kentucky. Draft text of remarks supplied.

September 18, 2017: Panelist, "Patient Safety Act Litigation," Alliance for Quality Improvement and Patient Safety Annual Convention, Washington, District of Columbia. The panel addressed developments in the law regarding the patient safety work product privilege. I have no notes, transcript, or recording. The address of the Alliance for Quality Improvement and Patient Safety is 5114 Cherokee Avenue, Alexandria, Virginia 22312.

June 29, 2017: Panelist, "U.S. Supreme Court Review," Louisville Bar Association & American Constitution Society Kentucky Lawyer Chapter, Louisville, Kentucky. The

panel addressed major U.S. Supreme Court cases from the 2017 and 2018 terms. I have no notes, transcript, or recording. The address of the American Constitution Society is 1899 L Street, Northwest, Suite 200, Washington, District of Columbia, 20036, and the address of the Louisville Bar Association is 600 West Main Street, Number 110, Louisville, Kentucky 40202.

June 22, 2017: Panelist, "U.S. Supreme Court Review," Kentucky Bar Association Annual Convention, Owensboro, Kentucky. Program handout supplied.

September 15, 2015: Speaker, "Reflections on a History-Making Term and Predictions on the Next One," Federalist Society Louisville Lawyers Chapter, Louisville, Kentucky. The panel addressed major U.S. Supreme Court cases from the 2014 and 2015 terms. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

September 14, 2015: Speaker, "Our Human Constitution," Centre College Constitution Day Lecture, Danville, Kentucky. Draft text of remarks and presentation slides supplied.

September 17, 2013: Speaker, "Supreme Court Q&A," Federalist Society Louisville Lawyers Chapter, Louisville, Kentucky. The talk addressed the role of clerks at the U.S. Supreme Court. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

September 16, 2013: Guest lecturer, "African Politics and International Development," Centre College, Danville, Kentucky. Notes supplied.

April 28, 2011: Guest lecturer, "African Politics and International Development," Centre College, Danville, Kentucky. My talk covered substantially the same ground as indicated in the notes for the presentation on September 16, 2013, listed above.

April 28, 2011: Guest speaker, Centre College Pre-Law Society. I addressed legal education, career opportunities, and student questions. I have no notes, transcript, or recording. The address of Centre College is 600 West Walnut Street, Danville, Kentucky 40422.

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.

Eric J. Troutman, *TCPA Video Podcast: Breaking Down the Big TCPA Supreme Court Review Oral Argument in Barr v. AAPC*, TCPAWorld, May 7, 2020. Available at <https://bit.ly/2BNi9h4>.

Emily Ruscoe, *Blockchain Group Urges "Narrow" Ruling in SEC's Kik Action*, Law360, Apr. 20, 2020. Copy supplied.

Philip Rosenstein, *Blockchain Group Urges 2nd Circ. To Reverse Telegram Ruling*, Law360, Apr. 6, 2020. Copy supplied.

Elizabeth Slattery, *Social Distancing SCOTUS Style*, SCOTUS101 Podcast, The Heritage Foundation, Mar. 19, 2020. Available at <https://herit.ag/2NA8WeL>.

Centre College, *Centre College names Milton C. Moreland as its new president*, PR Newswire, Feb. 7, 2020. Copy supplied.

Michael Strynick, *Milton Moreland named Centre College's next president*, Advocate-Messenger, Feb. 5, 2020. Copy supplied.

Ben Beaton, *Lauren Kuley Appointed Co-chairs of the Squire Patton Boggs Appellate Practice*, Targeted News Service, May 15, 2019. Copy supplied.

Bill Estep, *Meet the Kentucky Judge on Trump's Short List for U.S. Supreme Court*, Lexington Herald-Leader, July 6, 2018. Copy supplied. Reprinted in multiple outlets.

Andrew Wolfson, *Supreme Court Candidate from Kentucky Rejects "Anything-Goes" Judging*, Louisville Courier J., July 5, 2018. Copy supplied.

Cindy Long, *Rick Axtell's labor of love*, Cento, Feb. 12, 2016. Copy supplied.

Hayley Hoffman, *Benjamin Beaton '03 to deliver annual Constitution Day address at Centre College*, Cento, Sept. 11, 2015. Copy supplied.

Rich Clearly, *FedSoc Alumni Spotlight: Ben Beaton, CLS '09*, Columbia Law School chapter of the Federalist Society, Alumni Newsletter, Spring 2015. Copy supplied.

Donna Groves, Radio interview regarding selection for Supreme Court clerkship, WKYX-Paducah, News Talk 94.3, Aug. 2, 2010. Neither I nor WKYX has an archived recording or transcript of this interview.

Joe Walker, *Paducah Man Has Supreme Birthday*, Paducah Sun, July 31, 2010. Copy supplied.

Jamey Leahey, *Here Comes the Judge*, Centrepiece, Summer/Fall 2002. Copy supplied.

Katie Harris and Lindsay Apel, *Congress simulation class puts students in charge*, Feb. 1, 2001. Copy supplied.

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

I have not held judicial office.

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

i. Of these, approximately what percent were:

jury trials: ____%

bench trials: ____% [total 100%]

civil proceedings: ____%

criminal proceedings: ____% [total 100%]

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

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

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

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

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

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

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

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

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

interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

15. Public Office, Political Activities and Affiliations:

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

I have never been a candidate for or held an elected or appointed public 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.

In 2003 I managed a voter turnout effort in Paducah, Kentucky for gubernatorial candidate Ernie Fletcher. I had no title and received no compensation.

16. Legal Career: Answer each part separately.

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

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

From 2009 to 2010, I served as a law clerk to the Honorable A. Raymond Randolph, United States Court of Appeals for the District of Columbia Circuit.

From 2011 to 2012, I served as a law clerk to the Honorable Ruth Bader Ginsburg, Supreme Court of the United States.

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

I have not 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.

2010

International Justice Mission
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Ntinda, Kampala
Uganda
Legal Fellow

2010 – 2011; 2012 – 2018

Sidley Austin LLP
1501 K Street, Northwest
Washington, District of Columbia 20005
Associate

2018 – present

Squire Patton Boggs
201 East Fourth Street, Suite 1900
Cincinnati, Ohio 45202
Appellate practice co-chair (2019 – present)
Partner (2018 – present)

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

I have never served as a mediator or arbitrator.

b. Describe:

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

In 2009 I clerked for Judge Ray Randolph on the U.S. Court of Appeals for the D.C. Circuit. Following the clerkship, in the fall of 2010, I served for approximately three months as an unpaid legal fellow (intern) in the Kampala, Uganda field office of International Justice Mission, a legal NGO. In late 2010, I joined Sidley Austin as an associate. I returned to the firm in 2012 after clerking for Justice Ruth Bader Ginsburg on the Supreme Court of the United States. In 2018, I became a partner at Squire Patton Boggs and the next year became co-chair of the appellate practice group.

My practice spans a wide range of substantive areas in both trial and appellate courts and administrative agencies. These include commercial litigation, healthcare, intellectual property, arbitration, constitutional issues, and proceedings under various federal statutes, including the Administrative Procedure Act, Patient Safety and Quality Improvement Act, Securities Exchange Act, the Clean Air Act, and other environmental, energy, and healthcare statutes. I have also worked on a number of criminal matters, as well as cases involving state-law and international-law issues.

I have litigated cases to verdict in federal trial court, to judgment in a state administrative-tribunal trial proceeding, and to final order before the Securities and Exchange Commission. I draft and advise on pleadings, motions, and jury instructions; lead cases through discovery; and take and defend depositions. In the appellate context, I draft and revise party and amicus briefs, and have presented oral argument. I have also represented clients before administrative and legislative bodies in investigations and other proceedings, and frequently advise clients on risks and compliance in light of legal developments or complex administrative schemes.

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

My typical clients are corporations, trade associations, and individuals facing litigation in federal and state court and before federal administrative agencies. I have also devoted substantial time to providing pro bono legal services, typically on behalf of individuals and non-profit organizations.

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

I have appeared in court on a regular basis for argument, trial, or motion practice.

i. Indicate the percentage of your practice in:

1. federal courts: 50%
2. state courts of record: 25%
3. other courts: 5%
4. administrative agencies: 20%

ii. Indicate the percentage of your practice in:

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

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

I have tried three cases to verdict, judgment or final decision. In one case tried to verdict in federal district court, I served as the senior associate counsel. In one case tried to a final decision before a state-court administrative tribunal, I served as the senior associate counsel. And in one case tried before an administrative law judge of the Securities and Exchange Commission, I served as associate counsel.

i. What percentage of these trials were:

1. jury: 33%
2. non-jury: 67%

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 drafted or assisted with the following briefs:

Ariana M. v. Humana Health Plan of Tex., Inc., No. 19-980 (cert. denied June 23, 2020, 2020 WL 3405858) (brief in opposition to certiorari, 2020 WL 2575735). Copy supplied.

United States Forest Serv. v. Cowpasture River Pres. Ass'n, Nos. 18-1584, 2020 WL 3146692 (U.S. June 15, 2020) (amicus, 2019 WL 6727091). Copy supplied.

Am. Inst. for Int'l Steel, Inc., et al. v. United States, et al., No. 18-1317 (cert. denied June 24, 2019) (amicus in support of certiorari, 2019 WL 2185126). Copy supplied.

CITGO Asphalt Ref. Co. v. Frescati Shipping Co., Ltd., 140 S. Ct. 1081 (2020), No. 18-565 (amicus, 2019 WL 3230948). Copy supplied.

Rowan Cty. v. Lund, No. 17-565 (cert. denied June 28, 2018, 138 S.Ct. 2564) (amicus in support of certiorari, 2017 WL 5478243). Copy supplied.

Southern Baptist Hosp. of Fla., Inc. v. Charles, No. 16-1446 (cert. denied Oct. 2, 2017, 138 S. Ct. 129) (petition for certiorari, 2017 WL 2460797; reply in support of certiorari, 2017 WL 3913776). Copies supplied.

Republic of Sudan v. Harrison, 139 S. Ct. 1048 (2019), No. 16-1094 (amicus, 2018 WL 4091711). Copy supplied.

Impression Prods., Inc. v. Lexmark Int'l, Inc., 137 S. Ct. 1523 (2017), No. 15-1189 (brief in opposition to certiorari, 2016 WL 2997339; supplemental brief in response to U.S. brief regarding certiorari, 2016 WL 6575249; brief of respondent, 2017 WL 656671). Copies supplied.

Trinity Lutheran Church of Columbia, Inc. v. Comer, 137 S. Ct. 2012 (2017), No. 15-577 (amicus, 2016 WL 1639726). Copy supplied.

Tibbs v. Goff, No. 14-1140 (cert. denied June 27, 2016, 136 S. Ct. 2504) (petition for certiorari, 2015 WL 1250865; reply in support of certiorari, 2015 WL 5265270; supplemental brief in response to U.S. brief regarding certiorari, 2016 WL 5231999). Copies supplied.

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

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Baptist Health Richmond, Inc. v. Clouse*, 497 S.W.3d 759 (Ky. 2016), and *Tibbs v. Bunnell*, 448 S.W.3d 796 (Ky. 2014), cert. denied, 136 S. Ct. 2504 (June 27, 2016).

I drafted the briefs and handled all aspects of these two related appeals regarding the preemptive force of the Patient Safety and Quality Improvement Act on medical-malpractice discovery laws in Kentucky and elsewhere. I represented UK Healthcare in its petition for U.S. Supreme Court certiorari review of the Kentucky Supreme Court's *Tibbs* decision. The Court called for the views of the U.S. Solicitor General, but the Administration issued new guidance altering HHS's previous position and the Court denied review. While *Tibbs* remained under consideration at the U.S. Supreme Court, however, I represented Baptist Health of Kentucky in a challenge to that recent precedent in the Kentucky Supreme Court. The Kentucky Supreme Court clarified its own recent *Tibbs* precedent in our favor in the *Clouse* decision.

Dates of Representation: 2014 – 2017

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Counsel for Clouse

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Gerald James Pierson
Gary C. Johnson Attorneys at Law PLLC
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2. *Lexmark International, Inc. v. Impression Products Products, Inc.*, 785 F.3d 565 (Fed. Cir. 2015) (*sua sponte* ordering initial hearing en banc), 816 F.3d 721 (Fed. Cir.) (en banc), *cert. granted*, 137 S. Ct. 546 (Dec. 2, 2016), *reversed*, 137 S. Ct. 1523 (2017).

I served as Lexmark's principal brief writer at the Federal Circuit panel and en banc stages, and at the Supreme Court certiorari and merits stages. This case concerned a patent-infringement action against unauthorized cartridge remanufacturers and the patent-exhaustion defense domestically and abroad. Lexmark prevailed before the en banc Federal Circuit. The U.S. Supreme Court granted certiorari, heard argument, and reversed.

Dates of Representation: 2014 – 2017

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[*Supreme Court Counsel*]

3. *In re SIFMA*, SEC Release No. 1015, 2016 WL 4035551 (June 1, 2016), *reversed*, *NASDAQ Stock Market v. SEC*, __ F.3d __, 2020 WL 3023116 (June 5, 2020).

I represented the securities-industry trade association at a week-long trial before the SEC's Chief ALJ. The SEC proceeding included pre- and post-hearing briefing, petition for Commission review, Commission merits briefing, and two Commission decisions—one reversing the ALJ's initial decision and the other remanding hundreds of similarly situated administrative challenges to the self-regulatory organizations for review. In response to the two orders, I represented only SIFMA's co-petitioner Bloomberg in connection with the remand proceedings. The self-regulatory organizations (NYSE and Nasdaq) petitioned for review of both orders in the D.C. Circuit. In the court of appeals, I represented Bloomberg by filing an amicus brief in support of SIFMA and the SEC. The D.C. Circuit recently reversed on procedural grounds, but further related proceedings are envisioned at the Commission. At issue is the lawfulness under the Securities Exchange Act of hundreds of fees charged for market data by the New York Stock Exchange, Nasdaq, and other self-regulatory organizations (stock exchanges). Decisions at previous junctures of related proceedings, before I became involved, are reported at *NetCoalition v. SEC*, 615 F.3d 25 (D.C. Cir. 2010), and *NetCoalition v. SEC II*, 715 F.3d 342 (D.C. Cir. 2013).

Dates of Representation: 2015 – 2020

Presiding Administrative Law Judge: Hon. Brenda P. Murray
D.C. Circuit Panel: Hon. Patricia Millett, Hon. Robert Wilkins, and Hon. David Sentelle

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4. *Wyatt v. Owens*, 317 F.R.D. 535 (W.D. Va. Oct. 12, 2016) (denying summary judgment), 2016 WL 6651410 (W.D. Va. Nov. 10, 2016) (denying reconsideration).

I served as co-lead counsel in this § 1983 excessive-force suit against law enforcement officers whose use of force against an arrestee was caught on a police dashboard camera. The plaintiff, proceeding pro se, defeated the defendants' summary judgment motion. My firm represented the plaintiff in subsequent proceedings. I led the case through motions hearings, amended pleadings, document discovery, depositions, expert reports, and trial preparation. I briefed and argued the plaintiff's successful opposition to defendants' second summary-judgment motion and motion to exclude the plaintiff's expert. At trial I examined and cross-examined witnesses and argued several evidentiary objections. The jury returned a liability and punitive-damages award against one of the defendant law-enforcement officers. After

briefing on the question of attorney fees under § 1988 before the magistrate judge and district court, the parties resolved the matter without further post-trial or appellate proceedings.

Dates of Representation: 2015 – 2017

Presiding Judge: Hon. Norman K. Moon

Co-Counsel

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Morgan Branch
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Counsel for Defendants

Jim H. Guynn, Jr.
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5. *Clear Channel Outdoor, Inc. v. Baltimore*, 153 F. Supp. 3d 865 (D. Md. 2015) (remanding case to state court for trial); 2018 WL 1178952 (Md. Tax Ct. Feb. 27, 2018) (denying appeal).

I represented an advertising company in this First Amendment challenge to an excise tax imposed by the City of Baltimore. The case was originally filed in the U.S. District Court for Maryland, where I helped lead the deposition, document discovery, expert report, and summary judgment efforts. The court held on summary judgment that, under the Tax Injunction Act, the challenge had to begin in state court. I led discovery efforts in the Maryland Tax Court, drafted pre- and post-hearing briefs, delivered the opening, and examined witnesses at trial. I also led the appellate briefing before the Maryland trial court. The case remains pending on appeal in the Maryland state-court system.

Dates of Representation: 2013 – 2018

Presiding Judges: Hon. George L. Russell III (D. Md.); Hon. Walter Martz II (Md. Tax Ct.)

Co-Counsel for Clear Channel Outdoor

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6. *O'Neal v. United States*, 844 F.3d 271 (D.C. Cir. 2016).

I served as lead counsel in this criminal bank-fraud appeal involving questions of the right to waive counsel at sentencing, hearsay, and the Federal Rules of Evidence. The defendant-appellant, who was incarcerated, represented herself on appeal. The court assigned me to appear as amicus curiae, arguing in support of reversing the defendant's conviction and sentence. I briefed and argued the appeal. The panel affirmed.

Dates of Representation: 2016 – 2017

D.C. Circuit Panel: Hon. Janice Rogers Brown, Hon. Patricia Millett, and Hon. Robert Wilkins

Co-Counsel as Court-Appointed Amicus

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7. *In re NII Securities Litigation*, 311 F.R.D. 401 (E.D. Va. 2015) (granting motion for class certification).

This securities-fraud class-action was filed by several shareholder groups seeking to recover losses following the bankruptcy of NII Holdings, the U.S. holding company operating Nextel-branded mobile-phone companies in Latin America. We represented the individual defendants—current and former officers and directors of the company. I managed a team of associates handling briefing, investigation, discovery, depositions, and mediation in the “rocket docket” of the Eastern District of Virginia. We completed the review and production of a high volume of documents, 18 depositions, motions and mediation briefing, and expert preparation during a period of several months. The parties completed two rounds of mediation before a retired federal judge and a private mediator. The U.S. District Court approved the settlement in 2016.

Dates of Representation: 2014 – 2016

Presiding Judge: Hon. Leonie M. Brinkema

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8. *United States v. Groves*, No. 05-cr-195 (E.D.N.C. 2016), *remand granted*, No. 15-4341 (4th Cir. 2016).

I served as lead counsel in this criminal proceeding concerning the seizure by the U.S. Marshal, represented by the U.S. Attorney for the Eastern District of North Carolina, of an inmate's prison trust account (as part of a prison-wide "sweep"). The government seized roughly \$8,000 from my client pursuant to a criminal-forfeiture order authorizing seizure of the proceeds of his 2005 drug crimes. The government did not contend that the funds seized were connected to the conviction, but instead relied on the substitute-asset forfeiture statute, 21 U.S.C. § 853(p). The defendant lacked notice or a hearing regarding the seizure and forfeiture judgment until after the appeal deadline had passed. On appeal, the U.S. Court of Appeals for the Fourth Circuit appointed me to represent the defendant. In response to our opening brief, the government agreed to a remand. Back before the U.S. District Court, the prosecutor filed a new forfeiture action, which I defended pro bono through rounds of trial-court briefing. Following the Supreme Court's decision in *Honeycutt v. United States*, we reached a settlement with the government that resulted in the return of a substantial portion of the defendant's funds.

Dates of Representation: 2016 – 2018

Presiding Judge: Hon. Malcolm J. Howard

Co-Counsel for Mr. Groves

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Counsel for the Government

Stephen A. West

[retired; formerly of the United States Attorney's Office for the Eastern District of North Carolina]

9. *Wayne County v. WellCare of Kentucky* and related cases (Nos. 16-CI-1545, Jefferson County Circuit Court; 16-CI-1549, Jefferson County Circuit Court; 16-CI-1550, Jefferson County Circuit Court; 2017-CA-1273, Kentucky Court of Appeals; 2018-SC-662-D, Kentucky Supreme Court).

I serve as lead counsel and previously served as associate-lead counsel in several pending or resolved cases concerning provider claims for reimbursement of emergency-room charges under the federal and state "prudent layperson" standard. Collectively the cases have involved discovery, argued motions, pleading disputes, arbitration, mediation, appeals before the Kentucky Court of Appeals, and the denial of discretionary review by the Kentucky Supreme Court. More than one matter remains pending outside of court.

Dates of Representation: 2018 – present

Presiding Judges: Hon. Annie O'Connell, Hon. Charles Cunningham

Co-Counsel for Defendant:

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10. *Tolliver v. Noble*, 752 F. Appx. 254 (6th Cir. 2018).

I served as lead court-appointed counsel in this appeal between an incarcerated defendant and prison officers. After the magistrate judge and district court dismissed the RLUIPA and

constitutional claims on *Twombly* grounds, the defendant filed a pro se appeal. The Sixth Circuit appointed me to handle the appeal. After briefing, the court of appeals reversed and remanded with instructions to permit the plaintiff to file an amended complaint.

Panel: Hon. Richard Suhrheinrich, Hon. Karen Nelson Moore, and Hon. John Bush

Co-Counsel for Mr. Tolliver

Virginia A. Seitz
Daniel J. Hay
Sidley Austin LLP
1501 K Street, Northwest
Washington, D.C. 20005
(202) 736-8000

Counsel for Defendants

Thomas E. Madden
Office of the Ohio Attorney General
150 East Gay Street, 16th Floor
Columbus, Ohio 43215
(614) 644-7233

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

My legal practice has consisted almost entirely of litigation and strategic counseling in anticipation of litigation. I have disclosed the most significant such cases above. I have occasionally represented clients in government investigations or other non-adjudicatory matters. I have never acted or registered as a lobbyist.

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

I taught, with Judge Justin Walker, a seminar on the Confrontation Clause at the University of Louisville Brandeis School of Law during the spring 2020 semester. The course explored criminal procedure, constitutional interpretation, the roles of judges and juries, and the tension between rules and standards. Syllabus supplied.

20. **Deferred Income/Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional

services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have a partnership capital account with Squire Patton Boggs (US) LLP that will be paid after I leave the firm.

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

None.

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

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and supply a copy to this Committee.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, the cases most likely to present conflicts issues would be those related to my prior service as a private practitioner. I would recuse in any matter in which, during my time in private practice, either I or a lawyer with whom I was then practicing had participated. See 28 U.S.C. § 455(b)(2). I would also recuse in any matter involving my former firm for an appropriate number of years following my appointment.

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

If confirmed, I would evaluate any potential conflicts of interest under the standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges, both of which address the question whether federal judges must disqualify themselves due to conflicts. In considering those rules, I would further consult any judicial decisions or Judicial Conference opinions applying the rules to particular cases or circumstances.

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

I have devoted substantial time to pro bono work. I have been named to the District of Columbia Courts' Capital Pro Bono Honor Roll four times, twice with High Honors (indicating at least 100 hours of pro bono service per year) and twice with Honors (indicating at least 50 hours of pro bono service per year).

As part of my pro bono service, I have accepted case assignments in the United States Courts of Appeals for the District of Columbia, Fourth, and Sixth Circuits and the United States District Court for the Western District of Virginia. I devoted significant amounts of time to each of these cases, and presented appellate oral argument in three of them. One appeal resulted in a successful reversal without argument. In an additional court-appointed case, *Groves v. United States*, the appeal was remanded without argument, but I continued to represent the prisoner in the United States District Court for the Eastern District of North Carolina in his challenge to the forfeiture, without notice or opportunity for a hearing, of his prison trust account.

I also tried *Wyatt v. Owens* to a jury verdict in the Western District of Virginia. We represented an incarcerated plaintiff in his use-of-force suit under 42 U.S.C. § 1983. I led a team of associates through amended pleadings, written discovery, depositions, dispositive motions, and motions in limine. At trial I served as senior associate counsel. The jury awarded actual and punitive damages against one defendant. (The district court later entered an agreed order awarding attorney fees under 42 U.S.C. § 1988, which partially compensated my law firm for our time and costs.)

I have also represented pro bono the interests of public organizations providing input as amici in litigation in the federal courts of appeals and in the U.S. Supreme Court. These organizations have included the United States Conference of Catholic Bishops, the Church of Jesus Christ of Latter-day Saints, the Missouri Catholic Conference, the National Catholic Educational Association, the Salvation Army National Corporation, and the General Synod of the Reformed Church in America (in *Trinity Lutheran Church v. Comer*, 137 S. Ct. 2012 (2017); the International Municipal Lawyers Association (in *Rowan County v. Lund* (U.S. 2018) and *Bormuth v. Cty. of Jackson* (6th Cir. 2017)); and International Justice Mission (in *United States v. Pepe*, 895 F.3d 679 (9th Cir. 2018)).

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White

House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In approximately December 2016, I spoke with a member of Sen. McConnell's staff about a judicial vacancy and submitted biographical materials. I had intermittent contact with members of Sen. McConnell's staff thereafter regarding judicial vacancies. On September 24, 2018, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C., and on June 19, 2020 I interviewed again with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 23, 2020, I learned that the President authorized the White House Counsel's Office to initiate appropriate clearance processes for my possible nomination. Since then, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

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

No.

FINANCIAL 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		65	212	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	400	524	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		838	184
Real estate owned – see schedule	1	212	500	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		102	058				
Cars		32	058				
Personal property		70	000				
Cash value-life insurance							
Other assets itemize:							
Federal Thrift Savings Plan		26	092				
Kentucky Retirement System Plan		7	174	Total Liabilities		838	184
				Net Worth	2	077	434
Total Assets	2	915	618	Total Liabilities and Net Worth	2	915	618
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

Cincinnati Children's Hospital Retirement Plan – Vanguard Inst'l Target 2045	\$64,414
Children's National Medical Center Retirement Plan – Vanguard Target 2045	\$164,562
<i>Sidley Austin Retirement Plan:</i>	
Harbor Capital Appreciation Institutional	\$33,314
Vanguard Extended Market Index Inst'l	28,038
Amer. Funds Amer. Balanced R6	20,183
Vanguard Equity-Income Amd.	13,623
American Funds Europacific Growth R6	12,462
PIMCO Total Return A	11,713
Vanguard Emerging Markets Stock Idx Inst'l	10,914
Vanguard Target Retirement 2045 Inv.	8176
Squire Patton Boggs Retirement Plan – TRP Retire 2045 F	\$27,829
<i>Vanguard brokerage account (no individual securities):</i>	
PRIME CAP ODYSSEY AGGRESSIVE GROWTH	\$69,068
PRIME CAP ODYSSEY GROWTH	\$19,807
PRIME CAP ODYSSEY STOCK	\$12,603
T ROWE PRICE GLOBAL TECHNOLOGY INVESTOR CL	\$27,816
<i>Vanguard mutual fund account:</i>	
Vanguard Capital Opportunity Fund Admiral Shares	\$114,260
Vanguard Mid-Cap Growth Index Fund Admiral Shares	\$84,366
Vanguard Prime Money Market Fund	\$47,793
Vanguard Mid-Cap Value Index Fund Admiral Shares	\$38,926
Vanguard Small-Cap Growth Index Fund Admiral Shares	\$108,723
Vanguard Short-Term Tax-Exempt Fund Admiral Shares	\$101,354
<i>Roth IRA #1:</i>	
Vanguard Intermediate-Term Investment-Grade Fund Investor Shares	\$4,994
Vanguard Health Care Fund Investor Shares	\$9,207
Vanguard High-Yield Corporate Fund Investor Shares	\$4,060
<i>Roth IRA #2:</i>	
Vanguard Dividend Growth Fund	6958
Vanguard Healthcare Fund Investor	7124
Vanguard Real Estate Index Fund	4535
Vanguard Capital Opportunity Fund	8350
Vanguard Int'l Explorer Fund	3804
<i>Vanguard 529 Funds #1</i>	
Vanguard Growth Index Portfolio	\$35,371.59
Vanguard Income Portfolio	\$7,141.29
Vanguard Mid-Cap Index Portfolio	\$20,547.73
Vanguard Small-Cap Index Portfolio	\$17,770.15

Vanguard Total International Stock Index Portfolio	\$7,146.23
<i>Vanguard 529 Funds #2</i>	
Vanguard Growth Index Portfolio	\$52,964.24
Vanguard Income Portfolio	\$10,072.98
Vanguard Mid-Cap Index Portfolio	\$29,675.37
Vanguard Small-Cap Index Portfolio	\$24,607.53
Vanguard Total International Stock Index Portfolio	\$10,211.14
<i>Vanguard 529 Funds #3</i>	\$56,090.18
Vanguard Growth Index Portfolio	\$21,107.73
Vanguard Income Portfolio	\$4,700.73
Vanguard Mid-Cap Index Portfolio	\$13,196.36
Vanguard Small-Cap Index Portfolio	\$12,441.35
Vanguard Total International Stock Index Portfolio	\$4,644.01
<i>Vanguard 529 Funds #4</i>	
Vanguard Growth Index Portfolio	\$1,121.42
Vanguard Interest Accumulation Portfolio	\$362.50
Vanguard Mid-Cap Index Portfolio	\$1,008.93
Vanguard Small-Cap Index Portfolio	\$989.58
Vanguard Total International Stock Index Portfolio	\$376.69
Total Listed Securities	<u>1,400,524</u>

Real Estate Owned

Personal Residence	<u>\$ 1,212,500</u>
Total Real Estate Owned	<u>\$ 1,212,500</u>

Real Estate Mortgages Payable

Personal Residence – Mortgage	<u>\$838,184</u>
Total Real Estate Mortgages Payable	<u>\$838,184</u>

AFFIDAVIT

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

7/6/20

(DATE)

[Signature]

(NAME)

[Signature]

(NOTARY)

Notary Expires: 4/20/24