

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Gregg Jeffrey Costa

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

United States Circuit Judge for the Fifth Circuit

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

United States District Court
Southern District of Texas
601 25th Street
Galveston, Texas 77550

Residence: Bellaire, Texas

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

1972; Baltimore, Maryland

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

1996 – 1999, University of Texas School of Law; J.D., 1999

1990 – 1994, Dartmouth College; B.A., 1994

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.

2012 – present
United States District Court
Southern District of Texas (Galveston and Victoria Divisions)

601 25th Street
Galveston, Texas 77550
United States District Judge

2005 – 2012
United States Attorney's Office
Southern District of Texas
919 Milam
P.O. Box 61129
Houston, Texas 77208
Assistant United States Attorney

2002 – 2005
Weil, Gotshal & Manges
700 Louisiana, Suite 1600
Houston, Texas 77002
Associate

Spring Semester 2004 and 2005
University of Houston Law Center
100 Law Center
Houston, Texas 77204
Adjunct Professor

2001 – 2002
Hon. William H. Rehnquist
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543
Law Clerk

August 2000 – June 2001
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Avenue, NW
Washington, DC 20530
Bristow Fellow

1999 – 2000
Hon. A. Raymond Randolph
United States Court of Appeals for the D.C. Circuit
333 Constitution Avenue, NW
Washington, DC 20001
Law Clerk

Summer 1999
United States Department of Justice
Antitrust Division
600 E Street, NW
Washington, DC 20530
Summer Law Intern

Summer 1998
Susman Godfrey
1000 Louisiana, Suite 5100
Houston, Texas 77002
Summer Associate

Summer 1998
Baron & Budd
3102 Oak Lawn Avenue # 100
Dallas, Texas 75219
Summer Associate

Summers 1997, 1998
Mayor, Day, Caldwell & Keeton (now defunct, merged with Andrews Kurth)
700 Louisiana, Suite 1900
Houston, Texas 77002
Summer Associate

Summer 1997
Carrington, Coleman, Sloman & Blumenthal
200 Crescent Court, Suite 1500
Dallas, Texas 75201
Summer Associate

July 1996
Sar-el Volunteers for Israel
No physical address
Volunteer, Air Force base near Be'er Sheva, Israel

1994 – 1996
East Sunflower Elementary School (placement through Teach for America)
212 East Claiborne Street
Sunflower, Mississippi 38778
Third and fourth grade teacher

Other affiliations (uncompensated):

1999 – present
Sunflower County Freedom Project
120 Delta Avenue
Sunflower, Mississippi 38778
Board Member, Secretary

2013 – present
Texas Law Review Association
727 East Dean Keeton St.
Austin, Texas 78705
Board Member

2004 – 2006
Congregation Beth Yeshurun 100 Jewish Men
4525 Beechnut
Houston, Texas 77096
Board Member

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 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.

As Assistant United States Attorney:

John Marshall Award for Performance in Prosecuting White Collar Crime (the Department of Justice's highest award offered to attorneys for contributions in specialized areas of legal performance) (2013)

Assistant Attorney General's Award for Exceptional Service for work on Allen Stanford prosecution (2012)

Recognition from United States Postal Inspection Service for work on various fraud cases, including multimillion dollar kickback case involving international oil traders (2012)

Award from Immigration and Customs Enforcement for work on cases involving importation of counterfeit technology products from China (2010)

Houston Bar Association Bob Susman Scholarship (awarded annually to two prosecutors to fund attendance at ABA Annual White Collar Crime Conference) (2010)

Certificate of Appreciation from Director of the Secret Service for work on mortgage fraud prosecution (2009)

Certificate of Appreciation from Inspector General of the Department of Homeland Security for work on FEMA fraud cases (2008)

At University of Texas School of Law:

Graduated with highest honors (1999)

Vice Chancellor (ranked second in class after second year of law school) (1998)

Editor in Chief, *Texas Law Review*

Ellen Waters Olson Scholarship (three years full tuition) (1996)

One of two students selected by Dean to Task Force on the Future of the Law School

Elected Permanent Class Representative

First Place, Hutcheson First Year Moot Court Competition (Section 5, 1997)

First Place and Best Brief, Gibbs & Bruns Moot Court Competition (Fall 1997)

Dean's Achievement Award (top grade in class): Criminal Law; Constitutional Law II:

Free Speech; Constitutional Law II: Race & The Constitution; Labor Law;

Administrative Law; Professional Responsibility for Civil Litigators

At Dartmouth College:

Presidential citation for excellence in American government

Tucker Foundation Fellowship for semester spent working at parochial elementary school in Jersey City, New Jersey

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

Co-Chair, White Collar Crime Subcommittee, South Texas Chapter (2008 – 2012)

Federal Bar Association

Southern District of Texas Chapter, Judicial Liaison (2012 – present)

Galveston County Bar Association

State Bar of Texas

Editorial Board member, *The Advocate* (journal of the Bar's Section of Litigation) (2012 – present)

Texas Law Review Association (2013 – present)

Board of Directors

The American Law Institute (2014 – 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.

Texas, 2000.

There has been no lapse 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.

United States Court of Appeals for the Fifth Circuit, 2005

United States Court of Appeals for the Seventh Circuit, 2001

United States District Court for the Southern District of Texas, 2002

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.

Bellaire Little League (assistant baseball coach, 2010 – 2011)

Bellaire Recreation Center (youth soccer coach, 2008 – 2009)

Congregation Beth Yeshurun (2002 – present)

100 Jewish Men (Board Member, 2004 – 2006)

Federal Judges Association (2012 – present)

Houston Express Soccer Club (team manager, 2012 – present)

Houston Urban Debate League (2008 – 2009)

National Association of Assistant United States Attorneys (2009 – 2012)

Sunflower County Freedom Project (Board Member, 1999 – present)

Supreme Court Historical Society (2003 – present)

Teach for America (1994 – present)

United States Public Service Academy Task Force on Service Learning
Coordinator (2006 – 2007)

University of Texas School of Law, Reunion Committee (2004, 2014)

YMCA (youth soccer coach, 2006 – 2007)

- 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 discriminates or previously 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.

Honest Services at Skilling's One Year Anniversary, Co-written with David Issak, Presented at State Bar of Texas 37th Annual Advanced Criminal Law Course: Federal Workshop, Houston, Texas, July 2011. Copy supplied.

Amazed and Inspired, Sunflower County Freedom Project Newsletter, Oct. 1, 2008. Copy supplied.

E-mail quoted in Peter King, *Saints' Slide Continues*, *cnn.com*, Sept. 25, 2007. Copy supplied.

Current Antitrust Issues in Patent Law, Co-written with David J. Healey and Ed Chin, Presented at 2004 Advanced Patent Law Institute, Austin, Oct. 2004. I have been unable to obtain a complete copy, but I have provided the Table of Contents and first page that I found on the Internet.

Are the Standards Changing for Standard-Setting? Antitrust Issues in Standard-Setting and High-Tech Cases, Presented at University of Texas School of Law Continuing Legal Education “Computer and Technology Law Institute,” May 2004. Copy supplied.

2004 Update on Antitrust in High Tech and IP Cases, 2004, Advanced Patent Law Institute, San Antonio. I have been unable to locate a copy of this paper, but its content is similar to the two antitrust articles listed above.

John Marshall, the Sedition Act, and Free Speech in the Early Republic, 99 Tex. L. Rev. 1099 (1999). Copy supplied.

I also recall writing two articles in *The Dartmouth* during college. One of the articles supported Senator Bob Kerrey’s campaign in the 1992 New Hampshire Presidential Primary. The other discussed the United States’ support of Saddam Hussein during the Iran-Iraq conflict. I have not been able to find copies of these articles.

In October 1990, I wrote a letter to the editor for the Dallas Morning News relating to an off-campus publication at Dartmouth that had published a quotation from Mein Kampf. I have been unable to obtain a copy of the letter.

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

I served as coordinator for the United States Public Service Academy Task Force on Service Learning. The Academy released a report in February 2007 that summarized the work of my task force as well as that of seven others. A copy of the report is 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.

On November 2, 2011, I testified before the United States Senate Judiciary Committee concerning my district court nomination. Testimony and responses to questions for the record 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.

December 18, 2013: *Naturalization Ceremony*, Houston, Texas. Draft remarks supplied.

October 24, 2013: *Panel: Going to Trial*, ABA National Institute on Securities Fraud, New Orleans, Louisiana. Notes supplied.

October 24, 2013: *Welcome Address: The Fraud Stays The Same, The Law Changes (Comparing the Fraud Schemes of Allen Stanford and Charles Ponzi)*, ABA National Institute on Securities Fraud, New Orleans, Louisiana. Draft speech and PowerPoint supplied.

October 18, 2013: *Judicial Panel: Perspectives on Admiralty Law and Jurisdiction*, 21st Annual Conference on Admiralty and Maritime Law by the University of Texas School of Law, Houston, Texas. Audio supplied.

October 11, 2013: *My First Year on the Bench*, Federal Judicial Center's Phase I Orientation for Newly Appointed District Judges, Fort Worth, Texas. Outline supplied.

September 19, 2013: *The Galveston Federal Court: Then And Now*, Galveston Bar Association, Galveston, Texas. PowerPoint supplied.

September 9, 2013: *Early Thoughts From The Bench*, Houston Bar Association Employment & Labor Law Section. Notes supplied.

July 31, 2013: *Naturalization Ceremony*, Houston, Texas. Draft remarks supplied.

June 26, 2013: *Naturalization Ceremony*, Houston, Texas. Draft remarks and press coverage supplied.

June 13, 2013: *Comments on Closing Arguments*, United States Attorney's Office, Houston, Texas (with Fifth Circuit Judge Jennifer Walker Elrod). Judge Elrod and I discussed the categories of error that arise in closing arguments. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office is 1000 Louisiana, Suite 2300, Houston, Texas 77002.

June 10, 2013: *Keynote Address*, Houston Bar Association Communities in Schools Orientation, Houston, Texas. Draft speech supplied.

May 23, 2013: *The Southern District of Texas: Then and Now (A History of the District)*, Federal Bar Association, Houston, Texas. PowerPoint supplied.

April 26, 2013: *Federal Court Practice*, Corpus Christi Bar Association 2013 Advanced Civil Trial Law Seminar, Corpus Christi, Texas (with United States District Judge Nelva Gonzales Ramos). Judge Ramos and I discussed the differences between federal and state court practice and trends in federal court filings, and answered questions during a 45-minute session. I have no notes, transcript or recording. The address of the Corpus Christi Bar Association is 555 North Carancahua Street, Corpus Christi, Texas 78401.

April 18, 2013: *Early Thoughts From The Bench*, Houston Bar Association Federal Practice Group, Houston, Texas. This was primarily a question-and-answer session in which I discussed with the attendees the procedural differences between federal and state court, reasons for the paucity of civil jury trials, the makeup of the civil docket in my court, and lessons from criminal practice that I think may benefit civil lawyers. My notes would have been substantially similar to the ones on September 19, 2013, which have been supplied.

April 11, 2013: *Early Thoughts From The Bench*, Federal Bar Association, Southern District of Texas Chapter, Victoria, Texas. Other than focusing on the makeup of the Victoria Division docket as opposed to the Galveston Division docket, my notes would have been substantially similar to the ones on September 19, 2013, which have been supplied.

March 15, 2013: *Keynote Speech: The Case of the Vietnamese Fishermen's Association vs. The Knights of the Ku Klux Klan*, Vietnamese-American Lawyers and Legal Assistants Association, Houston, Texas. Draft speech supplied.

February 27, 2013. *The Galveston Federal Court: Then and Now*. Galveston Rotary Club Weekly Luncheon, Galveston, Texas. PowerPoint supplied.

February 14, 2013: *Early Thoughts From The Bench*, Houston Trial Lawyers Association, Houston, Texas. This was primarily a question-and-answer session in which I discussed with the attendees the procedural differences between federal and state court, reasons for the paucity of civil jury trials, the makeup of the civil docket in my court, and lessons from criminal practice that I think may benefit civil lawyers. My notes would have been substantially similar to the ones on September 19, 2013, which have been supplied.

November 15, 2012: *Early Thoughts From The Bench*, Galveston Bar Association Monthly Luncheon, Galveston, Texas. PowerPoint supplied.

November 12, 2012: *The More Things Change...: A Comparison of the Fraud Schemes of Allen Stanford and Charles Ponzi*, Houston Chapter of the Association of Certified Fraud Examiners, Houston, Texas. PowerPoint supplied.

September 20, 2012: *New Black Robes: Perspectives on Advocacy and Ethics From Three Recent Judicial Appointees*, Texas Ass'n Civil Trial and Appellate Specialists, Houston Chapter (Texas Court of Appeals Justices Rebecca Huddle and Brett Busby were co-panelists). The moderator, then-Texas Court of Appeals Justice Jeff Brown, and guests asked the panelists questions concerning court procedures and advocacy tips. I have no notes, transcript or recording. The address for this association is 712 Main Street, Houston, Texas 77002.

September 11, 2012: I administered the oath of office to Galveston Police Chief Henry Porretto, Galveston, Texas. Video available at: <http://www.youtube.com/watch?v=Jgnt4HFNb00>.

August 10, 2012: I delivered remarks at my investiture ceremony, Galveston, Texas. Transcript supplied.

June 18, 2012: *International Issues In Fraud Cases*, Lecture to University of Houston Criminal Procedure Class, Houston, Texas. PowerPoint supplied.

October 5, 2011: The Jewish Community Center in Houston organized a four-part series on the history of the Supreme Court of the United States as part of its adult education program. I gave the first talk, discussing the early history of the Court through the Civil War and the mechanics of how a case ends up at the Supreme Court. Notes supplied.

July 19, 2011: *Honest Services at Skilling's One Year Anniversary*, State Bar of Texas 37th Annual Advanced Criminal Law Course: Federal Workshop, Houston, Texas (with David Issak). PowerPoint supplied. A copy of the paper we presented is supplied in response to 12(a).

March 29, 2011: *Panel on Trying Counterfeit Trademark Cases*, Computer Hacking and Intellectual Property Coordinators' Conference, National Advocacy Center, Columbia, South Carolina. I have no notes, transcript or recording. The address of the NAC is 1620 Pendleton Street, Columbia, South Carolina 29201.

February 24, 2011: *Panel on Alumni Lawyers: Pursuing Justice Through a Career in Law*, Teach for America's "What Comes Next" Event for Houston Corps Members, Houston, Texas. I have no notes, transcript or recording. The address of Teach for America is 4669 Southwest Freeway, Suite 600, Houston, Texas 77027.

January 26, 2011: Alumni Speaker, Induction Ceremony for Chancellors Honor Society, University of Texas School of Law. I have no notes, transcript or

recording, but law school coverage is supplied. The address of the law school is 727 East Dean Keeton Street, Austin, Texas 78705.

October 14, 2010: *Issues in International Financial Fraud Investigations*, Financial Fraud Enforcement Coordinators Conference, National Advocacy Center, Columbia, South Carolina (with Paul Pelletier). We used a PowerPoint for this presentation, but because the materials are law enforcement sensitive they are not provided. The address of the NAC is 1620 Pendleton Street, Columbia, South Carolina 29201.

September 23, 2010: *Panel on Honest Services Law after Supreme Court Skilling Decision*, Federal Bar Association Southern District of Texas Chapter/ABA White Collar Crime Subcommittee, Houston, Texas. I have no notes, transcript or recording. The address of the FBA Southern District of Texas Chapter is 2726 Bissonnet #240-239, Houston, Texas 77005.

March 18, 2010: *Investigating and Prosecuting Complex Immigration Fraud Schemes*, Immigration Law Conference, National Advocacy Center (with ICE Agent Marcus Barton). We used a PowerPoint for this presentation, but because the materials are law enforcement sensitive they are not provided. The address of the NAC is 1620 Pendleton Street, Columbia, South Carolina 29201.

October 2009: I participated on a "Career in Law" panel for Rice University students, Houston, Texas. My remarks focused on opportunities for law graduates in the public sector. I have no notes, transcript or recording, but press coverage supplied. The address of Rice University is 6100 Main, Houston, Texas 77251.

February 26, 2008: *Prosecuting Disaster Fraud Cases*, California Wildfires Disaster Fraud Conference, United States Attorney's Office for the Southern District of California (San Diego) (with Jonathan Rusch). We used a PowerPoint for this presentation, but because the materials are law enforcement sensitive they are not provided. The address for the U.S. Attorney's Office is 880 Front Street, Room 6293, San Diego, California 92101.

December 7, 2006: *Major Theft Cases: The Prosecutor's Perspective*, FBI Major Theft Conference, Houston, Texas. PowerPoint supplied.

May 21, 2004: *Are the Standards Changing for Standard-Setting? Antitrust Issues in Standard-Setting and High-Tech Cases*, University of Texas School of Law Continuing Legal Education "Computer and Technology Law Institute," Austin, Texas. A copy of the paper we presented is supplied in response to 12(a).

2004: *Update on Antitrust in High Tech and IP Cases*, Advanced Patent Law Institute, San Antonio. I presented the paper noted in response to question 12a, which I have been unable to locate. The Advanced Patent Law Institute is

sponsored by the University of Texas School of Law Office of Continuing Education, which is located at 727 East Dean Keeton Street, Austin, Texas 78705.

In addition to these specific talks I recall, I have participated in other Teach for America career panels for members interested in legal careers and have given talks to a number of summer law interns about judicial clerkships. I do not have records showing the dates of these talks.

- 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.

A number of articles have quoted statements I made in court while serving as an Assistant United States Attorney. The following are those articles I could find in which I spoke directly to a reporter.

Chris Paschenko, *DOJ to Honor Judge Costa for Prosecution of \$7B Ponzi Scheme*, Galveston Daily News, November 29, 2013. Copy supplied.

Leah Fabel, *One Day* (Teach for America Alumni Magazine), Fall 2012. Copy supplied.

Chris Paschenko, *Young Law: Costa Successfully Prosecuted R. Allen Stanford in \$7B Ponzi Scheme*, Galveston Daily News, Oct. 29, 2012. Copy supplied.

Andy Soto, *Interview With Judge Costa*, Galveston County Bar and Texas Young Lawyers Association Newsletters, Aug. 10, 2012. Copy supplied.

John Council, *Senate Confirms Gregg Costa, David Guaderrama for Federal Benches in Texas*, Texas Lawyer Ex Parte Blog, Apr. 26, 2012. Copy supplied.

Laurel Brubaker Calkins, *Stanford CFO Forged Boss's Name, Fought Cost Control Measure, Witness Says*, Bloomberg News, Feb. 17, 2012. Copy supplied.

Miriam Rozen, *A Zero-Tolerance Policy for Hurricane Disaster-Relief Fraud*, Texas Lawyer, Aug. 23, 2010. Copy supplied.

Darren Barbee, *Con Artist Given 10 Years in Prison, Ordered to Pay \$3.1 Million*, Fort Worth Star Telegram, May 13, 2010. Copy supplied.

Darren Barbee, *Houston-Area Woman Pleads Guilty in Swindling Case*, Fort Worth Star Telegram, Aug. 25, 2009. Copy supplied.

Darren Barbee, *Woman's Bail Revoked after Prosecutors Accuse Her of Continuing Fraud*, Fort Worth Star Telegram, June 16, 2009. Copy supplied.

Chris Vogel, *No Honest Players Among Human Smugglers*, Houston Press, Aug. 7, 2008. Copy supplied.

Staff, *Crime & Courts; Murder-for-Hire Case Spurs Arrest*, Houston Chronicle, Dec. 4, 2007. Copy supplied.

Rosanna Ruiz and Cindy George, *Brothers Behind Bogus Web Site Guilty*, Houston Chronicle, June 15, 2007. Copy supplied.

Cindy George, *3 Sentenced Over Storm Fraud*, Houston Chronicle, Mar. 31, 2007. Copy supplied.

Harvey Rice, *Life Term Possible on Gun Charge*, Houston Chronicle, Sept. 27, 2006. Copy supplied.

Laura Elder, *Flagship Operator Pleads Not Guilty*, Galveston Daily News, Mar. 9, 2006. Copy supplied.

On September 4, 2005, I was interviewed by Houston local television station KPRC the day after Chief Justice Rehnquist passed away. I have been unable to obtain a copy of the video.

Alumni News: Two Graduates Will Clerk at U.S. Supreme Court, Townes Hall Notes (UT Law Alumni Magazine), Fall 2000. Copy supplied.

Scholarship Opens Doors for Recipients, Townes Hall Notes (UT Law Alumni Magazine), Fall 1999. 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 was nominated to serve as a United States District Judge for the Southern District of Texas by President Obama on September 8, 2011, and I was confirmed by the Senate on April 26, 2012. As a United States District Judge, I have the authority to preside over civil and criminal matters filed in or removed to the Southern District of Texas.

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

I have presided over nine cases that have gone to verdict or judgment.

- i. Of these, approximately what percent were:

jury trials: 78%

bench trials: 23%

civil proceedings: 67%

criminal proceedings: 33%

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

See attached list.

- 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).

1. *Gaalla et al. v. Citizens Medical Ctr. et al.*, No. Cv. V-10-14. For opinion dismissing board members on legislative immunity grounds, *see* 2012 WL 2870701. For opinion denying plaintiff's motion to file amended complaint, *see* 2012 WL 3205634. For opinion granting in part and denying in part hospital administrator's motion for summary judgment, *see* 2013 WL 66250.

Three cardiologists of Indian origin brought suit against a county-owned hospital alleging various actions of discrimination. The case was transferred to me after the Fifth Circuit remanded the case in an interlocutory appeal. Based on the Fifth Circuit opinion, I then granted summary judgment in favor of the hospital board members on legislative immunity grounds and granted in part and denied in part a summary judgment motion filed by the hospital administrator who had asserted a qualified immunity defense. A couple of weeks prior to the scheduled January 2013 trial, the case settled for the publicly disclosed amount of \$8 million.

Counsel for Plaintiffs:

Monte F. James
Joshua Romero
Jackson Walker LLP
100 Congress Avenue, Suite 1100
Austin, TX 78701
512-236-2066

Counsel for Citizens Medical, Brown, and Board Members:

Daniel M. McClure
Lance Bremer
Fulbright & Jaworski
1301 McKinney Street, Suite 5100

Houston, TX 77010
713-651-5159

Kevin Dudley Cullen
Cullen, Carsner, Seerden & Cullen LLP
P.O. Box 2938
Victoria, TX 77902
361-573-6318

Counsel for Campbell:

Rex Lee Easley, Jr.
Cole Cole & Easley
302 West Forrest Street
Victoria, TX 77901
361-575-0551

2. *Coates v. Brazoria County et al.*, No. Civ. G-10-71. For order denying motion to disqualify counsel, *see* 2012 WL 2568129; for order dismissing Juvenile Board, *see* 894 F. Supp. 2d 966 (2012); for order granting in part and denying in part Brazoria County's summary judgment motion, *see* 2012 WL 6160678; for Order denying motion to certify interlocutory appeal, *see* 919 F. Supp. 2d 863 (2013).

Two former employees of the Brazoria County Juvenile Board sued a former county court judge, the Juvenile Board, and the County asserting section 1983 and Title VII claims based on allegations that the judge sexually harassed them and that they were fired in retaliation for reporting the harassment. The case had been pending for more than two years when it was transferred to me. Plaintiffs had recently filed an amended complaint adding the Juvenile Board as a new defendant. I denied a motion seeking disqualification of the Juvenile Board's counsel; granted the Juvenile Board's motion to dismiss based on a finding that the entity did not have the capacity to sue or be sued under Texas law; and then granted in part and denied in part the County's motion for summary judgment on the section 1983 claims. These rulings required a legal determination of whether the Juvenile Board is a state or local entity and whether it is a final policymaker for the county over employment decisions and policies. The case settled pursuant to a Rule 68 offer of judgment for \$750,000 the weekend before trial.

Plaintiffs' counsel:

Iain Gordon Simpson
Simpson, P.C.
P.O. Box 924555
Houston, TX 77292
281-989-0742

Jacqueline A. Armstrong
11111 Katy Freeway, Suite 910
Houston, TX 77079
713-973-5711

Thomas H. Padgett , Jr
The Law Offices of Thomas H. Padgett, Jr.
4809 Pine Street
Houston, TX 77401
832-335-9134

Counsel for Defendant Brazoria County:

Barry Abrams
Susan L. Bickley
Blank Rome LLP
700 Louisiana, Suite 4000
Houston, TX 77002
713-228-6601

Counsel for Defendant Brazoria County Juvenile Board:

Rusty Hardin
Cristen David Feldman
Rusty Hardin & Associates
1401 McKinney Street, Suite 2250
Houston, TX 77010
713-652-9000

County for Defendant Blackstock:

Anthony P. Griffin
A Griffin Lawyers
1115 21st Street
Galveston, TX 77550
409-763-0386

3. *United States v. Baker*, No. Cr. G-11-8.

I presided over a bench trial in this child pornography case. This case arose when German police recorded the IP addresses of individuals making film clips available on a file-sharing network. German authorities referred the information to the ICE Cyber Crime Center. Summons served on the service provider identified the defendant as the user of three IP addresses used to make files available on the network. After execution of a search warrant, ICE authorities

recovered computers containing more than 6,000 still images and 60 video clips containing child pornography. I found the defendant guilty on all three charged counts: receipt of child pornography; possession of pornography; and access with intent to view child pornography. In December 2012, I sentenced defendant Baker to a prison term of 132 months.

Counsel for United States:

Robert Stabe
Sherri Zack
U.S. Attorney's Office for the Southern District of Texas
1000 Louisiana, Suite 2300
Houston, TX 77002
713-567-9000

Counsel for Defendant Baker:

George D. Murphy Jr
808 Travis Street, 24th Floor
Houston, TX 77002
713-658-1960

4. *United States v. DeLeon*, No. Cr. L-12-560-2.

I presided over a trial in the Laredo Division given the volume of criminal filings there. This case arose out of the Organized Crime Drug Enforcement Task Force's "Operation El Patron," which investigated a drug trafficking conspiracy that transported drugs and money from Mexico to Atlanta, Georgia, with Laredo, Texas serving as the place where the contraband crossed the border. After a three day trial in which the primary evidence came from cooperating codefendants and transcripts from wire taps, the jury convicted DeLeon of conspiring to possess with intent to distribute at least five kilograms of cocaine, conspiring to engage in money laundering, and two substantive drug offenses. The jury acquitted DeLeon on a substantive charge of international money laundering. Sentencing is set for March 7, 2014.

Counsel for United States:

Graciela Rodriguez Lindberg
Sanjeev Bhasker
1100 Matamoros Dr., Suite 200
Laredo, Texas 78040
956-721-4960

Counsel for DeLeon:

Scott McCrum
700 N. Saint Mary's St., Suite 1900
San Antonio, Texas 78205
210-225-4851

5. *Luu v. International Inv. Trade & Serv. Group*, No. Cv. G-11-182. For Order granting the defendant's motion to withdraw admissions and denying summary judgment, *see* 2012 WL 2450773.

More than fifty Vietnamese laborers who travelled to the United States to work as welders, filed suit against Vietnamese companies they contend engaged in an international human trafficking conspiracy. Plaintiffs assert claims under the Trafficking Victims Protection Reauthorization Act of 2005, the 13th Amendment, and the Alien Tort Claims Act. The plaintiffs sought summary judgment on the ground that the Vietnamese defendant had failed to respond to requests for admissions. I denied that request and ruled that the deemed admissions should be withdrawn because, among other things, the defendant did not have American counsel at the time, uncertainty existed concerning whether service of the requests was proper, and summary judgment on that basis would prevent any presentation on the merits of the dispute. Trial is currently set for May 2014.

Counsel for Plaintiffs:

Minh Tam Tran
The Tammy Tran Law Firm
2915 Fannin Street
Houston, TX 77002
713-655-0737

Anthony G. Buzbee
The Buzbee Law Firm
JP Morgan Chase Tower
600 Travis, Suite 7300
Houston, TX 77002
713-223-5393

Counsel for Defendant:

Charles Stephen Kelley
Mayer Brown LLP
700 Louisiana, Suite 3400
Houston, TX 77002
713-238-2634

6. *Anderson v. BNSF Railway*, No. Cv. G-11-270.

I presided over a jury trial in this Federal Employers Liability Act case. Anderson alleged that he was injured while pulling pins on railcars because BNSF Railway did not maintain a safe rail yard. The central dispute between the experts who testified concerned whether the ballast in the rail yard was properly balanced. After a four-day trial, the jury returned a verdict in favor of the defendant finding no negligence.

Counsel for Anderson:

Michael P. Doyle
Doyle Raizner LLP
One Houston Center
1221 McKinney, Suite 4100
Houston, TX 77010
713-571-1146

Counsel for BNSF Railway:

Douglas W. Poole
Bryan Lasswell
P.O. Box 629
Galveston, TX 77553
409-763-2481

7. *Bear Ranch LLC v. HeartBrand Beef, Inc.* No. Cv. V-12-14. For opinion denying motion to intervene, *see* 286 F.R.D. 313 (2012); for opinion granting leave to amend, *see* 2013 WL 4520425; for opinion on motion to dismiss, *see* 2013 WL 6190253.

Defendant HeartBrand claims to be the sole source for Akaushi beef in the United States. When it sells the cattle to the ranches, it includes a number of provisions requiring the registration of any offspring and restricting the sale of Akaushi semen. Bear Ranch, one of the ranches that had purchased Akaushi cattle from HeartBrand, filed suit alleging that the restrictions violate federal antitrust and Texas contract law. I denied a motion by another ranch to intervene and then granted plaintiff's motion to file an amended complaint. After the filing of the amended complaint, I then granted in part and denied in part a motion to dismiss claims in the amended complaint. I dismissed the claim seeking a declaratory judgment that the contractual restrictions on breeding and sales were void as a result of fraudulent inducement, concluding that such relief would amount to an impermissible partial rescission under Texas law. I denied the motion to dismiss the claim for damages resulting from any fraudulent inducement, finding that the

plaintiff had sufficiently pleaded that it overpaid for the cattle as a result of the alleged misrepresentations. Trial is currently set for April 2014.

Counsel for Bear Ranch:

R. Paul Yetter
Yetter Coleman LLP
909 Fannin Street, Suite 3600
Houston, TX 77010
713-632-8000

John Campbell Barker
Yetter Coleman LLP
221 West Sixth Street, Suite 750
Austin, TX 78701
512-533-0150

Andrew R. Seger
McWhorter Cobb Johnson LLP
1722 Broadway
Lubbock, TX 79401
806-762-0214

Counsel for HeartBrand:

James A. Reeder, Jr.
Stacy Neal
Vinson & Elkins
1001 Fannin Street, Suite 2500
Houston, TX 77002
713-758-2202

Counsel for Proposed Intervener Twinwood Cattle:

William D. Wood
David Hanns
Fulbright & Jaworski LLP
1301 McKinney Street, Suite 5100
Houston, TX 77010
713-651-5151

8. *Blythe v. Bumbo International Trust*, No. Cv. V-12-36. For opinion granting in part and denying in part motion for summary judgment, *see* 2013 WL 6190284.

This is a products liability case involving the Bumbo Baby Seat, which has been subject to separate recalls by the Consumer Products Safety Commission. Parents of an infant allegedly injured while sitting in the seat on a counter brought suit against Bumbo, the manufacturer, and Target, which sold the seat. I granted the defendant's motion on summary judgment on the marketing defect claim, finding that the warning used after the 2007 recall were sufficient as a matter of law. I denied summary judgment on the design defect claim, the gross negligence claims, and on the question whether Target had actual knowledge of the defect which would support an exclusion from the Texas statute immunizing nonmanufacturing sellers in products liability cases. I then presided over a six-day trial in Victoria. The jury returned a verdict finding no liability on the part of the defendants.

Counsel for Plaintiffs:

Martin Rose
Michael Ross Cunningham
Rose Walker LLP
3500 Maple Ave, Suite 900
Dallas, TX 75219
214-752-8600

Counsel for Defendants:

Tarush R. Anand
John Davis
Brown Sims, P.C.
1177 West Loop South, Tenth Floor
Houston, TX 77027
713-629-1580

9. *Voting for America v. Andrade*, No. Cv. G-12-44. For order granting in part and denying in part motion for preliminary injunction, *see* 2012 WL 3155566, stay granted, 2012 WL 6160678.

Nonprofit organizations that engage in voter registration activities sued the Texas Secretary of State and Galveston County Registrar challenging eight Texas statutes governing voter registration activities. I issued a preliminary injunction enjoining enforcement of five of the eight challenged provisions on either preemption or First Amendment grounds. The opinion also addressed the defendants' arguments that plaintiffs lacked standing to sue them. In a 2-1

decision, the Fifth Circuit stayed my order pending appeal. In a 2-1 decision by a different panel, the Fifth Circuit vacated the injunction.

Counsel for Plaintiffs:

Chad W. Dunn
Brazil & Dunn
4201 Cypress Creek Parkway, Suite 530
Houston, TX 77068
281-580-6310

Brian Mellor
Michelle Kanter Cohen
Michelle Rupp
Project Vote
1350 Eye Street, NW, Suite 1250
Washington, DC 20005
202-546-4173

David C. Peet
Julia Lewis
Ryan Morland Malone
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700 12th Street NW, Suite 900
Washington, DC 20005
202-508-4826

Counsel for Secretary of State:

Kathlyn Claire Wilson
Office of the Attorney General
General Litigation Division
P.O. Box 12548
Austin, TX 78711
512-463-2120

Counsel for Galveston County:

Donald S. Glywasky
Galveston County Legal Department
722 Moody Avenue, Fifth Floor
Galveston, TX 77550
409-770-5562

10. *Washington v. La Marque Independent School District*, No. G-12-154. For opinion denying motion to remand and consolidating cases, *see* 2012 WL 5289682. For opinion granting former District Attorney Sistrunk's motion to dismiss and granting in part and denying in part La Marque ISD's motion for summary judgment, *see* 930 F. Supp. 2d 790. For opinion denying La Marque ISD's motion for reconsideration on the one claim that survived its summary judgment motion, *see* 2013 WL 2323122.

The former chief of police for the La Marque School District sued the district, members of the school board, and the former Galveston County District Attorney in two separate lawsuits. The suits raised various constitutional, statutory and tort claims arising out of the termination of Washington based on criminal charges brought against him that were later dismissed. I denied Washington's motion to remand one of the lawsuits to state court and consolidated the cases. I then granted former District Attorney Sistrunk's motion to dismiss on immunity grounds and granted in part and denied in part the school district's motion for summary judgment on due process claims.

Counsel for Washington:

Chad C. Pinkerton
The Pinkerton Law Firm, PLLC
5020 Montrose Blvd., Suite 550
Houston, TX 77006
281-332-2002

Counsel for La Marque ISD and individual district employees:

Richard A Morris
Rogers, Morris & Grover, L.L.P.
5718 Westheimer, Suite 1200
Houston, TX 77057
713-960-6019

Counsel for former District Attorney Sistrunk:

Donald S Glywasky
Galveston County Legal Department
722 Moody, Fifth Floor
Galveston, TX 77550
409-770-5562

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

1. *Voting for America v. Andrade*, Opining granting in part and denying in part motion for preliminary injunction. 888 F. Supp. 2d 816 (S.D. Tex. 2012), *stay granted by* 488 Fed. Appx. 890 (5th Cir. Sept. 26, 2012), *rev'd* 732 F.3d 382 (5th Cir. 2013).

Counsel for Plaintiffs:

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Brazil & Dunn
4201 Cypress Creek Parkway, Suite 530
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281-580-6310

Brian Mellor
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Julia Lewis
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Counsel for Secretary of State:

Kathlyn Claire Wilson
Office of the Attorney General
General Litigation Division
P.O. Box 12548
Austin, TX 78711
512-463-2120

Counsel for Galveston County:

Donald S. Glywasky
Galveston County Legal Department
722 Moody Avenue, Fifth Floor
Galveston, TX 77550
409-770-5562

2. *Maples v. University of Texas Medical Branch at Galveston*. Opinion granting summary judgment. 901 F. Supp. 2d 874 (S.D. Tex. 2012), *aff'd*, 2013 WL 1777501 (5th Cir. Apr. 26, 2013).

Counsel for Maples:

Anthony Griffin
1115 21st Street
Galveston, TX 77550
409-763-0386

Counsel for University of Texas Medical Branch at Galveston:

Erika M. Laremont
Office of the Attorney General
General Litigation Division
P.O. Box 12548 Capitol Station - 019
Austin, TX 78711
512-475-4102

3. *Coates v. Brazoria County*, Opinion granting in part and denying in part County's Motion for Summary Judgment. 2012 WL 6160678 (S.D. Tex. Dec. 11, 2012).

Plaintiffs' counsel:

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281-989-0742

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713-973-5711

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Counsel for Brazoria County:

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Cristen David Feldman
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Counsel for Blackstock:

Anthony P. Griffin
A Griffin Lawyers
1115 21st Street
Galveston, TX 77550
409-763-0386

4. *De La Garza v. Brumby*. Opinion granting in part and denying in part summary judgment. 2013 WL 754260 (S.D. Tex. Feb. 27, 2013).

Counsel for De La Garza:

Robert E. McKnight, Jr.
203 North Liberty Street
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361-573-5500

Margaret Ann Harris
Butler & Harris
1007 Heights Boulevard
Houston, TX 77008
713-526-5677

Counsel for Defendants:

Kevin Dudley Cullen
Casey Cullen

Cullen, Carsner, Seerden & Cullen LLP
P.O. Box 2938
Victoria, TX 77902
361-573-6318

5. *Pittman-Bey v. Clay*. Opinion granting summary judgment. 2013 WL 797415 (S.D. Tex. Mar. 4, 2013).

Counsel for Pittman-Bey:

Leo Pittman-Bey (pro se)

Counsel for Defendants:

Gerald O'Ryan McMillan
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711-2548
512-463-2080

6. *Washington v. Burley*. Opinion granting in part and denying in part motion for summary judgment. 930 F. Supp. 2d 790 (S.D. Tex. 2013).

Counsel for Washington:

Chad C. Pinkerton
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5020 Montrose Blvd., Suite 550
Houston, TX 77006
281-332-2002

Counsel for school district and individual district employees:

Richard A Morris
Rogers, Morris & Grover, L.L.P.
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713-960-6019

Counsel for former District Attorney Sistrunk:

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722 Moody, Fifth Floor
Galveston, TX 77550
409-770-5562

7. *Welding Technologies v. James Machine Works LLC*. Opinion denying motion to stay or transfer venue. 2013 WL 1123852 (S.D. Tex. Mar. 18, 2013).

Counsel for Welding Technologies:

James Stanley Teater
Jones Day
717 Texas Ave, Suite 3300
Houston, TX 77002
832-239-3777

Counsel for James Machine Works:

Richard John Tyler
Jones Walker
201 St Charles Ave
New Orleans, LA 70170
504-582-8266

8. *Choice Hotels International v. Patel*. Opinion granting in part and denying in part plaintiff's motion for summary judgment and granting injunction. 940 F. Supp. 2d (S.D. Tex. 2013).

Counsel for Choice Hotels International:

Mark Wesley Thayer
Gordon & Rees, LLP
1900 West Loop South
Suite 1000
Houston, TX 77027
713-961-3366

Counsel for Defendants:

Edward J Hennessy
2900 Wesleyan
Suite 500
Houston, TX 77027
713-224-5066

9. *Mazurkiewicz v. Clayton Homes, Inc.*, Opinion granting in part and denying in part motion for summary judgment. 2013 WL 3992248 (S.D. Tex. Aug. 2, 2013).

Plaintiffs' counsel:

Adriaan Tieleman Jansse
The Jansse Law Firm
8438 Fountain Circle
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210-595-8665

Gay Ellen Gilson
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361-887-0552

Counsel for Defendant:

Michael D. Mitchell
Ogletree Deakins
500 Dallas Street
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Houston, TX 77002-4709
713-655-5756

10. *United States ex rel. Parikh v. Citizens Medical Center*, Opinion granting in part and denying in part defendants' motion to dismiss. 2013 WL 5304057 (S.D. Tex. Sept. 20, 2013).

Relators' Counsel:

Monte F. James
Joshua Romero
Jackson Walker LLP
100 Congress Avenue, Suite 1100
Austin, TX 78701
512-236-2066

Defendants' Counsel:

Kevin Michael Clark
King & Spaulding LLP
1100 Louisiana Street, Suite 4000
Houston, TX 77002
713-276-7334

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

I am not aware of any case of mine in which certiorari was requested or granted. In *Voting for America v. Andrade*, No. G-12-44, the plaintiffs filed an application with the Supreme Court seeking to lift the Fifth Circuit's stay. The Supreme Court denied the application, with Justice Sotomayor dissenting. 133 S. Ct. 99 (Sept. 25, 2012).

- 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.

Voting for America v. Andrade, 888 F. Supp. 2d 816 (S.D. Tex. 2012), *stay granted by* 488 Fed. Appx. 890 (5th Cir. Sept. 26, 2012), *rev'd* 732 F.3d 382 (5th Cir. 2013). In a 2-1 decision, the Fifth Circuit stayed the preliminary injunction I issued in the *Voting for America* case and then later vacated that injunction. The court of appeals disagreed that voter registration activity was governed by the Supreme Court decisions on petition activity for ballot initiatives, held that the Texas law governing compensation for participants in voter registration drives could be given a narrowing construction, and concluded that the National Voter Registration Act did not preempt two Texas statutes.

Baker v. Cage, 2012 WL 4486273, *rev'd*, *In re Whitley*, 2013 WL 6596790 (5th Cir. Dec. 16, 2013). The Fifth Circuit reversed my decision affirming an order of the bankruptcy court that had required a debtor's counsel to return real estate he had received from the debtor but failed to disclose to the bankruptcy court. The court of appeals held that the bankruptcy court improperly relied on a provision of the bankruptcy code regulating excessive attorney compensation as opposed to the provision allowing sanctions against an attorney who violates disclosure requirements and remanded the case to the bankruptcy court where findings could be made concerning the latter.

- 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.

I file all my decisions with the federal judiciary's CM/ECF system, which makes all written decisions available to the public online. Westlaw and Lexis have published most of my substantive (*i.e.*, non-scheduling) rulings on their websites.

- 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.

Voting for America v. Andrade, 888 F. Supp. 2d 816, *stay granted*, 488 Fed. Appx. 890 (5th Cir. Sept. 26, 2012), *rev'd* 732 F.3d 382 (5th Cir. 2013).

Washington v. Burley, 930 F. Supp. 2d 790 (2013).

De La Garza v. Brumby, 2013 WL 754260 (2013)

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

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

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

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

The United States District Court for the Southern District of Texas has an automated conflict check system. I list in that system the names of companies in which I hold stock and the names of any family members and close friends whom I have concluded should not appear before me. I recused myself *sua sponte* in the following cases, all of which were flagged by the automated conflict check system:

Sims v. Legal Eagles et al., G-CV-07-206

Backe et al. v. LeBlanc et al., G-CV-10-388

Williams-Smith et al. v. Designers Edge, Inc. et al., G-CV-10-590

Matagorda County Teen Program v. City of Bay City, G-CV-11-032

Yates v. City of Kemah, G-CV-11-123

Cruz v. City of Galveston, G-CV-11-205
Aldous v. City of Galveston, G-CV-11-228
Allen v. Stroud et al., G-CV-11-263
Nguyen v. Bank of America, No. G-CV-11-290.
Forbes v. Citimortgage, No. G-CV-11-409.
Hall v. BAC Home Loans Servicing, No. G-CV-11-417
Rowlands et al. v. Bank of America, No. G-CV-11-555
Phillion v. Home Depot U.S.A., No. G-CV-12-21
Walker v. Home Depot U.S.A., G-CV-12-65
Davis v. Bank of America Corp., G-CV-12-100
Wulf v. BAC Home Servicing LP, G-CV-12-124
Cortines et al. v. Bank of America, G-CV-12-174
Black Sigma LLC v. Bank of America, G-CV-12-181
Bastien v. Bank of America, G-CV-12-192
Belknap v. Bank of America, G-CV-12-198
Mallette v. Deutsche Bank Berkshire Mortgage, G-CV-12-231
GE Commercial Distrib. Finance Corp. v. Chardee, Inc., G-CV-12-303
Rowlands v. Bank of America, N.A., G-CV-12-366
United States v. Blevins, G-CR-13-03
Mendoza v. McDonald, G-CV-13-60
Cornett v. Bank of America, N.A., G-CV-13-94
Arnold v. Federal Nat'l Mortgage Ass'n et al, G-CV-13-101
Bastian v. Bank of America, N.A., G-CV-13-110
Gribble v. Bank of America, NA., G-CV-13-154
In re Young, G-CV-13-205
Knapik v. Bank of America, N.A., G-CV-13-206
Young et al v. Bank of America, N.A., G-CV-13-257
Brown v. Bank of America, N.A., G-CV-13-263
Williams v. Federal Nat'l Mortgage Ass'n et al, G-CV-13-318
Luna v. Bank of America, N.A., G-CV-13-343
Sharp v. Mortgage Electronic Registration Sys., Inc. et al, G-CV-13-360
Simon, III v. Bank of America, N.A., G-CV-13-379
Adkins et al v. Apple, Inc., G-CV-13-402
Lyerly v. BAC Home Loans Servicing, L.P., G-CV-13-461
Speedy Stop Food Stores LLC v. Visa, Inc. et al, V-CV-13-73

No party has filed a motion seeking my 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 not held any public offices. 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.

Dartmouth College Democrats (Acting President, Vice President, 1991 – 1992)

Volunteer, campus coordinator, Bob Kerrey for President campaign (New Hampshire Primary, 1991 – 1992)

Volunteer, Clinton for President and Dallas County Democratic Party Coordinated Campaign (Fall 1992)

Intern, Democratic National Committee (Summer 1991)

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 August 1999 through July 2000, I served as a law clerk to Judge A. Raymond Randolph, United States Court of Appeals for the D.C. Circuit.

From July 2001 through July 2002, I served as a law clerk to Chief Justice William Rehnquist, Supreme Court of the United States.

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

I have not practiced alone.

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

2000 – 2001

United States Department of Justice, Office of the Solicitor General
950 Pennsylvania Avenue, NW
Washington, DC 20530
Bristow Fellow

2002 – 2005
Weil, Gotshal & Manges
700 Louisiana, Suite 1600
Houston, Texas 77002
Associate

2005 – 2012
United States Attorney's Office
Southern District of Texas
919 Milam
P.O. Box 61129
Houston, Texas 77208
Assistant United States Attorney

- 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.

As a Bristow Fellow, I authored numerous briefs in opposition to petitions for certiorari, recommended to the Solicitor General whether the United States should appeal adverse district court decisions, assisted permanent office attorneys with drafting Supreme Court merit briefs and preparing for oral arguments, and argued an appeal in the Seventh Circuit.

During summer 2002, I returned to Texas and joined the Houston office of Weil Gotshal as an associate. I had primary day-to-day responsibility for civil litigation matters including intellectual property litigation, class actions, international arbitration, bankruptcy litigation and general commercial disputes. I also worked on appellate matters and a number of pro bono cases.

In early 2005 I joined the Houston United States Attorney's Office as an Assistant United States Attorney and worked there until I was appointed to be a United States District Judge in 2012. I worked in the Major Offenders and Major Fraud sections of the office, investigating and prosecuting criminal matters in the following areas: mortgage fraud, investment fraud, securities fraud, government benefit fraud, public corruption, importation of counterfeit products, internet fraud, child

pornography, human smuggling, hostage taking, postal crimes, and narcotics and firearms violations. I also handled numerous appellate matters and argued six cases in the Fifth Circuit.

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

When working in private practice at Weil Gotshal, the typical clients I represented were corporations involved in complex civil litigation. In pro bono matters I handled during that time, I represented a defendant in a criminal case and a nonprofit organization in constitutional litigation.

As an Assistant United States Attorney, I represented the United States in criminal prosecutions.

- 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. Indicate the percentage of your practice in:

- 1. federal courts 90%
 - 2. state courts of record: 10%
 - 3. other courts:
 - 4. administrative agencies:

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 25%
 - 2. criminal proceedings: 75%

- 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.

Seventeen (this includes two cases that were tried twice because the jury hung on some counts). I tried all of these cases as an Assistant United States Attorney. Two prosecutors typically handle a trial and evenly split the witnesses and jury addresses. (I may have tried one or two cases to magistrate judges in cases from the misdemeanor civil violations bureau docket, but I do not recall the specific cases and did not include those cases in the number of trials listed here.)

- i. What percentage of these trials were:

- 1. jury: 100%
 - 2. nonjury: 0%

- 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.

As a Bristow Fellow in the Solicitor General's office, I drafted numerous responses to petitions for certiorari. The only one I recall by name is *United States v. Dusenberry*, 534 U.S. 161 (2002), because the Supreme Court granted the petition in that case. Copy supplied.

I also recall providing research and other assistance to permanent office attorneys for the merits briefs filed in the following cases: *Indianapolis v. Edmond*, 531 U.S. 32 (2000); *TrafFix Devices, Inc. v. Marketing Displays, Inc.*, 532 U.S. 23 (2001); *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105 (2001); and *Zadvydas v. Davis*, 533 U.S. 678 (2001).

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. *United States v. Stanford, et al.*, No. H-09-242 (S.D. Tex.); Judge David Hittner. Court of Appeals decisions relating to Stanford's pretrial detention are reported at 2011 WL 867057, 395 Fed. App'x 72, 367 Fed. App'x 507, and 341 Fed App'x 979.

I was co-lead counsel for the United States in the prosecution of Stanford, other Stanford Financial Group executives, and the former head of the Antiguan Financial Services Regulatory Commission. The indictment alleged that the defendants engaged in a \$7 billion investment fraud relating to the sale of certificate of deposits by Antiguan-based Stanford International Bank. I was involved in all aspects of the case including trying the case; working with foreign governments to extradite a defendant, obtain evidence and freeze over \$300 million in foreign bank accounts; and briefing four Fifth Circuit appeals and arguing the one in which oral argument was held. The CFO of Stanford Financial Group pled guilty. A jury found Stanford guilty on thirteen of fourteen counts after a seven-week trial. After I was appointed to the bench, Stanford was sentenced to a 110-

year term of imprisonment, and the three remaining defendants, who had been awaiting trial, were convicted and sentenced to prison terms.

Co-counsel (at various stages of the prosecution):

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Jack Patrick
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Opposing Counsel (at various stage of the prosecution):

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Counsel for defendant Pendergest:
Dan Lamar Cogdell
Cogdell & Ardoin, LLC
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Counsel for defendant Lopez:
Jack B. Zimmermann
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Counsel for defendant Kuhrt:
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2. *United States v. Barnes, et al.*, No. H-10-787 (S.D. Tex.); Judge Sim Lake.

This case involved an alleged \$80 million dollar kickback and international money laundering scheme relating to the shipment of oil from Venezuela to a Houston area refinery. Barnes, who was the Marine Chartering Manager for LyondellBassell's Houston refinery, pled guilty to receiving more than \$20 million in kickbacks from oil traders in exchange for agreeing to pay inflated prices for the shipping that the traders were arranging through companies they controlled. Barnes subsequently cooperated with the government and was sentenced to a seven-year prison term. Two of the oil traders

plead guilty and were sentenced to terms of 54 and 66 months. The investigation in this case involved obtaining evidence from authorities in Switzerland, France and the British Virgin Islands. We also obtained forfeiture of approximately \$25 million of the fraud proceeds.

Opposing Counsel:

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Counsel for defendant Langley:

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Counsel for defendant Meltzer:

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David Gerger

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3. *United States v. Curtis, et al.*, No. H-08-323 (S.D. Tex.); Judge Nancy Atlas. The Court of Appeals decision affirming the convictions and sentences is available at 2011 WL 846703 (5th Cir. 2011).

This case involved nine defendants charged with conspiring to commit mortgage fraud in the Montrose neighborhood of Houston. The organizer of the scheme, Curtis, used his supposed investment company CLC Holdings to receive large profits from the sale of homes in which straw buyers were used to pay inflated amounts for the home. Some of the loan applicants used children's social security numbers, which were purchased from a Houston "credit repair" business. Eight of the defendants, including two mortgage brokers and the owner of the credit repair business, pled guilty and were sentenced to various terms of imprisonment. Curtis went to trial and a jury convicted him of conspiracy, wire fraud, and aggravated identity theft. Judge Atlas sentenced Curtis to

twelve years in prison. I worked with the Secret Service in investigating the case, presented the case to the grand jury, negotiated the plea agreements of the eight defendants who pled guilty, and, along with a colleague, tried the case against Curtis.

Trial Co-counsel:

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Opposing Counsel:

For defendant Curtis:

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For defendant Joubert:

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For defendant Cherry:

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For defendant Johnson:

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For defendant Nunnerly:
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4. *United States v. Ashoor*, No. H-09-307 (S.D. Tex.); Judge David Hittner. The Court of Appeals decision affirming the conviction is reported at 2011 WL 1659780 (5th Cir. 2011).

The defendant, who had a company that serviced government contracts, imported counterfeit Cisco products from China which he intended to supply to the Marine Corps in Iraq. After a hung jury resulted in a mistrial of the first trial, a jury convicted the defendant of trafficking in goods with counterfeit trademarks, and he was sentenced to a fifty-one month prison term. I worked with ICE in the initial stages of this investigation, another AUSA completed the investigation and obtained an indictment in the case, and I then tried the case with the other AUSA.

Trial Co-counsel:
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Counsel for Ashoor:
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McNabb Associates PC
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5. *United States v. Stephens and Stephens*, H-06-242 (S.D. Tex.); Judge David Hittner. The Court of Appeals decision affirming the convictions and sentences is reported at 571 F.3d 401 (5th Cir. 2009).

I managed the investigation and prosecution of these two defendants charged with creating a fraudulent Salvation Army website shortly after Hurricane Katrina struck the Gulf Coast, which falsely purported to collect donations for hurricane victims. Hundreds of individuals across the country donated to the website before it was shut down. To disguise their involvement with the website, the brothers used stolen identities, including Social Security numbers, to register the various PayPal accounts they used to collect money donated through the website. A jury convicted both defendants of conspiracy, wire fraud and aggravated identity theft. One defendant received a sentence of 111 months and the other received a sentence of 105 months.

Co-counsel:

Bret Davis

Federal Bureau of Investigation (then a Special Assistant United States Attorney)

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Opposing Counsel:

Counsel for defendant S. Stephens:

Samy Khalil

Genger & Clarke (then Office of the Federal Public Defender)

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(713) 224-4400

Counsel for defendant B. Stephens:

Jimmy Ardoin

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Houston, TX 77010

(713) 426-2244

6. *United States v. Trevino, et al.*, H-07-664 (S.D. Tex.); Judge Randy Crane.

This public corruption case involved tens of thousands of dollars paid in bribes to the City Manager and Director of Parks and Recreation for the City of Mission, Texas. The contractors paid the bribes in exchange for favorable treatment in the awarding of contracts for debris and sludge removal, the construction of a skateboard park, expansion of a city pool and the painting of a downtown parking lot. The case arose from a longstanding FBI undercover investigation in the Rio Grande Valley which another AUSA oversaw. I handled the prosecution of the two public officials and two contractors

charged in this case. All four defendants pled guilty. The two public officials and one of the contractors were sentenced to various prison terms; the other contractor received a sentence of probation based on his cooperation.

Opposing Counsel:

Counsel for defendant I. Trevino:

Jack Wolfe (deceased)

Counsel for defendant Villegas:

CJ Quintanilla, III

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Counsel for defendant Cavazos:

Francisco J. Rodriguez

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(956) 687-6415

Counsel for defendant D. Trevino:

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San Antonio, TX 78205

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7. *United States v. Speezia*, H-07-31 (S.D. Tex.); Judge Ewing Werlein, Jr.

The defendant was associated with a human smuggling organization in Houston. A meeting was arranged at a gas station at which the smugglers planned to seek payment from the brother of one of the Mexican nationals who had been brought from the border to Houston. Upon learning that the brother did not have the smuggling fee, the defendant and others kidnapped him at gun point and took him to a motel room in the Houston area. Over the next few days, the defendant and his associates called relatives of the hostage and demanded payment of the smuggling fee, which they kept increasing. During the calls, the defendant tortured the hostage by, among other things, burning his forearms with an iron and hammering his toenails. The jury convicted the defendant of conspiracy, alien smuggling, and hostage taking. The defendant was sentenced to a 25-year prison term. Another AUSA investigated and charged the case. I joined him to prepare and try the case and then I handled the sentencing hearing.

Co-counsel:

Jimmy Kitchen

U.S. Attorney's Office for the Western District of Pennsylvania

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Opposing counsel:
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8. *United States v. Huang and Liu*, H-05-392 (S.D. Tex.); Judge David Hittner. The Court of Appeals decision affirming Liu's conviction and sentence is reported at 288 Fed. App'x 193 (5th Cir. 2008).

A Houston lawyer and her legal assistant were charged with engaging in a complex visa fraud scheme. The fraud involved, among other things, intracompany transfer visas, which allow a foreign citizen to work in the United States as an executive at a foreign company's American subsidiary and can serve as a basis for permanent residence status. Chinese nationals paid large sums, up to \$60,000 each, to obtain such visas under fraudulent pretenses. The defendants created legal documents, such as stock certificates and Board of Director minutes, falsely showing that Chinese companies had purchased American subsidiaries, which they submitted to support the fraudulent visa applications. Defendant Huang, the attorney, was convicted of conspiracy and four counts of visa fraud and sentenced to fifty-one months in prison. Defendant Liu was convicted of one count of visa fraud, acquitted on the other counts, and sentenced to eighteen months in prison. This case was reassigned to me after it was charged. I then prepared and tried the case with another AUSA, handled the sentencing hearings, and argued Liu's appeal.

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Opposing Counsel:

Counsel for defendant Huang:
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Counsel for defendant Liu:
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9. *Canatxx Energy Ventures, Inc. v. General Electric Capital Corp.*, Case No. H-09-4425 (S.D. Tex.); Judge Kenneth Hoyt. The Fifth Circuit decision reversing the judgment and rendering judgment in favor of GE Capital is at 2008 WL 4601691 (5th Cir. 2008).

My firm represented GE Capital in this lawsuit concerning the termination of a power plant project. Canatxx was the project developer and signed a Dissolution Agreement with GE Power Systems in which the parties agreed to terminate the joint venture to build power plants. Canatxx then filed suit against GE Capital, which was a financial advisor on the project, raising state-law claims of breach of fiduciary duty, unfair competition fraud, and civil conspiracy. During the time I was involved in the case, I drafted the motions, argued at a court hearing, and managed discovery, including attending depositions in London. After I left my firm, another firm was hired to try the case. A jury returned a verdict of favor of Canatxx, but the Fifth Circuit reversed and rendered judgment in favor of GE Capital based on its holding that the Dissolution Agreement also applied to affiliates of GE Power Systems, which included GE Capital.

Lead counsel:
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Houston, TX

Opposing counsel:
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10. *Pataki v. Assembly and Silver v. Pataki*, 824 N.E.2d 898 (N.Y. Ct. App. 2005).

My firm represented the speaker of the New York assembly in litigation against Governor Pataki related to disputes over the budget process in New York. The case involved questions concerning whether the New York Constitution allowed the legislature to amend certain legislation proposed by the Governor and whether the Governor could exercise the line-item veto with respect to those bills. The two related cases reached the New York Court of Appeals, which ruled 5-2 in favor of the Governor. I had significant involvement in crafting the arguments and drafting the briefs in both the intermediate appellate courts and in the New York Court of Appeals.

Lead counsel:
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(212) 310-8000

Opposing counsel:
Max Shulman
Cravath, Swain & Moore
825 Eighth Avenue
New York, NY 10019
(212) 474-1000

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.)

While an associate at Weil Gotshal, in addition to the litigation I handled, I was involved in one antitrust counseling matter.

As an Assistant United States Attorney, in addition to prosecuting cases, I served as the Deputy International Affairs Coordinator for the United States Attorney's Office. In that capacity, I helped coordinate incoming and outgoing requests for foreign evidence gathering under Mutual Legal Assistance Treaties with numerous countries. In addition to this oversight role, I personally handled such requests on behalf of the governments of Malaysia, Turkey, Colombia, Lithuania, Greece, France, the United Kingdom, Trinidad and Tobago, Ireland, Norway, and Brazil. I also handled and provided guidance to other AUSAs on extradition matters.

I also served as the Hurricane Fraud Coordinator for the Southern District of Texas, a position created in 2005 after Hurricanes Katrina and Rita. I coordinated a multi-agency task force that investigated fraud cases relating to Hurricanes Katrina, Rita, and Ike. The United States Attorney's Office prosecuted more than 100 individuals for fraud relating to the hurricanes, including government-benefit fraud, identity theft offenses, charitable fraud, and investment fraud.

In addition, the Deputy Attorney General appointed the First Assistant United States Attorney and me to serve as special prosecutors in a public corruption matter arising out of another district in which the local U.S. Attorney's Office had a conflict.

I have not performed any lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe

briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

During the spring semesters of 2004 and 2005, I taught Federal Jurisdiction as an adjunct professor at the University of Houston Law Center. A copy of my 2005 syllabus is 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.

None.

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.

I have no such plans.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I do not hear cases brought by the United States Attorney's Office in which I had any participation as an AUSA. I do not preside over any cases involving the company that employs my wife. I also do not preside over cases involving the few companies in which my wife and I own stock.

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

I would follow the recusal statutes and the Code of Conduct for United States Judges, as well as other legal authority, in resolving any potential conflicts of interest. I would also consult with colleagues and with ethics officials from the Administrative Office of U.S. Courts.

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.

In 2003, I assisted the NAACP Legal Defense Fund in representing Timothy Towery, who was serving an 18-year sentence as one of the 38 individuals convicted as part of the Tulia drug sting. We prepared a motion for habeas corpus relief arguing that Towery's conviction should be overturned based on the ineffective assistance of his counsel who persuaded him to plead guilty. This involved investigating the case against Towery, researching the relevant legal issues and drafting the motion. On August 23, 2003, Governor Rick Perry pardoned our client and the other Tulia defendants.

In 2004, I assisted the Lawyers' Committee for Civil Rights Under Law in litigation involving two events that infringed on the voting rights of Prairie View A&M students in Waller County, Texas. One case was filed against the District Attorney who had warned college students that they were not allowed to vote in Waller County despite longstanding law (reflected in both case law and opinions from the state attorney general) that college students in Texas may choose to vote either where they attend school or where their parents reside.

The second case challenged Waller County's failure to seek approval under the preclearance provisions of Section 5 of the Voting Rights Act for attempts to reduce the number of hours that were available for early voting at the polling place closest to the Prairie View campus (the 2004 primary election took place during the school's spring break, making early voting the primary vehicle for student voting). After filing complaints seeking temporary restraining orders and preliminary injunctions against both practices, the defendants quickly settled and agreed to alter the challenged practices.

In Fall 2004, I assisted the Lawyers' Committee for Civil Rights Under Law in their nonpartisan voter protection project during the 2004 general election. We attended training on possible voting rights issues and manned a Houston phone bank on Election Day with a ready-response legal team.

While an associate at Weil Gotshal, I occasionally participated in the Houston Bar Association's Legal Lines program in which citizens could call a phone bank and receive assistance with general legal problems.

In addition to working on these legal matters, I am a co-founder and current board member of the Sunflower County Freedom Project, a nonprofit educational enrichment program created by Teach for America alumni in the Mississippi Delta county where I taught from 1994 to 1996. The program, which has been in existence for more than ten years, provides rigorous after-school and summer programs that prepare students from one of the nation's poorest regions for college. Graduates of the program have attended college at prominent institutions including the University of North Carolina, LSU, Berea College, and Mississippi State.

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 October 2012, an official from the White House Counsel's Office contacted me to inquire whether I was interested in being considered for one of the pending Fifth Circuit vacancies in Texas. In late November 2012, I informed the White House that I was interested. Since that time, I have been in contact with officials from the Office of Legal Policy at the Department of Justice and the White House Counsel's Office. On December 20, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 21, 2013, I met with Senator Cornyn's and Senator Cruz's Federal Judiciary Evaluation Committee. On December 16, 2013, I met with Senator Cornyn and Senator Cruz and members of their staff in Washington, D.C. On December 19, 2013, the President submitted my nomination to the Senate. On January 6, 2014, the President submitted my renomination to the Senate.

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

No.

**FINANCIAL DISCLOSURE REPORT
NOMINATION FILING**

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

1. Person Reporting (last name, first, middle initial) Costa, Gregg J.	2. Court or Organization United States Court of Appeals for the Fifth Circuit	3. Date of Report 1/6/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Circuit Judge	5a. Report Type (check appropriate type) ☒ Nomination Date 1/6/2014 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2013 to 12/15/2013
7. Chambers or Office Address 601 25th Street Galveston, TX 77550		
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.)*

POSITION

NAME OF ORGANIZATION/ENTITY

1. Director and Secretary	Sunflower County Freedom Project
2.	
3.	
4.	
5.	

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

☒ NONE *(No reportable agreements.)*

DATE

PARTIES AND TERMS

1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Costa, Gregg J.

Date of Report

1/6/2014

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.		
2.		
3.		
4.		

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2013	Noble Americas Energy Solutions -- salary
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.)*

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Costa, Gregg J.

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

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.)*CREDITORDESCRIPTIONVALUE CODE

1.

2.

3.

4.

5.

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Costa, Gregg J.

Date of Report

1/6/2014

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. Apple common stock		None	L	T	Exempt				
2. Bank of America common stock	A	Dividend	K	T					
3. General Electric common stock	A	Dividend	K	T					
4. Bank of America "cash" account		None	K	T					
5. Janus Fund D	A	Dividend	K	T					
6. Columbia Seligmann Communications Fund	A	Distribution	J	T					
7. Fidelity Advisor Equity Growth		None	K	T					
8. Investco Charter Fund	A	Dividend	K	T					
9. iShares S&P Small Cap 600 Index Fund	A	Dividend	K	T					
10. Oppenheimer Main Street Small & Midcap Fund	A	Dividend	K	T					
11. Pioneer Mid-Cap Value Fund	A	Dividend	K	T					
12. Vanguard 500 Index Fund	A	Dividend	L	T					
13. Texas 529 Large Cap Core Index Fund	A	Dividend	J	T					
14. Texas 529 Capital Appreciation Portfolio	A	Dividend	J	T					
15. Texas 529 Main Street Small & Mid-Cap Fund	A	Dividend	J	T					
16. Virginia 529 Real Estate Investment Trust	A	Dividend	J	T					
17. Virginia 529 Aggressive Fund	A	Dividend	K	T					

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

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000
H2 = More than \$5,000,000

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

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Costa, Gregg J.

Date of Report

1/6/2014

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. Virginia 520 Stock Index Fund	A	Int./Div.	K	T					
19. Virginia 529 International Fund	A	Dividend	J	T					
20. America Funds Europacific Growth (401k)	A	Dividend	J	T					
21. American Funds Growth Fund of America (401k)	A	Dividend	K	T					
22. Causeway International Value (401k)	A	Dividend	K	T					
23. DFA Emerging Markets Core Equity Fund (401k)		None	K	T					
24. DFA Internatioanl Core Equity Fund (401k)		None	K	T					
25. DFA U.S. Core Equity 2 Fund		None	K	T					
26. Dodge & Cox Stock Fund (401k)	A	Dividend	J	T					
27. DWS Capital Growth Fund (IRA)	A	Dividend	J	T					
28. DWS S&P 500 Index Fund (IRA)	A	Dividend	J	T					
29. DWS World Dividend Fund (IRA)	A	Dividend	J	T					
30. Fidelity Blue Chip Growth Fund (401k)	A	Dividend	K	T					
31. Fidelity Fifty Fund (401k)	A	Dividend	K	T					
32. Fidelity Freedom Income Fund (401k)	A	Dividend	K	T					
33. Fidelity Growth Company Fund (401k)	A	Dividend	K	T					
34. Fidelity Growth & Income Fund (401k)	A	Dividend	J	T					

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

A = \$1,000 or less
F = \$50,001 - \$100,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

3. Value Method Codes
(See Column C2)

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

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Name of Person Reporting

Costa, Gregg J.

Date of Report

1/6/2014

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)
35. Fidelity Pacific Basin Fund (401k)	A	Dividend	K	T					
36. Goldman Sachs Growth Opportunity (401k)	A	Dividend	J	T					
37. Janus Global Select Fund (IRA)	A	Dividend	J	T					
38. Janus Growth & Income Fund (IRA)	A	Dividend	J	T					
39. Janus Research Fund (IRA)	A	Dividend	J	T					
40. Janus Worldwide Fund (IRA)	A	Dividend	J	T					
41. JP Morgan Smart Retirement 2020 (IRA)	A	Dividend	L	T					
42. JP Morgan Smart Retirement 2040 (IRA)	A	Dividend	L	T					
43. Matthews Asian Growht & Income Fund	A	Dividend	K	T					
44. Pyramis Select International Equity Commingled (401k)		None	K	T					
45. Sempra Energy Stock (401k)		None	J	T					
46. T. Rowe Price Growth Stock Fund (401k)	A	Dividend	L	T					
47. T. Rowe Price Small Cap Stock Fund (401k)		None	K	T					
48. Vanguard Institutional Index (401k)	A	Dividend	L	T					
49. Vanguard Money Market Fund (401k)	A	Dividend	J	T					
50. Wasatch Small Cap Growth Fund (401k)	A	Dividend	J	T					
51. State of Israel Bonds	A	Interest	J	T					

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

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000

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

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

S = Assessment
W = Estimated

T = Cash Market

Name of Person Reporting	Date of Report
Costa, Gregg J.	1/6/2014

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Costa, Gregg J.

Date of Report

1/6/2014

IX. CERTIFICATION.

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

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

Signature _____

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND 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		24	380	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	156	673	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 – personal residence		363	412
Real estate owned – personal residence		675	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		40	000				
Cash value-life insurance							
Other assets itemize:							
State of Israel Bonds		12	000				
Thrift Savings Plan		216	474				
				Total liabilities		363	412
				Net Worth	1	761	115
Total Assets	2	124	527	Total liabilities and net worth	2	124	527
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

Apple stock	\$ 96,384
Bank of America stock	48,654
Columbia Seligmann Communications Fund	14,649
Fidelity Advisor Equity Growth Fund	27,391
GE stock	27,437
Invesco Charter Fund	19,326
iShares S&P Small Cap 600 Index Fund	17,986
Janus Fund D	48,491
Oppenheimer Main Street Small & Midcap Fund	17,884
Pioneer Mid-Cap Value Fund	15,535
Vanguard 500 Index Fund	52,107

College Savings Plans

Texas 529 Large Cap Core Index Fund	\$ 12,745
Texas 529 Capital Appreciation Portfolio	10,308
Texas 529 Main Street Small & Mid-Cap Fund	13,743
Virginia 529 Real Estate Investment Trust	13,826
Virginia 529 Aggressive Fund	19,088
Virginia 529 Stock Index Fund	20,261
Virginia 529 International Fund	10,500

Retirement Holdings

American Funds Europacific Growth Fund	\$ 10,830
American Funds Growth Fund of America	24,782
Causeway International Value	17,176
DFA Emerging Markets Core Equity Fund	25,299
DFA International Core Equity Fund	30,341
DFA U.S. Core Equity 2 Fun	32,099
Dodge & Cox Stock Fund	6,104
DWS Capital Growth Fund	2,608
DWS S&P 500 Index Fund	3,374
DWS World Dividend Fund	2,258
Fidelity Blue Chip Growth Fund	29,528
Fidelity Fifty Fund	34,671
Fidelity Freedom Income Fund	21,054
Fidelity Growth Company Fund	19,967
Fidelity Growth & Income Fund	11,014
Fidelity Pacific Basin Fund	25,839
Goldman Sachs Growth Opportunity Fund	14,275
Janus Global Select Fund	1,321
Janus Growth and Income Fund	2,364
Janus Research Fund	2,148

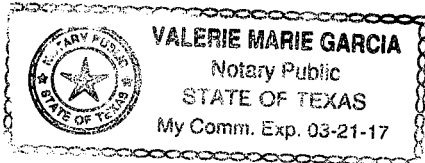
Janus Worldwide Fund	1,624
JP Morgan Smart Retirement 2020	56,695
JP Morgan Smart Retirement 2040	60,592
Matthews Asian Growth & Income Fund	26,360
Pyramis Select International Equity Commingled	21,282
Sempra Energy Stock	12,422
T. Rowe Price Growth Stock Fund	56,867
T. Rowe Price Small Cap Stock Fund	33,697
Vanguard Institutional Index	86,034
Vanguard Money Market Fund	7,330
Wasatch Small Cap Growth Fund	3,677
Total Listed Securities	<u>\$ 1,156,673</u>

AFFIDAVIT

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

1/6/14
(DATE)

Gregory Costa
(NAME)



Valerie Medina
(NOTARY)