

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Daniel Zachary Epstein

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

Judge, United States Court of Federal Claims

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.

The White House  
1650 Pennsylvania Avenue N.W. # 120B  
Washington, DC 20502

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

1983; Houston, Texas

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.

2013 – present, George Washington University Department of Political Science; Ph.D. candidate, 2017

2011 – 2012, American University School of Public Affairs; No degree

2010, United States Department of Agriculture Graduate School; No degree

2005 – 2008, Emory University School of Law; J.D., 2008

2001 – 2005, Kenyon College; B.A., 2005

2002, Georgetown University; No degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have

been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2018 – present

The White House

1650 Pennsylvania Avenue N.W. # 120B

Washington, DC 20502

Senior Associate Counsel and Special Assistant to the President

2017 – 2018

The White House

1650 Pennsylvania Avenue N.W. # 120B

Washington, DC 20502

Associate Counsel and Special Assistant to the President

2016 – 2017

President-Elect Transition Team

1800 F Street N.W.

Washington, DC 20006

Attorney (2016 – 2017)

Volunteer (Fall 2016) (Uncompensated)

2016 – 2017

Institute for Justice

901 N. Glebe Road, Suite 900

Arlington, Virginia 22203

Consultant

2011 – 2016

Cause of Action Institute, Inc.

1875 Eye Street N.W., Suite 800

Washington, DC 20006

Founder, Executive Director, and Board President/Director

2009 – 2011

U.S. House of Representatives

Committee on Oversight & Government Reform

Washington, DC 20515

Counsel for Oversight & Investigations

2008 – 2009

Charles Koch Foundation

1320 N. Courthouse Road #500

Arlington, VA 22201

Legal Reform Associate

2007

Chambers of the Hon. Virginia E. Hopkins, U.S. District Court, Northern District of Alabama  
1729 5th Avenue North  
Birmingham, AL 35203  
Legal Intern (Uncompensated)

2006 – 2007

Krouner Law  
93 N. Greeley Avenue #2  
Chappaqua, NY 10514  
Law Clerk

2006

Professor Timothy Terrell  
Emory Law School  
1301 Clifton Road  
Atlanta, GA 30322  
Research Assistant

Summer 2005

Jonas and Sadie Rennert Ivy League Torah Study Program  
Shaloh Center  
689 Route 55  
Napanoch, New York 12458  
Fellow

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

I have not served in the military. I have registered with the selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Bastiat Fellowship, Mercatus Center (2016)

National Fellowship, Institute for Humane Studies (2016)

Full scholarship and stipend (declined), George Washington University Department of Political Science

Full scholarship and stipend (declined), Washington University in St. Louis, Department of Political Science

Full scholarship, American University School of Public Affairs (2011)

Order of Emory Advocates, Emory University School of Law (2008)

Moot Court Honor Society, Emory University School of Law (2006 – 2008)

Emory International Law Review (2007)

The President's Volunteer Service Award (2005)

Awarded distinction on senior honors thesis in Philosophy (2005)

Pi Sigma Alpha, Kenyon College Department of Political Science (2005)

Degree from Kenyon College conferred *cum laude* (2005)

Editor-in-Chief, The Kenyon Observer (2004 – 2005)

Kenyon College Excellence in Leadership award (2003)

Walter Judd Scholarship, Institute on Political Journalism, Georgetown University (2002)

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

American Bar Association (2011 – present)

District of Columbia Bar Association (2012 – present)

Federal Bar Association (2011 – present)

Maryland State Bar Association (2011 – 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 (2018)

District of Columbia (2012)

Maryland (2011)

There have been no lapses in membership.

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

United States Court of Appeals for the Seventh Circuit (2015)  
District of Columbia Court of Appeals (2013)  
United States Court of Appeals for the District of Columbia Circuit (2012)  
United States District Court for the District of Maryland (2012)  
United States District Court for the Northern District of Illinois (2012)  
United States District Court for the District of Columbia (2012)  
United States Court of Federal Claims (2012)  
Court of Appeals of Maryland (2011)

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.

U.S. Commission on Civil Rights, District of Columbia Advisory Committee  
Appointed Member (2016 – 2017)

Sunlight Foundation, Member, Advisory Committee on Transparency (2013 – 2017)

Williams Club (2013 – 2014)

Executive Committee, Administrative Law and Regulation Practice Group,  
Federalist Society for Law & Public Policy Studies (2012 – 2017)

Republican National Lawyer's Association (2011 – present)

City Tavern Club (2009 – 2012)

Emory Alumni Admissions Interviewing (2008 – present)

The Federalist Society for Law & Public Policy Studies (2006 – present)

Kenyon Alumni Admissions Network (2005 – present)

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

To my knowledge, I have not been a member of any organization that discriminates or formerly discriminated based on race, sex, religion or national origin, through either 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.

*10 Controversial Fixes to the Regulatory State*, LinkedIn Pulse (reprinted by the Federalist Society), Nov. 13, 2016. Copy supplied.

*Is Congressional Oversight Dead?* LinkedIn Pulse, Nov. 9, 2016. Copy supplied.

*Government Oversight Research Techniques*, Academia.edu, June 27, 2016. Copy supplied.

*Hounded Out of Business by Regulators*, Wall Street Journal, Nov. 19, 2015 at A17. Copy supplied.

*The Latest Progressive Attack on Speech*, Wall Street Journal, Oct. 19, 2015 at A13. Copy supplied.

*This video will show you why all Americans should be concerned about government overreach*, LinkedIn Pulse (links to documentary transcript available at <https://www.youtube.com/watch?v=s11CMaClxtE>), Sept. 10, 2015. Copy supplied.

*A Case Study in Pay-to-Play Cronyism*, The Hill, Aug. 4, 2015. Copy supplied.

*Forcing Clinton's Emails Into the Open*, Wall Street Journal, July 28, 2015 at A13. Copy supplied.

*Obama DOJ Channels Bank Shakedown Money To Private Groups*, Investor's Business Daily, July 7, 2015. Copy supplied.

*A Revolving Door for Confidential IRS Information*, Roll Call, June 19, 2015. Copy supplied.

With Mark Rozell, *The Law: White House Equities: The New Executive Privilege*, 45 Pres. Stud. Qtlly, Apr. 25, 2015 at 382 – 395. Copy supplied.

*Three Transparency Laws Hillary May Have Violated*, USA Today, Mar. 16, 2015. Copy supplied.

*Six Recommendations to Make Washington More Transparent*, The Hill, Jan. 16, 2015. Copy supplied.

*Rationality, Legitimacy, & The Law*, 7 Wash. U. Jurisprudence Rev. at 1 – 38 2014. Copy supplied. [Originally submitted for publication under the title *Legitimacy as Rationality*, Dec. 26, 2009.]

*How about Amnesty for Our Schools?* The Hill, Dec. 4, 2014. Copy supplied.

*Et tu, DOJ? Will Loretta Lynch Ignore IRS Fraud as AG as She Did in Her Own Backyard?* Roll Call, Nov. 26, 2014. Copy supplied.

Press Release, Nov. 24, 2014. Copy supplied.

Press Release, Nov. 12, 2014. Copy supplied.

*Fishy business at the Supreme Court: Florida Capt. John Yates' sad saga*, Fox News, Nov. 5, 2014. Copy supplied.

Press Release, Oct. 21, 2014. Copy supplied.

*After Holder: Four Things The Next Attorney General Must Address*, Daily Caller, Sept. 30, 2014. Copy supplied.

Press Release, Sept. 30, 2014. Copy supplied.

Press Release, Sept. 30, 2014. Copy supplied.

Press Release, Sept. 29, 2014. Copy supplied.

Press Release, Sept. 17, 2014. Copy supplied.

Press Release, Sept. 8, 2014. Copy supplied.

*The Dark Money Complex*, Roll Call, Aug. 14, 2014. Copy supplied.

Press Release, Aug. 7, 2014. Copy supplied.

*All IRS Roads Lead to the Archivist*, Wash. Times, July 28, 2014. Copy supplied.

Press Release, July 23, 2014. Copy supplied.

*Gov. McAuliffe's Outsized Political Clout*, Wash. Post., July 17, 2014. Copy supplied.

*When Regulators Retaliate*, The Hill, June 24, 2014. Copy supplied.

Press Release, Apr. 23, 2014. Copy supplied.

With Mark J. Rozell, *Despite Pledge of Transparency, Obama Is Clogging Information Flow*, Nat'l Law J., Apr. 14, 2014. Copy supplied.

Press Release, Apr. 1, 2014. Copy supplied.

*Redressing Politicized Spending*, 15 Federalist Society Rev., No. 1, Mar. 25, 2014. Copy supplied.

Press Release, Mar. 20, 2014. Copy supplied.

*FTC's Data Security Grab is Adjudication without Authority*, Roll Call, Feb. 18, 2014. Copy supplied.

*The Politics of Targeting*, The Hill, Feb. 5, 2014. Copy supplied.

Press Release, Jan. 6, 2014. Copy supplied.

*With Its Report On The Financial Crisis, What Is The Federal Government Trying to Hide?* Forbes, Dec. 19, 2013. Copy supplied.

Press Release, Dec. 9, 2013. Copy supplied.

Press Release, Nov. 14, 2013. Copy supplied.

Press Release, Nov. 12, 2013. Copy supplied.

Press Release, Nov. 12, 2013. Copy supplied.

Press Release, Nov. 7, 2013. Copy supplied.

Press Release, Nov. 5, 2013. Copy supplied.

*The Reductio Ad Absurdum of Regulating Corruption*, Jurist, Nov. 4, 2013. Copy supplied.



*Obamacare's Implementation Poses Grave, But Largely Unknown Risks for Beneficiaries*, Forbes, Sept. 30, 2013. Copy supplied.

Press Release, Sept. 23, 2013. Copy supplied.

Press Release, Sept. 19, 2013. Copy supplied.

*Cronyism Becomes a Way of Life*, Wash. Times, Aug. 14, 2013. Copy supplied.

Press Release, Aug. 6, 2013. Copy supplied.

*Who Should be Holding Whom Accountable*, The Hill, July 12, 2013. Copy supplied.

*The NLRB's Oversight Loophole*, Townhall, June 26, 2013. Copy supplied.

*Lax IRS Oversight Fostered Costly Charity Scams*, Fiscal Times, June 20, 2013. Copy supplied.

*Congress is Not the Answer: How We Really Should Be Investigating the IRS*, Roll Call, June 11, 2013. Copy supplied.

*Does the IRS Believe that Support for Israel is Support for Terrorism?* FoxNews, May 16, 2013. Copy supplied.

*Lack of Government Accountability Endangers Business*, Townhall, May 14, 2013. Copy supplied.

*Thomas Perez: Justice Belabored*, The Hill, May 9, 2013. Copy supplied.

Press Release, Mar. 5, 2013. Copy supplied.

Press Release, Mar. 4, 2013. Copy supplied.

Press Release, Feb. 5, 2013. Copy supplied.

Press Release, Feb. 1, 2013. Copy supplied.

Press Release, Jan. 30, 2013. Copy supplied.

Press Release, Jan. 20, 2013. Copy supplied.

Press Release, Jan. 10, 2013. Copy supplied.

Press Release, Dec. 18, 2012. Copy supplied.

Press Release, Dec. 5, 2012. Copy supplied.

Press Release, Dec. 3, 2012. Copy supplied.

Press Release, Nov. 28, 2012. Copy supplied.

*When foreign investment and national security collide*, The Hill, Nov. 27, 2012. Copy supplied.

Press Release, Nov. 23, 2012. Copy supplied.

Press Release, Nov. 1, 2012. Copy supplied.

Press Release, Oct. 18, 2012. Copy supplied.

*Opacity of Hope: Obama broke FOIA promises*, Wash. Examiner, Oct. 16, 2012. Copy supplied. Reprinted in multiple outlets.

Press release, Oct. 9, 2012. Copy supplied.

*A Muddled Message on E-mails*, Wash. Post., Aug. 17, 2012. Copy supplied.

*Ethics Office Audit of GSA Fell Far Short*, Federal Times, Aug. 12, 2012. Copy supplied.

With Michael D. Pepson, *Gmail.gov: When Politics Gets Personal Does the Public Have a Right to Know?* 13 Federalist Society Review, No. 2, July 30, 2012. Copy supplied.

Press Release, July 2, 2012. Copy supplied.

Press Release, May 30, 2012. Copy supplied.

*Culture Must Protect Fed Whistleblowers*, Roll Call, May 21, 2012. Copy supplied.

Press Release, May 18, 2012. Copy supplied.

*Occupy's Public Safety Threat Ignored by DOJ*, Breitbart, May 3, 2012. Copy supplied.

*Is the GSA Just the Tip of the Iceberg?* Townhall, Apr. 19, 2012. Copy supplied.

*Is Federal Aid Being Misused?* Phila. Inquirer, Mar. 27, 2012. Copy supplied.

*Does it Take a Lawsuit for the White House to be Transparent?* Fox News, Mar. 23, 2012. Copy supplied.

Press Release, Jan. 23, 2012. Copy supplied.

Press Release, Dec. 6, 2011. Copy supplied.

Press Release, Nov. 7, 2011. Copy supplied.

*Wallace's Gift*, New York Times, May 10, 2009. Copy supplied.

*Romance is Dead: Mail Order Brides as Surrogate Corpses*, 17 Buffalo J. Gender, L. & Soc. Justice 61, 2009. Copy supplied.

*Ossification*, 17 Kenyon Observer No. 2, Dec. 2005, at 11-12. Copy supplied.

*Clearing up Queer Theory*, Emory Wheel, Nov. 1, 2005. Copy supplied.

*Posthumanity*, 16 Kenyon Observer No. 4, May 2005, at 29-30. Copy supplied.

*The Islamic Revolution*, 16 Kenyon Observer No. 3, May 2005, at 18-19. Copy supplied.

*Ending Ideology, Beginning Ideas*, 16 Kenyon Observer Nos. 1-2, Winter/Spring 2005, at 20-23. Copy supplied.

*Market Tribalism*, 15 Kenyon Observer No. 3, Apr. 2004, at 7-8. Copy supplied.

*An Interview with North Korea expert Bruce Cumings*, 15 Kenyon Observer No. 2, Dec. 2003, at 25-27. Copy supplied.

*The Postmodern Academy*, 15 Kenyon Observer No. 2, Dec. 2003, at 8-11. Copy supplied.

*A Combined Effort*, 15 Kenyon Observer No. 1, Nov. 2003, at 14-16. Copy supplied.

*Review, "Anything Else,"* 15 Kenyon Observer No. 1, Nov. 2003 at 29. Copy supplied.

*Review, "The Strokes, Room on Fire,"* 15 Kenyon Observer No. 1, Nov. 2003 at 30. Copy supplied.

*Are We Coddling the Kids?* 14 Kenyon Observer No. 3, May 2003, at 38-41. Copy supplied.

*Securing Freedom*, 14 Kenyon Observer No. 2, Mar. 2003, at 7-8. Copy supplied.

*The People's Vision*, 14 Kenyon Observer No. 1, Nov. 2002, at 10-12. Copy supplied.

*It's No Excuse*, 13 Kenyon Observer No. 3, Feb. 2002, at 9-10. Copy supplied.

*Ideals and Idols*, 13 Kenyon Observer No. 3, Feb. 2002 at 26-27. Copy supplied.

*Federalism and The Boy Scouts of America*, 13 Kenyon Observer No. 2, Dec. 2001, at 11-13. Copy supplied.

*Black and White and Wrong All Over*, 13 Kenyon Observer No. 1, Oct. 2001, at 14-15. Copy supplied.

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

Demand Progress and Cause of Action, Letter to the Office of Management and Budget Director Shaun Donovan, Oct. 7, 2015. Copy supplied.

Open the Government Coalition, Letter to President Obama, Sept. 29, 2014. Copy supplied.

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

During my tenure as Executive Director of the Cause of Action Institute, I supervised the research and writing of communications relating to matters of public policy or legal interpretation issued by the organization. Although I believe the Cause of Action website contains an exhaustive list of materials responsive to this Questionnaire (and listed below), there may be additional letters or petitions I helped write or edit that I was unable to locate:

Letter to Margaret Von Lienen, Director, EO Examinations re: Complaint to Revoke the Tax-Exempt Status of the Institute of Global Environment and Society, Inc., Nov. 24, 2015. Copy supplied.

Letter to the Department of Health and Human Services Inspector General Daniel R. Levinson, Nov. 5, 2015. Copy supplied.

Petition for Rulemaking to Shaun Donovan, Director, Office of Management and Budget, Oct. 7, 2015. Copy supplied.

Testimony before the U.S. Senate, Committee on Homeland Security and Government Affairs, *Watchdogs Needed: Top Government Investigator Positions Left Unfilled for Years*, June 3, 2015. Copy supplied.

Testimony before the U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Regulatory Reform, Commercial and Antitrust Law, *Hearing: Ongoing Oversight: Monitoring the Activities of the Justice Department's Civil, Tax and Environment and Natural Resources Divisions and the U.S. Trustee Program.*, May 19, 2015. Copy supplied.

Letter to Raymond Hulser, DOJ Public Integrity Section, Mar. 25, 2015. Copy supplied.

Letter to Secretary of State John Kerry and Archivist David Ferriero, Mar. 17, 2015. Copy supplied.

Statement for the Record, Committee on Oversight and Gov't Ref., Hearing on "Potential Reforms to the Freedom of Information Act, FOIA," Feb. 27, 2015. Copy supplied.

Letter to Sen. Barbara Boxer, Chairman, Senate Committee on Ethics, Oct. 21, 2014. Copy supplied.

Letter to HHS Inspector General Daniel Levinson, Sept. 30, 2014. Copy supplied.

Letter to President Barack Obama Re: Craig Memorandum, Sept. 29, 2014. Copy supplied.

Letter to Christopher Dentel, Inspector General of the CPSC, July 23, 2014. Copy supplied.

Press release, July 21, 2014. Copy supplied.

Comments on Reg-134417-13, Feb. 26, 2014. Copy supplied.

Petition to IRS for Correction and Disclosure, Feb. 5, 2014. Copy supplied.

Letter Barbara Boxer, Chair, Senate Select Committee on Ethics, Dec. 16, 2013. Copy supplied.

Letter to Texas Attorney General Greg Abbott Re: Potential Violations of the Internal Revenue Code by Tax-Exempt Entities in Texas, Nov.13, 2013. Copy supplied.

Letter to Wisconsin Governor Scott Walker, Sept. 30, 2013. Copy supplied.

Letter to Vermont Governor Peter Shumlin, Sept. 30, 2013. Copy supplied.

Letter to South Carolina Governor Nikki Haley, Sept. 30, 2013. Copy supplied.

Letter to Rhode Island Governor Lincoln Chafee, Sept. 30, 2013. Copy supplied.

Letter to Mississippi Governor Phil Bryant, Sept. 30, 2013. Copy supplied.

Letter to Maine Governor Paul LePage, Sept. 30, 2013. Copy supplied.

Letter to Maryland Governor Martin O'Malley, Sept. 30, 2013. Copy supplied.

Letter to Massachusetts Governor Deval Patrick, Sept. 30, 2013. Copy supplied.

Letter to Indiana Governor Mike Pence, Sept. 30, 2013. Copy supplied.

Letter to Connecticut Governor Dannel Malloy, Sept. 30, 2013. Copy supplied.

Letter to Alabama Governor Robert Bentley, Sept. 30, 2013. Copy supplied.

Letter to North Dakota Governor Jack Dalrymple, Sept. 27, 2013. Copy supplied.

Letter to Hawaii Governor Neil Abercrombie, Sept. 27, 2013. Copy supplied.

Letter to Delaware Governor Jack Markell, Sept. 27, 2013. Copy supplied.

Letter to South Dakota Governor Dennis Daugaard, Sept. 26, 2013. Copy supplied.

Letter to West Virginia Governor Earl Ray Tomblin, Sept. 25, 2013. Copy supplied.

Letter to Tennessee Governor Bill Haslam , Sept. 25, 2013. Copy supplied.

Letter to Nebraska Governor Dave Heineman, Sept. 25, 2013. Copy supplied.

Letter to Missouri Governor Jay Nixon, Sept. 25, 2013. Copy supplied.

Letter to Kentucky Governor Steve Beshear, Sept. 25, 2013. Copy supplied.

Letter to Colorado Governor John Hickenlooper, Sept. 25, 2013. Copy supplied.

Letter to Darrell Issa, Chairman, House Committee on Oversight and Government Reform, Sept. 24, 2013. Copy supplied.

Letter to Oklahoma Governor Mary Fallin, Sept. 19, 2013. Copy supplied.

Letter to Wyoming Governor Matt Mead, Sept. 19, 2013. Copy supplied.

Letter to New Mexico Governor Susana Martinez, Sept. 19, 2013. Copy supplied.

Letter to Kansas Governor Sam Brownback, Sept. 19, 2013. Copy supplied.

Letter to Utah Governor Gary Herbert, Sept. 12, 2013. Copy supplied.

Letter to Montana Governor Steve Bullock , Sept. 12, 2013. Copy supplied.

Letter to Minnesota Governor Mark Dayton, Sept. 12, 2013. Copy supplied.

Letter to Nevada Governor Brian Sandoval, Sept. 11, 2013. Copy supplied.

Letter to Washington Governor Jay Inslee , Sept. 10, 2013. Copy supplied.

Letter to DC Mayor Vincent Gray, Sept. 10, 2013. Copy supplied.

Letter to New Jersey Governor Chris Christie, Sept. 9, 2013. Copy supplied.

Letter to Illinois Governor Pat Quinn, Sept. 9, 2013. Copy supplied.

Letter to Georgia Governor Nathan Deal, Sept. 9, 2013. Copy supplied.

Letter to Virginia Governor Robert McDonnell, Sept. 6, 2013. Copy supplied.

Letter to Oregon Governor John Kitzhaber, Sept. 6, 2013. Copy supplied.

Letter to Alaska Governor Sean Parnell, Aug. 28, 2013. Copy supplied.

Letter to Michigan Governor Rick Snyder, Aug. 28, 2013. Copy supplied.

Letter to Louisiana Governor Bobby Jindal, Aug. 28, 2013. Copy supplied.

Letter to Arkansas Governor Mike Beebe, Aug. 28, 2013. Copy supplied.

Letter to Texas Governor Rick Perry, Aug. 27, 2013. Copy supplied.

Letter to Pennsylvania Governor Tom Corbett, Aug. 20, 2013. Copy supplied.

Letter to Ohio Governor John Kasich, Aug. 20, 2013. Copy supplied.

Letter to Florida Governor Rick Scott, Aug. 20, 2013. Copy supplied.

Letter to New Hampshire Governor Maggie Hassan, Aug. 16, 2013. Copy supplied.

Letter to Iowa Governor Terry Branstad, Aug. 16, 2013. Copy supplied.

Letter to North Carolina Governor Pat McCrory, Aug. 15, 2013. Copy supplied.

Letter to Arizona Governor Janice Brewer, Aug. 9, 2013. Copy supplied.

Letter to Kathleen Keeshen, General Counsel, Covered California, July 30, 2013. Copy supplied.

Letter to IRS Re: Request for Investigation of Enroll America, July 29, 2013. Copy supplied.

Letter to President Barack Obama Re: Department of Homeland Security Deputy Inspector General Charles Edwards, July 1, 2013. Copy supplied.

Letter to Kerry Harvey, U.S. Attorney for the E.D. KY Re: Request for Investigation, May 14, 2013. Copy supplied.

Letter to OLC, OPM, and MSPB, Apr. 8, 2013. Copy supplied.

Letter to Darrell Issa, Chairman, House Committee on Oversight and Government Reform, Feb. 4, 2013. Copy supplied.

Federal Election Commission Complaint, Dec. 19, 2012. Copy supplied.

Letter to Calvin Scovel, U.S. Department of Transportation IG, Re: Request for Investigation, Sept. 5, 2012. Copy supplied.

Letter to Douglas Shulman, IRS Commissioner Re: Request for Revocation of Tax-Exempt Status of the Alliance of Californians for Community Empowerment, *et al.*, Aug. 22, 2012. Copy supplied.

Letter to Douglas Shulman, IRS Commissioner Re: Request for Revocation of Tax-Exempt Status and Investigation of Texas Organizing Project and Texas Organizing Project Education Fund, Aug. 21, 2012. Copy supplied.



Letter to President Barack Obama Re: The Office of Government Ethics Failed to Prevent Scandal at the General Services Administration, Aug. 2, 2012. Copy supplied.

*Proposed Freedom of Information Act Regulations*, The White House Office of Science and Technology Policy, June 11, 2012. Copy supplied.

Letter to Jeffrey Zients, Acting OMB Director Re: Request for audit on whistleblower protection compliance, Apr. 20, 2012. Unable to obtain a copy, but a press account of the letter is supplied.

Letter to Attorney General Eric Holder Re: Violations of 18 U.S.C. § 1913, Mar. 16, 2012. Copy supplied.

Letter to TIGTA Russell George, Feb. 27, 2012. Copy Supplied.

Letter to House and Senate Committees on Ethics, Feb. 14, 2012. Copy supplied.

Letter to DHS Inspector General Charles Edwards, Jan. 25, 2012. Copy supplied.

As a counsel for the U.S. House of Representatives, Committee on Oversight and Government Reform, I authored published letters and reports on behalf of Committee Ranking Member and Chairman Darrell Issa.

Letter from Chairman Darrell Issa, Comm. on Oversight and Gov't Reform, Trey Gowdy, Chairman, Subcomm. on Health Care, District of Columbia, Census and the National Archives, and Dennis Ross, Chairman, Subcomm. on Federal Workforce, U.S. Postal Service and Labor Policy, May 12, 2011. Copy supplied.

Staff Report, H. Comm. on Oversight and Gov't Reform, *ACORN Political Machine Tries to Reinvent Itself*, Apr. 1, 2010. Copy supplied.

Staff Report, H. Comm. on Oversight and Gov't Reform, *Follow the Money: ACORN, SEIU and their Political Allies*, Feb. 18, 2010. Copy supplied.

Staff Report, H. Comm. on Oversight and Gov't Reform, *Justice or Avarice: The Misuse of Litigation to Harm Consumers*, July 22, 2009. Copy supplied.

Staff Report, H. Comm. on Oversight and Gov't Reform, *Is ACORN Intentionally Structured as a Criminal Enterprise?* July 20, 2009. Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or

recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

June 13, 2018: Presenter, Investiture of Judge Lisa Branch, Eleventh Circuit Court of Appeals, Elbert P. Tuttle Courthouse. 56 Forsyth Street, N.W. Atlanta, GA 30303. I read Judge Branch's judicial commission. I do not have any notes, transcripts, or recordings.

Apr. 28, 2016: Presenter, Basic Legal Principles of the Freedom of Information Act, Koch Associate Program, Charles Koch Institute, 1320 N. Courthouse Road, Suite 500, Arlington, Virginia. The subject matter concerned basic information about how to file a Freedom of Information Act request. I do not have any notes, transcripts, or recordings.

Sept. 30, 2015: Presenter, FOIA, Koch Fellow Program for Policy Professionals. Charles Koch Institute, 1320 N. Courthouse Road, Suite 500, Arlington, Virginia. Copy supplied.

Feb. 18, 2015: Speaker, *Make Your Job Easier With Open Government Tools*, Sunlight Foundation, Advisory Committee on Transparency. Rayburn House Office Building. Washington, DC. Copy supplied.

Jan. 26, 2015: Speaker, *Freedom of Information Act Workshop*, ABA Section on Administrative Law and Regulatory Practice. American Bar Association. Washington, DC. Copy supplied.

Dec. 11, 2014: Speaker, *Helping the 114<sup>th</sup> Congress build a more transparent government*, Sunlight Foundation, Advisory Committee on Transparency. Rayburn House Office Building. Washington, DC. Copy supplied.

Nov. 17, 2014: Speaker, *The Dog Ate My E-mails: Document Retention Policies, Litigation Holds, and Legal Ethics*, Federalist Society 2014 National Lawyers Convention. Mayflower Hotel. Washington D.C. Presentation transcript available at <https://fedsoc.org/commentary/videos/the-dog-ate-my-emails-document-retention-policies-litigation-holds-and-legal-ethics-event-video>.

Sept. 8, 2014: Speaker (telephonic), The Federalist Society, Podcast, Redressing Politicized Spending, Administrative Law and Regulation Practice Group. Copy supplied.

Aug. 18, 2014: Presenter, Koch Associate Program, Charles Koch Institute, 1320 N. Courthouse Road, Suite 500, Arlington, Virginia. Presentation reviewed Freedom of Information Act tactics. Copy supplied.

July 30, 2014: Speaker, Senator David Vitter's Release of a Report by the Senate Environment and Public Works Committee. Cause of Action Institute, 1901 Pennsylvania Avenue Suite 800 Washington, D.C. 20005. Copy of press report supplied.

Mar. 19, 2014: Speaker, *DC Transparency Crisis Panel*, Sponsored by Judicial Watch, Washington, D.C. Transcript supplied.

July 29, 2013: Speaker, FOIA Update, Federalist Society Administrative Law and Regulation Practice Group. (Telephonic). Transcript supplied.

Aug. 3, 2012: Speaker, *Reporter's Toolbox: Practical Tips and Tools for Citizen Journalists*, Americans for Prosperity: Defending the American Dream Summit. Washington Hilton Hotel, Washington, D.C. Copy supplied.

May 21, 2012: Speaker, *Civil & Human Rights Conference*, Sponsored by Make It Safe Coalition, 226 Dirksen Senate Office Building. Washington, D.C. Copy supplied.

- 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.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]
civil proceedings:	_____%
criminal proceedings:	_____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment, if not reported.
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which

you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

I have not held judicial office.

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

15. **Public Office, Political Activities and Affiliations:**

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

United States Commission on Civil Rights, District of Columbia Advisory Committee Member, appointed by Commission vote (2016 – 2017).

Senior Associate Counsel and Special Assistant to the President of the United States, appointed by the President (2017 – present).



- 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.

Volunteer, Trump for America (2016). I provided *pro bono* legal advice on election laws and procedures.

Volunteer, Election Day operations, Romney for President (2012).

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;

I have not served as a term law clerk. I interned from May 2007 to August 2007 for Judge Virginia Emerson Hopkins, U.S. District Court, Northern District of Alabama.

- 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.

2008 – 2009  
Charles Koch Foundation  
1320 N. Courthouse Road #500  
Arlington, VA 22201  
Legal Reform Associate

2009 – 2011  
U.S. House of Representatives  
Committee on Oversight & Government Reform  
Washington, DC 20515  
Counsel for Oversight & Investigations

2011 – 2016  
Cause of Action Institute, Inc.  
1875 Eye Street N.W., Suite 800

Washington, DC 20006  
Founder, Executive Director, and Board President/Director

2016 – 2017  
President-Elect Transition Team  
1800 F Street N.W.  
Washington, DC 20006  
Counsel

2017 – present  
The White House  
1650 Pennsylvania Avenue N.W. # 120B  
Washington, DC 20502  
Associate Counsel to the President

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

My work at the Charles G. Koch Foundation in 2008 to 2009 was primarily conducting research and making grant recommendations to promote criminal and civil justice reform. My subsequent work at the House Committee on Oversight and Government Reform was conducting investigations related to legislative matters, which I did for nearly two years. At Cause of Action Institute, which I founded in September 2011 and also managed, my investigative and legal work focused on exposing and representing clients harmed by federal agency procedural abuses. On the President-Elect Transition Team and the White House, where I currently work, my work focuses on compliance, congressional investigations, and public law litigation.

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

Prior to 2011, I did not have client engagements. At Cause of Action Institute, my clients fell into the following groups: nonprofit organizations, media organizations, and small businesses. I specialized in representing these clients in investigations and litigation under statutes that partially waive the sovereign immunity of the United States, for

example, the Freedom of Information Act, the Administrative Procedure Act, the Tucker Act, the Federal Tort Claims Act, and the False Claims Act. Once I joined the White House, I terminated all former client relationships.

- 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.

Since 2011, my practice has been litigation in federal courts and participation in federal administrative rulemaking and adjudicatory proceedings. My court appearances have been occasional.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 50% |
| 2. state courts of record:  | 0%  |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 50% |

- ii. Indicate the percentage of your practice in:

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

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

I have been chief counsel in eight cases that reached final appellate or trial court decisions. I have been an associate counsel in approximately twenty others. In addition, I have represented amici before the Supreme Court, federal appellate courts, and district courts on numerous occasions, both as chief counsel and associate counsel.

- i. What percentage of these trials were:

- |              |      |
|--------------|------|
| 1. jury:     | 0%   |
| 2. non-jury: | 100% |

- 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.

Amicus brief, *Yates v. United States* (S Ct. 2015), in support of prevailing party in both the petition for certiorari (Feb. 5, 2014), and on the merits once certiorari was granted, July 7, 2014. Copy supplied.

Amicus brief, *McCutcheon v. FEC*, No. 12-536 (S. Ct. 2014), in support of prevailing party (May 13, 2013). Copy supplied.

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

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

1. *Cause of Action v. IRS*, 125 F. Supp. 3d 145 (D.D.C. 2015), Berman Jackson, J. I discovered that modern Presidents conduct "tax checks" on nominees via 26 U.S.C. § 6103(c), taxpayer consent, rather than pursuant to 26 U.S.C. § 6103(g), an exception to a statutory prohibition on disclosure of taxpayer information passed by Congress specifically to constrain the President in the wake of Nixon-era politicization of the Internal Revenue Service. While taxpayers may consent to share information with named individuals, the Internal Revenue Code prevents re-disclosure of their information to others. Thus, when federal agencies or the White House conduct tax checks, transparency in the process helps prevent abuse. I therefore designed a Freedom of Information Act (FOIA) strategy aimed at establishing a principle under the law that shines light onto the tax check process. My client won before the district court in a decision that held that communications related to "tax checks" for nominees are themselves not exempt under § 6103 of the Internal Revenue Code. The date of my representation was 2012 to 2015.

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Opposing Counsel

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2. *Cause of Action v. Treasury Inspector Gen. for Tax Admin.*, 70 F. Supp. 3d 45, D.D.C. (2014), Berman Jackson, J. I developed the legal theory for testing the statutory limits of “return information” under 26 U.S.C. § 6103 to prevent the government from improperly applying taxpayer confidentiality principles to shield government wrongdoing. I therefore designed the initial FOIA request and the administrative record with an aim toward successful judicial resolution in favor of my client. The district court’s holding, which the government did not appeal, established that the mere existence of investigative records of government wrongdoing with regard to taxpayers is not itself protected under the taxpayer confidentiality statute. As a result, the Treasury Inspector General for Tax Administration (TIGTA) could no longer rely upon what are known as *Glomar* denials to prevent public disclosure of unauthorized inspections or disclosures by government officials. The date of my representation was 2012 to 2014.

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3. *Cause of Action v. FTC*, 799 F.3d 1108 (D.C. Cir. 2015) (Garland, C.J., Brown, J., Sentelle, J.) reversing *Cause of Action v. FTC*, 961 F. Supp. 2d 142 (D.D.C. 2013) (Sullivan, J.). I led the strategy on the formative case in FOIA jurisprudence that established, as a precedential matter, that nascent nonprofit news organizations are entitled to fee waivers on the same basis as traditional print publications. The D.C. Circuit reversed the district court, finding in favor of my client, and determined that the district court did not consider a key element of public interest requester status under FOIA: whether the disclosure was likely to contribute significantly to public understanding. Further, and perhaps most importantly, the D.C. Circuit reversed as to news media requester status, finding that the district court improperly focused on the requester, rather than the requests themselves. The date of my representation was 2011 to 2015.

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4. *XP Vehicles, Inc. v. Dep't of Energy*, 118 F. Supp. 3d 38 (D.D.C. 2015) (Brown Jackson, J.). I recruited XP Vehicles and Limnia as clients and developed the litigation strategy that would lead to a holding that permitted the Administrative Procedure Act (APA) to provide a private remedy against the government when it politicized an otherwise discretionary decision in granting funds. Prior to this case, only mandatory (versus discretionary) spending programs were subject to challenge for lack of competition. In denying in part the Department of Energy's (DOE) motion to dismiss for lack of jurisdiction, the district court found that my client's two Administrative Procedure Act (APA) claims—which arose out of the denial of its loan application for DOE Advanced Technology Vehicle Manufacturing (ATVM) funds and the processing of its Loan Guarantee (LG) Program application—survive because the client adequately alleged that the DOE's denials of its ATVM Loan Program and LG Program applications were the result of arbitrary and capricious agency action in violation of the APA. The date of my representation was 2012 to 2016.

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5. *Rhea Lana, Inc. v. Dep't of Labor*, 74 F. Supp. 3d 240 (D.D.C. 2014) (Cooper, J.); *Rhea Lana, Inc. v. Dep't of Labor*, 824 F.3d 1023 (D.C. Cir. 2016) (Garland, C.J., Pillard, J., Edwards, J.). This case concerned whether a government "determination letter" finding a business in violation of the Fair Labor Standards Act, but which did not assess penalties,

constituted “final agency action” for purposes of an APA challenge. I recruited and developed the client and led the litigation strategy in the district court, which granted a motion to dismiss by finding a lack of final agency action. I assisted with the appeal in the D.C. Circuit, which held that the district court erroneously dismissed the Department of Labor’s determination letter finding non-compliance because the letter was reviewable final agency action under the APA. The dates of my representation were 2014 to 2016.

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6. *In the Matter of LabMD Inc.*, No. 9357 (Nov. 13, 2015), Chappell, Chief ALJ. I recruited and developed client LabMD and assisted in LabMD’s representation in defending an enforcement action by the Federal Trade Commission (FTC) under Section 5 of the FTC Act. The Chief Administrative Law Judge found that the FTC failed to carry its burden of proving that LabMD’s alleged failure to employ reasonable data security constitutes an unfair trade practice because FTC failed to prove that the alleged unreasonable conduct caused or was likely to cause substantial injury to consumers. I represented LabMD from 2012 to 2016.

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7. *Cause of Action v. Kerry*, No. 15- 785 (D.D.C. 2015) (Boasberg, J.). I developed a strategy, based upon the 2014 amendments to the Federal Records Act and yet untested before the courts, to persuade a court that 44 U.S.C. § 3106's requirement for Attorney General action whenever the head of a federal agency fails to recover alienated records was mandatory and therefore a failure to act was reviewable under the Administrative Procedure Act. The district court granted the government's motion to dismiss. On appeal, the D.C. Circuit held that "[a]n action seeking a request to the Attorney General to initiate an enforcement action under the Federal Records Act, 44 U.S.C.S. § 3106, was not moot." I assisted in the briefing before the D.C. Circuit, but departed the firm before the case was decided in *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, (D.C. Cir. 2016). The dates of my representation were 2015 to 2016.

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8. *Zucker v. CPSC*, No. 13- 3355 (D. Md. 2013) (Chasanow, J.). The Consumer Product Safety Commission (CPSC) had sought to use a doctrine known as the responsible corporate officer doctrine to hold a former company executive personally liable for damages associated with injuries alleged to have resulted from the product. I recruited and represented the CEO, Craig Zucker, in an affirmative challenge to the CPSC's authority to use the responsible corporate officer doctrine and also brought claims under the FOIA and the Information Quality Act for the agency's failure to produce records evidencing data showing that Buckyballs were the actual product behind reported injuries. The suit was dismissed as part of Mr. Zucker's settlement with the CPSC. I represented Craig Zucker, and his company (Buckyballs) from 2013 to 2015.



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9. *United States ex rel. Cause of Action v. Chi. Transit Auth.*, 71 F. Supp. 3d 776 (N.D. Ill. 2014); *Cause of Action v. Chi. Transit Auth.*, 815 F.3d 267 (7th Cir. 2016) (Flaum, Ripple, Sykes, JJ.). I recruited a whistleblower whose information was used to bring a False Claims Act lawsuit against the Chicago Transit Authority, which had fraudulently reported claims for reimbursement from the U.S. Department of Transportation. The district court dismissed the *qui tam* action pursuant to the public disclosure bar, 31 U.S.C.S. § 3730 (e)(4), because the audit report revealing the fraud was held to be in the public domain. The Seventh Circuit affirmed. The dates of my representation were 2012 to 2016.

Co-Counsel

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10. *Van Hollen v. FEC*, 811 F.3d 486 (D.C. Cir. 2016) (Brown, J., Sentelle, J., Randolph, J.). The D.C. Circuit reversed the district court's holding that a Federal Election Commission (FEC) regulation (requiring corporations and labor organizations to disclose only those donations made for the purpose of furthering electioneering communications) failed to pass

muster under *Chevron* "Step Two." The D.C. Circuit found that the FEC's regulation was consistent with the text, history, and purposes of 52 U.S.C.S. § 30104(f) of the Bipartisan Campaign Reform Act. I served as chief counsel to amicus curiae for appellant. The date of my representation was 2015 to 2016.

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Appellant Counsel

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

In addition to the litigation activities described in response to Question 17, I have been involved in informal proceedings before federal regulatory agencies, including drafting comments for agency rulemakings, filing administrative complaints, and seeking informal agency adjudications on matters. I have conducted investigations of federal regulatory agencies as well as federal funding recipients to determine potential violations of law as well as defended against such investigations. 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.

I have not taught any courses.

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

customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have made no arrangements for deferred income or future benefits to be derived from previous professional or business relationships.

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.

No.

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 anticipate any potential conflicts-of-interest. If confirmed, I would review the matters before me and would recuse myself from any matters consistent with the law and relevant judicial canons.

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

If confirmed, I would carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules and practices governing such circumstances. I would conduct myself in a manner that will avoid situations in which my impartiality might be questioned. In any case where I have a question about whether a conflict-of-interest, real or apparent, may exist, I would consult

with my colleagues, with counsel for the Court, and/or with the Committee on Code of Conduct of the Administrative Office of the United States 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.

My practice at Cause of Action Institute, where I litigated over thirty matters and managed an organization of attorneys with a combined docket of nearly 100 matters over five years, was 100 percent *pro bono*. I represented entrepreneurs, political journalists, and nonprofits in protecting their rights when doing so would otherwise be unaffordable to them.

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.

On May 18, 2017, a member of the White House Counsel's Office who handles judicial nominations asked me to provide a resume if I wished to be considered for a vacancy on the U.S. Court of Federal Claims, given my interest in the Court. I subsequently discussed the opportunity with officials within the White House Counsel's Office and was informed that I was under consideration for a seat on the Court of Federal Claims. Since Sept. 15, 2017, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice in Washington, D.C.

- 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.