

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Stuart Frank Delery

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

Associate Attorney General

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 Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

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

New Orleans, LA; 1968

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.

Yale Law School
1990-1993
J.D., June 1993

University of Virginia
1986-1990
B.A. with Highest Distinction, May 1990

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.

United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
January 2009-present
Acting Associate Attorney General (September 2014-present)
Assistant Attorney General, Civil Division (August 2013-September 2014)
Acting Assistant Attorney General, Civil Division (March 2013-August 2013; March 2012-November 2012)
Principal Deputy Assistant Attorney General, Civil Division (November 2012-March 2013)
Counselor to the Attorney General (August 2010-March 2012)
Associate Deputy Attorney General (February 2010-August 2010)
Chief of Staff and Counselor to the Deputy Attorney General (January 2009-February 2010)

Wilmer Cutler Pickering Hale and Dorr LLP (WilmerHale) (formerly Wilmer, Cutler & Pickering)
1875 Pennsylvania Avenue NW
Washington, DC 20006
November 1995-January 2009
Partner (January 2001-January 2009)
Counsel (January 2000-December 2000)
Associate (November 1995-December 1999)

Supreme Court of the United States
1 First Street NE
Washington, DC 20543
August 1994-August 1995
Law Clerk to Justice Sandra Day O'Connor and Justice (Ret.) Byron R. White

United States Court of Appeals for the Eleventh Circuit
300 N. Hogan Street
Jacksonville, FL 32202
August 1993-August 1994
Law Clerk to then-Chief Judge Gerald Bard Tjoflat

Yale University
221 Whitney Avenue (Office of Human Resources)
New Haven, CT 06511
January-May 1993
Teaching Assistant

Crowell & Moring
1001 Pennsylvania Avenue NW
Washington, DC 20004
May-July 1992
Summer Associate

McGlinchey Stafford PLLC (formerly McGlinchey Stafford Mintz Cellini & Lang)
601 Poydras Street
12th Floor
New Orleans, LA 70130
May-June 1991; August 1992
Summer Associate

Orleans Parish District Attorney's Office
619 South White Street
New Orleans, LA 70119
July-August 1991
Summer Law Clerk

Yale University
221 Whitney Avenue (Office of Human Resources)
New Haven, CT 06511
January-May 1991
Teaching Assistant

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

I have never served in the military. I registered for the selective service.

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

John H. Pickering Pro Bono Award, Wilmer, Cutler & Pickering, 2003
Articles Editor, Yale Law Journal, 1992-1993
Thomas Swann Barristers' Union, Prize Trial Finalist, 1993
Benjamin N. Cardozo Prize for Best Moot Court Brief, Yale Law School, 1992
Edward & Barbara Younger Award for the Distinguished Major in American History,
University of Virginia, 1990
Phi Beta Kappa, 1989

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

Advisory Committee on Civil Rules of Practice and Procedure (*ex officio* member, 2012-2014)

Board of Directors, Washington Council of Lawyers (2003-2007)

Executive Council, Lawyers' Committee for the Shakespeare Theatre (2002-2006)

District of Columbia Bar (1996-present) (no office held)

Gaylaw (Gay and Lesbian Attorneys of Washington) (1996-2000, est.)

American Bar Association (1993-2009) (no office held)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

District of Columbia Bar, 1996

Virginia State Bar, 1993 (admitted to the Supreme Court of Virginia 1995)
(currently Associate, or inactive, status)

There have been no lapses in membership, although as noted I am currently on inactive status in Virginia. I elected Associate, or inactive, status in 1996 after I was admitted to practice in the District of Columbia, where my office was located. In 2000, I resumed active status in Virginia in order to join the bars of the federal district courts there. After joining the government in 2009, I again took Associate status because I did not need to maintain active status in multiple state bars.

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

Supreme Court of the United States, 2003

U.S. Court of Appeals for the First Circuit, 2006

U.S. Court of Appeals for the Second Circuit, 2007 (renewed 2012)

U.S. Court of Appeals for the Fourth Circuit, 2014

U.S. Court of Appeals for the Sixth Circuit, 2001

U.S. Court of Appeals for the Ninth Circuit, 2006

U.S. Court of Appeals for the District of Columbia Circuit, 1996

U.S. District Court for the District of Columbia, 1997

U.S. District Court for the Eastern District of Michigan, 1999

U.S. District Court for the Eastern District of Virginia, 2000
U.S. District Court for the Western District of Virginia, 2005
U.S. Court of Appeals for the Armed Forces, 2003
U.S. Air Force Court of Criminal Appeals, 2008
U.S. Army Court of Criminal Appeals, 2003
U.S. Navy-Marine Corps Court of Criminal Appeals, 2003
Supreme Court of Virginia, 1995
Court of Appeals for the District of Columbia, 1996

I renewed my Second Circuit membership in 2012 shortly after the initial period expired. I did not renew my paid membership in the U.S. District Court for the District of Columbia when it expired in 2009 because I have been a lawyer for the federal government since then. Otherwise, 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.**

Alumni Association of the University of Virginia, 1990-present
Yale Law School Alumni Association, 1993-present
Foundry United Methodist Church, 1996-present
American Constitution Society, 2003-2008
Rainbow Families DC, 2005-present
Palisades Swimming Pool Association, Inc., 2011-present
Raven Society, University of Virginia, 1990-present (alumni member)

In addition, I have made financial contributions to charitable organizations over the years and provided legal representation to some on a *pro bono* basis. I have not included in the list above any organizations to which I gave funds or provided *pro bono* legal representation and did not otherwise participate in programmatic activities.

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

To my knowledge, none of these organizations discriminates or formerly discriminated on the basis of race, sex, religion, or national origin 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.**

I have done my best to identify all books, articles, reports, letters to the editor, editorials and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

“Calling on Congress to Protect the First Right for First Americans,” Department of Justice Blog, May 26, 2015. Copy Supplied.

“Reflecting on Memorial Day,” Department of Justice Blog, May 22, 2015. Copy Supplied.

“Acknowledging the Debt We Owe to Servicemembers and Veterans Through a New Initiative,” Department of Justice Blog, March 19, 2015. Copy Supplied.

“GIs Have Resources to Keep Scammers at Bay,” *Stars and Stripes*, March 4, 2013, page 12. Copy Supplied.

“Fighting Scams that Target the Military,” *Gosport*, Naval Air Station Pensacola, January 11, 2013, page 3. Copy Supplied.

“The Real Cost of Cheap Online Meds,” Department of Justice Blog, April 26, 2012. Copy Supplied.

“Fighting for the Crime Victims Who Don’t Make Headlines,” AARP Blog, April 25, 2012. Copy Supplied.

“Special Considerations Applicable to Bankruptcy Trustee or Examiner Investigations,” in *Internal Corporate Investigations*, Business Law Monographs, Vol. C5 (Matthew Bender 2004) (with Andrew N. Goldman). Copy Supplied.

While I was in private practice (and particularly early in my career), it is possible that I worked on “client newsletters” for the law firm on current developments in

the law. However, I cannot recall any specific newsletter. I have done my best to identify any such newsletter I prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, I have been unable to identify, find or remember any such materials.

- 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 have done my best to identify any reports, memoranda, or policy statements, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, I have been unable to identify, find or remember any such materials.

- 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.**

I have done my best to identify all testimony, official statements or other communications relating to public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other items I have been unable to identify, find, or remember. I have located the following:

Response to Questions for the Record from July 17, 2014 Hearing, Subcommittee on Regulatory Reform, Commercial, and Antitrust Law, Committee on the Judiciary, U.S. House of Representatives, May 18, 2015. Copy Supplied.

Response to Questions for the Record from July 15, 2014 Hearing, Subcommittee on Oversight and Investigations, Committee on Financial Services, U.S. House of Representatives, September 26, 2014. Copy Supplied.

Oversight Hearing, Subcommittee on Regulatory Reform, Commercial and Antitrust Law, Committee on the Judiciary, U.S. House of Representatives, July 17, 2014. Copies of prepared testimony and hearing transcript supplied.

Oversight Hearing, Subcommittee on Oversight and Investigations, Committee on Financial Services, U.S. House of Representatives, July 15, 2014. Copies of prepared testimony and hearing transcript supplied.

Meeting of the Committee on Rules of Practice and Procedure, Judicial Conference of the United States, Washington, DC, May 29, 2014. Copy of minutes supplied.

Meeting of the Civil Rules Advisory Committee, Portland, OR, April 10-11, 2014. Copy of minutes supplied.

Letter to Judge David G. Campbell, Chair, Advisory Committee on Civil Rules, January 28, 2014, regarding proposed revisions to discovery rules. Copy Supplied.

Meeting of the Civil Rules Advisory Committee, Washington, DC, November 7-8, 2013. Copy of minutes supplied.

Responses to Questions for the Record from Confirmation Hearing, Committee on the Judiciary, U.S. Senate, July 2013. Copy supplied.

Confirmation Hearing, Committee on the Judiciary, U.S. Senate, June 11, 2013. Copies of prepared testimony and hearing transcript supplied.

Meeting of the Committee on Rules of Practice and Procedure, Judicial Conference of the United States, Washington, DC, June 3-4, 2013. Copy of minutes supplied.

Meeting of the Civil Rules Advisory Committee, Oklahoma City, OK, April 11-12, 2013. Copy of minutes supplied.

Letter to Judge David G. Campbell, Chair, Advisory Committee on Civil Rules, and to Judge John G. Koeltl, Chair, Duke Subcommittee, February 6, 2013, regarding proposed revisions to discovery rules. Copy Supplied.

Meeting of the Committee on Rules of Practice and Procedure, Judicial Conference of the United States, Boston, MA, January 3-4, 2013. Copy Supplied.

Letter to Judge David G. Campbell, Chair, Advisory Committee on Civil Rules, and to Judge Paul Grimm, Chair, Discovery Subcommittee, December 4, 2012, regarding proposed revision to Fed. R. Civ. P. 37(e). Copy Supplied.

Meeting of the Civil Rules Advisory Committee, Washington, DC, November 2, 2012. Copy Supplied.

Oversight Hearing, Subcommittee on Courts, Commercial and Administrative Law, Committee on the Judiciary, U.S. House of Representatives, May 31, 2012. Copies of prepared testimony and hearing transcript supplied.

Meeting of the Civil Rules Advisory Committee, Ann Arbor, MI, March 22-23, 2012. Copy Supplied.

Responses to Questions for the Record from May 31, 2012 Hearing, Subcommittee on Courts, Commercial and Administrative Law, Committee on the Judiciary, U.S. House of Representatives, July 27, 2012. Copy Supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.**

I have done my best to identify transcripts or recordings of all speeches or talks, including through a review of personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

Civil Legal Aid Research Workshop, Department of Justice, Washington, DC, May 21, 2015. Copy Supplied.

Asian American and Pacific Islander Heritage Month Observance Program, Department of Justice, Washington, DC, May 21, 2015. Copy Supplied.

Diversity and Inclusion Speaker Series, Department of Justice, Washington, DC, May 19, 2015. Introduction of keynote speaker, Judge David S. Tatel of the U.S. Court of Appeals for the District of Columbia Circuit. Copy Supplied.

4x24 General Counsel Group, McLean, VA, May 12, 2015. I spoke extemporaneously in response to questions about issues affecting the Department of Justice and government contractors. I have not been able to locate prepared remarks, a transcript, or a recording.

Department of Defense Procurement Fraud Working Group Conference, Alexandria, VA, April 29, 2015. Copy Supplied.

Pen and Pad Briefing Announcing Offshore Tax Evasion Resolution with BSI AG, Washington, DC, March 30, 2015. Announcement of resolution of claims. Copy Supplied.

Video Announcement of the Department of Justice's Servicemembers & Veterans Initiative, March 15, 2015. The video is available at <http://www.justice.gov/opa/video/acting-associate-attorney-general-stuart-f-delery-announces-servicemembers-and-veterans>.

Sunshine Week Ceremony to Honor FOIA Professionals, Department of Justice, Washington, DC, March 15, 2015. Copy Supplied.

African American History Month Program, Department of Justice, Washington, DC, February 24, 2015. Copy Supplied.

Press Conference Announcing Settlement of Litigation with Standard & Poor's, Department of Justice, Washington, DC, February 3, 2015. Announcement of resolution of claims. Copy Supplied.

Farewell Ceremony for Deputy Attorney General James Cole, Department of Justice, Washington, DC, January 8, 2015. Copy Supplied.

Press Conference Announcing Indictments of Individuals Associated with New England Compounding Center Connected to Nationwide Fungal Meningitis Outbreak, Boston, MA, December 17, 2014. Copy Supplied.

Swearing-In Ceremony for Inaugural Class of Justice AmeriCorps Members, Department of Justice, Washington, DC, December 11, 2014. Copy Supplied.

Civil Rights Division Awards Ceremony, Department of Justice, Washington, DC, November 20, 2014. Copy Supplied.

Coordinating Council on Juvenile Justice and Delinquency Prevention, Washington, DC, November 18, 2014. Copy Supplied.

Vieques Sustainability Task Force Meeting, Centro de Usos Múltiples, Vieques, Puerto Rico, November 14, 2014. Copy Supplied.

Veterans Appreciation Ceremony, Department of Justice, Washington, DC, November 5, 2014. Copy Supplied.

Tax Division Awards Ceremony, Department of Justice, Washington, DC, October 30, 2014. Copy Supplied.

Meeting with Indigent Defense Advocates, Department of Justice, Washington, DC, October 29, 2014. Copy Supplied.

Yale Law School Reunion Weekend, New Haven, CT, October 25, 2014. I spoke on a panel, "The Least Dangerous Branch." I have located an outline of prepared remarks. Copy Supplied. A video of the remarks is available at

<http://video.law.yale.edu/media/the-least-dangerous-branch-alumni-weekend-2014>.

62nd Annual Attorney General's Awards Ceremony, Washington, DC, October 15, 2014. I presented three awards. Copy supplied.

Pen and Pad Briefing Announcing False Claims Act Resolution with Extencicare, Department of Justice, Washington, DC, October 10, 2014. Announcement of resolution of claims. Copy Supplied.

United States Conference of Mayors, Making Cities Safe Through Community Policing: A Meeting of Mayors and Police Chiefs, William J. Clinton Presidential Library, Little Rock, AR, October 8, 2014. The subject was the work of the Department's Community Oriented Policing Service Office. Copy Supplied.

Taxpayers Against Fraud Conference, Washington, DC, September 16, 2014. The subject was the Civil Division's False Claims Act work and related matters. Copy Supplied.

Launch of Elder Justice Website, Department of Justice, Washington, DC, September 8, 2014. Copy Supplied.

American Bar Association, 10th National Institute on the Civil False Claims Act and *Qui Tam* Enforcement, Washington, DC, June 5, 2014. The subject was the Civil Division's False Claims Act work and related matters. Copy Supplied.

32nd Charles L. Decker Lecture in Administrative and Civil Law, The Judge Advocate General's Legal Center and School, Charlottesville, VA, February 27, 2014. The subject was the Department of Justice's work on behalf of the military. Copy Supplied.

Yale Law School American Constitution Society Chapter, New Haven, CT, February 19, 2014. The subject was the work of the Civil Division in litigating on behalf of the United States. Copy Supplied.

CBI Pharmaceutical Compliance Congress, Washington, DC, January 29, 2014. The subject was the Civil Division's enforcement related to pharmaceuticals and medical devices. Copy Supplied.

Press Conference Announcing Criminal and Civil Resolution with Johnson & Johnson, Department of Justice, Washington, DC, November 4, 2013. Announcement of resolution of claims. I answered questions but did not deliver prepared remarks. I have not been able to locate a transcript or a recording.

Second Annual Consumer Protection Summit, Georgetown University Law Center, Washington, DC, March 8, 2013. Copy Supplied.

Pen and Pad Briefing Announcing Indictments Related to Peanut Corporation of America, Department of Justice, Washington, DC, February 21, 2013. Announcement of enforcement action. Copy Supplied.

National Consumers League Fraud.org Relaunch Event, Washington, DC, February 20, 2013. The subject was the Civil Division's consumer protection work. Copy Supplied.

Press Conference Announcing Lawsuit Against S&P, Department of Justice, Washington, DC, February 5, 2013. Announcement of enforcement action. Copy Supplied.

Pensacola Naval Air Station, Pensacola, FL, December 10, 2012. The subject was the Civil Division's work on behalf of servicemembers. Copy Supplied.

Pen and Pad Briefing Announcing Record Civil Fiscal Year 2012 Recoveries, Department of Justice, Washington, DC, December 4, 2012. Copy Supplied.

Press Conference Announcing "Operation Lost Opportunity," Federal Trade Commission, Washington, DC, November 15, 2012. Announcement of enforcement actions. Copy Supplied.

Training Seminar on False Claims Act, Department of Justice, Washington, DC, October 16, 2012. Introduction to the seminar and overview of the Civil Division's False Claims Act work. Copy Supplied.

Taxpayers Against Fraud Conference, Washington, DC, September 13, 2012. The subject was the Civil Division's False Claims Act work and related matters. Copy Supplied.

Wright Patterson Air Force Base, Dayton, OH, July 27, 2012. The subject was the Civil Division's work on behalf of servicemembers. Copy Supplied.

Training Seminar for the Office of Immigration Litigation, National Advocacy Center, Columbia, SC, July 11, 2012. Introduction to the seminar and overview of the Civil Division's immigration work. Copy Supplied.

Press Conference Announcing Global Resolution with GlaxoSmithKline, Department of Justice, Washington, DC, July 2, 2012. Announcement of enforcement action. Copy Supplied.

American Bar Association's Ninth National Institute on the Civil False Claims Act and *Qui Tam* Enforcement, Washington, DC, June 7, 2012. The subject was the Civil Division's False Claims Act work. Copy Supplied.

American Bar Association Internal Corporate Investigations and Forum for In-House Counsel, San Francisco, CA, May 17, 2012. The subject was the Civil Division's anti-fraud work, particularly in the area of health care fraud. Copy Supplied.

White House LGBT Conference on Families, Minneapolis, MN, April 28, 2012. The subject was some of the Department of Justice's work of interest to families with gay and lesbian members. Copy Supplied.

Lawrence v. Texas Panel, George Washington Law School (sponsored by the American Constitution Society), Washington, DC, September 29, 2008. I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Presentation on the Supreme Court's decision in *Stoneridge Investment Partners, LLC v. Scientific-Atlanta, Inc.*, 552 U.S. 148 (2008), Wilmer Cutler Pickering Hale and Dorr LLP, Washington, DC, February 22, 2008. I have not been able to locate prepared remarks, a transcript, or a recording.

Investigations Workshop, Wilmer Cutler Pickering Hale and Dorr LLP, May 31, 2007. My subject was types of internal corporate investigations and issues that arise therefrom. I have not been able to locate prepared remarks, a transcript, or a recording; I have located a brief handwritten outline. Copy Supplied.

Civil Liberties Class (seminar for 12th graders), Maret School, 3000 Cathedral Avenue NW, Washington, DC 20008, March 15, 2007. I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Harvard Law School Gay & Lesbian Legal Advocacy Conference, March 2-3, 2007. I spoke on two panels, "What does *Lawrence v. Texas* Mean for the Future of 'Don't Ask, Don't Tell?'" and "The Contours of Judicial Deference to Military Personnel Policies." The sessions were transcribed and published at 14 Duke J. of Gender Law & Policy 1204, 1229 (2007). Copy Supplied.

FAIR Forum, Yale Law School, 127 Wall Street, New Haven, CT 06511, October 5, 2006. Panelist on session entitled "Achieving Equality: Strategies for Defeating Don't Ask Don't Tell." I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Panelist (with Susan Markel, Chief Accountant of the SEC's Division of Enforcement), SEC Investigations in a Sarbanes-Oxley World, Women's Bar Association of the District of Columbia, 2020 Pennsylvania Avenue, NW, Suite 446, Washington, DC 20006, 2005 (exact date unknown). I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Panel on “Don’t Ask, Don’t Tell,” Suffolk University Law School, 120 Tremont Street, Boston, MA 02108, 2005 (exact date unknown). I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Center on Adoption Policy Conference, “Gay and Lesbian Adoption: Past, Present and Future,” New York Law School, 185 West Broadway, New York, NY 10013, May 20, 2005. I spoke on one of several panels, and my topic was “Appellate Litigation Challenging Gay and Lesbian Adoption.” I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Luncheon in Honor of Judge Gerald Bard Tjoflat’s 35 Years on the Federal Bench, Jacksonville, FL, May 1, 2005. I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Military Cases Panel, Lavender Law Conference of the National LGBT Bar Association, Minneapolis, MN, October 1, 2004. I have not been able to locate prepared remarks, notes, a transcript, or a recording.

Corporations Class (Prof. Michael Diamond), Georgetown University Law Center, 600 New Jersey Ave NW, Washington, DC 20001, October 8, 2002. I spoke to the class about my experience representing the Special Investigative Committee of the Board of Enron Corp. I have not been able to locate prepared remarks, a transcript, or a recording. I have located a handwritten outline. Copy Supplied.

I served as a presenter at various additional WilmerHale internal training workshops and seminars (including training on taking and defending depositions and issues in handling internal and SEC investigations). I have not been able to locate records about or remember other specific occasions.

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

I have done my best to identify all interviews given, including through a review of my personal files and publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find or remember. I have located the following:

In May 2015, I was interviewed by the Wall Street Journal for the article entitled “Criminal Cases Roil Food Industry,” which appeared on May 20, 2015. Copy Supplied.

In May 2015, I was interviewed by National Public Radio concerning the Department’s work relating to food safety. The audio, which aired on May 20,

2015, is available at: <http://www.npr.org/2015/05/20/408293046/conagra-foods-to-face-criminal-charge-for-2007-peanut-butter-recall>.

In March 2015, I was interviewed by the Military Times for the article entitled "Justice Steps up Assistance Efforts for Troops, Vets," which appeared on March 19, 2015. Copy Supplied.

In February 2015, I was interviewed by Bloomberg for the article entitled "Wall Street Hasn't Ducked Crisis-Era Probes, Top Prosecutor Says," which appeared on February 6, 2015. Copy Supplied.

In January 2015, I was interviewed by Reuters for the article entitled "U.S. Prosecutors Say Pursuing '08 Crisis Cases, Eye Auto Loans," which appeared on February 3, 2015. Copy Supplied.

In October 2014, I was interviewed by National Public Radio for the article entitled "Understated Justice Department Lawyers Emerges As Key Player," which appeared on October 3, 2014. Copy Supplied.

In September 2014, I was interviewed by CBS Radio for the article entitled "Peanut Plant Owner Convicted in Deadly Salmonella Outbreak," which appeared on September 19, 2014. Copy Supplied.

In February 2014, I was interviewed by Diane Rehm for a program entitled "Pushing the Boundaries of Gay Rights in Law and Sports," which aired on February 12, 2014. Copy Supplied.

In October 2013, I was interviewed by National Public Radio for the article entitled "Getting Federal Benefits to Gay Couples: It's Complicated," which appeared on October 22, 2013. Copy Supplied.

In March 2013, I was interviewed by the Consumerist for the article entitled "Scammers Have Servicemembers In Their Sights: The DOJ Says It's Time to Fight Back," which appeared on March 8, 2013. Copy Supplied.

In March 2013, I was interviewed by Federal News Radio concerning the Civil Division's work on behalf of servicemembers. The audio, which aired on March 7, 2013, is available at: <http://www.federalnewsradio.com/85/3242555/Federal-Drive-Interviews---March-7-2013>.

In December 2012, I was interviewed by Federal News Radio concerning the Department of Justice's FY 2012 False Claims Act results. The audio, which aired on December 14, 2012, is available at: <http://www.federalnewsradio.com/?nid=85&sid=3157072>.

In July 2005, I was interviewed by the Washington Post for the article entitled "Supreme Court Justice O'Connor Resigns," which appeared on July 2, 2005. Copy Supplied.

I have been quoted in other articles based on statements I made in court filings or arguments, or in United States Department of Justice press releases, but I did not give interviews on those occasions.

13. Public Office, Political Activities and Affiliations:

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

I have never been a candidate for public office. I have held the following positions in the Department of Justice:

Acting Associate Attorney General, designated by the President (September 2014-present)

Assistant Attorney General, Civil Division, appointed by the President (August 2013-September 2014)

Acting Assistant Attorney General, Civil Division, designated by the President (March 2013-August 2013; March 2012-November 2012)

Principal Deputy Assistant Attorney General, Civil Division, appointed by the Attorney General (November 2012-March 2013)

Counselor to the Attorney General, appointed by the Attorney General (August 2010-March 2012)

Associate Deputy Attorney General, appointed by the Attorney General (February 2010-August 2010)

Chief of Staff and Counselor to the Deputy Attorney General, appointed by the Attorney General (January 2009-February 2010)

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

In 2008, I was a volunteer for President Obama's campaign. During both the primaries and the general election, I worked on legal issues related to voter protection. I also did some vetting work for the campaign. In 2004, I volunteered on voter protection legal issues for Senator Kerry's campaign.

14. **Legal Career:** Answer each part separately.

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

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

I served as a law clerk to the Hon. Gerald Bard Tjoflat, United States Court of Appeals for the Eleventh Circuit (August 1993-August 1994), and to Justices Sandra Day O'Connor and Byron R. White (Ret.), United States Supreme Court (August 1994-August 1995).

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

I have never 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.**

United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
January 2009-present
Acting Associate Attorney General (September 2014-present)
Assistant Attorney General, Civil Division (August 2013-September 2014)
Acting Assistant Attorney General, Civil Division (March 2013-August 2013; March 2012-November 2012)
Principal Deputy Assistant Attorney General, Civil Division (November 2012-March 2013)
Counselor to the Attorney General (August 2010-March 2012)
Associate Deputy Attorney General (February 2010-August 2010)
Chief of Staff and Counselor to the Deputy Attorney General (January 2009-February 2010)

Wilmer Cutler Pickering Hale and Dorr LLP (WilmerHale) (formerly Wilmer, Cutler & Pickering)
1875 Pennsylvania Avenue NW
Washington, DC 20006
November 1995-January 2009
Partner (January 2001-January 2009)
Counsel (January 2000-December 2000)
Associate (November 1995-December 1999)

Supreme Court of the United States
1 First Street NE
Washington, DC 20543
August 1994-August 1995
Law Clerk to Justice Sandra Day O'Connor and Justice (Ret.) Byron R.
White

United States Court of Appeals for the Eleventh Circuit
300 N. Hogan Street
Jacksonville, FL 32202
August 1993-August 1994
Law Clerk to then-Chief Judge Gerald Bard Tjoflat

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.

I was a federal law clerk for then-Chief Judge Gerald Bard Tjoflat of the United States Court of Appeals for the Eleventh Circuit from 1993 to 1994 and for Justice Sandra Day O'Connor and Justice (Ret.) Byron R. White of the Supreme Court of the United States from 1994 to 1995.

From 1995 until 2009, I was in private practice at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP (formerly Wilmer, Cutler & Pickering). I became a partner on January 1, 2001; before that, I was an Associate and later a Counsel at the firm. I was a member of the Securities and Litigation Departments and the Appellate and Supreme Court Litigation Practice Group.

I joined the U.S. Department of Justice in 2009. From 2009 to 2012, I served in senior positions in the Department's leadership offices. In those roles, I advised the Department's leadership on a range of matters as requested. My specific portfolios focused on civil litigation, appellate matters, and national security litigation and policy issues. From March 2012 to September 2014, first as the Acting Assistant Attorney General for the Civil Division and as Principal Deputy Assistant Attorney General and then as the Assistant Attorney General for the Civil Division, I led the Department's largest litigating component, with over 1,300 employees, and supervised much of the federal government's civil litigation.

Since September 2014, I have served as Acting Associate Attorney General. In that role, I assist the Attorney General and the Deputy Attorney General in formulating and implementing Department policies and programs, and I oversee the Department's civil litigating components, grant-making components, and other offices. This work includes a broad range of matters relating to civil justice, federal and local law enforcement, and public safety. In addition, I serve as Co-Chair of the President's Task Force on Puerto Rico and the Vice Chair of the Steering Committee of the President's Financial Fraud Enforcement Task Force.

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

During my government service from 2009 to present, my client has been the United States. I have provided legal advice to a range of government officials and have represented government officials and agencies in litigation. My work at the Department of Justice has focused primarily on

civil litigation, appellate matters, and national security litigation and policy issues, as well as criminal and public safety matters.

When I was in private practice from 1995 to 2009, I had a range of clients, including large corporations, a public university, a national accounting firm, financial institutions, individuals, non-profit and public-interest organizations, and international organizations. The mix of my practice varied from year to year depending on which matters were active, but in general my practice fell into three categories: (1) securities/business litigation and enforcement, where I represented a range of clients in cases involving securities and other financial frauds in federal and state courts, and in enforcement proceedings by the Securities and Exchange Commission, the Department of Justice, and other regulators; (2) internal corporate investigations for boards of directors or board committees; and (3) constitutional and public policy litigation. My practice in this area focused on complex litigation, both in trial courts and on appeal, presenting novel questions of constitutional and federal law.

- 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.**

At the Department of Justice (2009-present):

i. Indicate the percentage of your practice in:

1. federal courts: 100%
2. state courts of record: 0%
3. other courts: None
4. administrative agencies: 0%

For completeness, it should be noted that the Department sometimes finds it necessary to make an appearance in a state court matter to respond in a matter of federal interest or to move to have a case removed to a federal court. It is not possible to quantify the number of such cases, except that it would be less than 1% of the cases handled by components under my supervision.

ii. Indicate the percentage of your practice in:

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

In Private Practice (1995-2009):

i. Indicate the percentage of your practice in:

1. federal courts: 55%

2. state courts of record: 5%
3. other courts: None
4. administrative agencies: 40%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 95%
2. criminal proceedings: 5%

Since September 2014, as the Acting Associate Attorney General, I have overseen much of the federal government's civil litigation, including cases handled by the Department's Antitrust Division, the Civil Division, the Civil Rights Division, the Environment & Natural Resources Division, and the Tax Division, including with respect to the legal positions of the government in cases and the approval of settlements. I also have overseen criminal matters handled by these litigating divisions.

From March 2012 to September 2014, as the Assistant Attorney General, Acting Assistant Attorney General, and Principal Deputy Assistant Attorney General for the Civil Division, I supervised a significant portion of the federal government's civil litigation, including with respect to the legal positions of the government in cases; authorization to initiate affirmative suits; and approval of settlements. I personally argued seven cases, six of which were in courts of appeals, while leading the Civil Division.

From 2009 to 2012, while serving in the Office of the Attorney General and the Office of the Deputy Attorney General, I provided staff advice and assisted in the supervision of various litigation matters—mostly civil and national security matters (as well as some criminal matters)—but did not appear in court. Much of my work involved management, including management of litigation, and policy work.

In private practice, much of my practice was in litigation. Most was in federal courts, although a small percentage was in state courts. As discussed below in response to Question 16, I also represented clients in many government investigations that never reached litigation, and conducted internal investigations for corporations and non-profit organizations.

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

I have tried three cases to judgment. I was the lead counsel for one of those cases (a jury trial in Maryland state court). I was co-counsel in the other two cases, both of which were tried in federal district court (one was a jury trial and the other a bench trial). I conducted examinations of witnesses in all three cases.

I participated in a number of other cases in trial courts that reached final decision on dispositive motions and not through settlement.

i. What percentage of these trials were:

1. jury: 66%
2. non-jury: 34%

e. **Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.**

I have not argued orally before the Supreme Court. I am a member of the Supreme Court Bar.

During my time at the Department of Justice, I have worked closely with the Office of the Solicitor General on cases before the Supreme Court. As head of the Civil Division, I regularly made recommendations to the Solicitor General concerning Supreme Court cases. In that position, my name has appeared on numerous briefs filed in the U.S. Supreme Court (including briefs filed at the *certiorari* stage and at the merits stage). The Office of the Solicitor General (OSG) was one of the components that I monitored for the Attorney General and Deputy Attorney General, so I consulted with OSG lawyers on Supreme Court cases in those positions as well. I have also participated in a number of moot courts for the Solicitor General and other OSG lawyers.

In private practice at WilmerHale, I was a member of the Supreme Court and Appellate Litigation Practice Group. I participated in drafting briefs for the Supreme Court. More generally, I consulted on a range of Supreme Court matters and participated in a number of moot courts for other lawyers who were arguing at the Court.

I am listed on the following briefs filed in the Supreme Court, according to searches of electronic databases.

Merits Briefs

Agency for Int'l Dev. v. Alliance for Open Soc'y Int'l, Inc., No. 12-10

Arizona v. United States, No. 11-182

Clapper v. Amnesty Int'l USA, No. 11-1025

Conestoga Wood Specialties Corp. v. Sebelius, No. 13-356

Dep't of Homeland Security v. MacLean, No. 13-894

Dep't of Transportation v. Ass'n of Am. Railroads, No. 13-1080

Horne v. U.S. Dep't of Agriculture, No. 12-123

Kloeckner v. Solis, No. 11-184

Levin v. United States, No. 11-1351
Mayorkas v. de Osorio, No. 12-930
Millbrook v. United States, No. 11-10362
Moncrieffe v. Holder, No. 11-702
Nat'l Labor Relations Bd. v. Noel Canning, No. 12-1281
Perez v. Mortgage Bankers Ass'n, Nos. 13-1041 & 13-1052
Sebelius v. Auburn Reg'l Med. Ctr., No. 11-1231
Sebelius v. Cloer, No. 12-236
Sebelius v. Hobby Lobby Stores, Inc., No. 13-354
United States v. Bormes, No. 11-192
United States v. June, No. 13-1075
United States v. Windsor, No. 12-307
Wood v. Moss, No. 13-115
Gratz v. Bollinger, No. 02-516, Brief of Respondents
Grutter v. Bollinger, No. 02-241, Brief of Respondents
McCarver v. North Carolina, No. 00-8727, Brief of Petitioner Ernest P. McCarver

Amicus Curiae Briefs at Merits Stage

Air Wisconsin Airlines Corp. v. Hoeper, No. 12-315
Alice Corp. Pty. Ltd. v. CLS Bank Int'l, No. 13-298
Already, LLC v. Nike, Inc., No. 11-982
American Broadcasting Cos. v. Aereo, Inc., No. 13-461
American Trucking Assocs., Inc. v. City of Los Angeles, No. 11-798
Association for Molecular Pathology v. Myriad Genetics, Inc., No. 12-398
B&B Hardware, Inc. v. Hargis Indus., Inc., No. 13-352
BG Group PLC v. Republic of Argentina, No. 12-138
Bowman v. Monsanto Co., No. 11-796
Bullock v. BankChampaign, N.A., No. 11-1518
Chafin v. Chafin, No. 11-1347
Comptroller of the Treasury of Maryland v. Wynne, No. 13-485
CTS Corp. v. Waldburger, No. 13-339
DaimlerChrysler AG v. Bauman, No. 11-965
Dan's City Used Cars, Inc. v. Pelkey, No. 12-52
Delia (Wos) v. E.M.A., No. 12-98
Executive Benefits Insurance Agency v. Arkison, No. 12-1200
Genesis Healthcare Corp. v. Symczyk, No. 11-1059
Highmark Inc. v. Allcare Health Mgmt. Sys., Inc., No. 12-1163
Hillman v. Maretta, No. 11-1221
Hollingsworth v. Perry, No. 12-144
Kiobel v. Royal Dutch Petroleum Co., No. 10-1491 (supplemental brief)
Kirtsaeng v. John Wiley & Sons, Inc., No. 11-697
Lane v. Franks, No. 13-483
Law v. Siegel, No. 12-5196
Limelight Networks, Inc. v. Akamai Techs., Inc., No. 12-786
Lozano v. Alvarez, No. 12-820

Lozman v. City of Riviera Beach, No. 11-626
Marx v. General Revenue Corp., No. 11-1175
Medtronic Inc. v. Boston Scientific Corp., No. 12-1128
Mutual Pharm. Co. v. Bartlett, No. 12-142
Nautilus, Inc. v. Biosiq Instruments, Inc., No. 13-369
Northwest, Inc. v. Ginsberg, No. 12-462
Obergefell v. Hodges, Nos. 14-556, 14-562, 14-571, and 14-574
Octane Fitness, LLC v. Icon Health & Fitness, Inc., No. 12-1184
Petrella v. Metro-Goldwyn-Mayer, Inc., No. 12-1315
Plumhoff v. Rickard, No. 12-1117
POM Wonderful LLC v. The Coca-Cola Co., No. 12-761
Republic of Argentina v. NML Capital, Ltd., No. 12-842
Susan B. Anthony List v. Driehaus, No. 13-193
Teva Pharms. USA, Inc. v. Sandoz, Inc., No. 13-854
Town of Greece v. Galloway, No. 12-696
Walden v. Fiore, No. 12-574
Wellness Int'l Network, Ltd. v. Sharif, No. 13-935
Kennedy v. Louisiana, No. 07-343, Brief of the National Association of Criminal
 Defense Lawyers, et al., as *Amici Curiae* in Support of Petitioners
Stoneridge Investment Partners, LLC v. Scientific-Atlanta, Inc. and Motorola,
Inc., No. 06-43, Brief of Business Roundtable as *Amicus Curiae* in Support of
 Respondents
Adarand Constructors, Inc. v. Mineta, No. 00-730, Brief of Lawyers' Committee
 for Civil Rights Under Law, et al., as *Amici Curiae* in Support of Respondents
Boy Scouts of America v. Dale, No. 99-699, Brief of Parents, Families and Friends
 of Lesbians and Gays, Inc., et al. as *Amici Curiae* in Support of Respondent
Board of Regents v. Southworth, No. 98-1189, Brief of Wisconsin Student Public
 Interest Research Group, et al., as *Amici Curiae* in Support of Petitioner

Petitions for a Writ of *Certiorari*

Agency for Int'l Dev. v. Alliance for Open Soc'y Int'l, Inc., No. 12-10
Dep't of Health & Human Servs. v. Gilardi, No. 13-915
Dep't of Homeland Sec. v. MacLean, No. 13-894
Dep't of Transp. v. Ass'n of Am. Railroads, No. 13-1080
Federal Commc'ns Comm'n v. CBS Corp., No. 11-1240
Kerry v. Din, No. 13-1402
Mayorkas v. De Osorio, No. 12-930
Nat'l Labor Relations Bd. v. Enterprise Leasing Co.-Southeast, LLC, No. 13-671
Nat'l Labor Relations Bd. v. Gestamp South Carolina, LLC, No. 13-1103
Nat'l Labor Relations Bd. v. Noel Canning, No. 12-1281
Office of Pers. Mgmt. v. Golinski, No. 12-16
Office of Pers. Mgmt. v. Pedersen, No. 12-302
Perez v. Mortgage Bankers Ass'n, No. 13-1041
Sebelius v. Auburn Reg'l Med. Ctr., No. 11-1231
Sebelius v. Cloer, No. 12-236

Sebelius v. Hobby Lobby Stores, Inc., No. 13-354
Sebelius v. Korte, No. 13-937
Sebelius v. Newland, No. 13-919
United States v. Beer, No. 12-801
United States v. June, No. 13-1075
United States v. Windsor, No. 12-307
United States v. Wong, No. 13-1074
United States Dep't of Health & Human Servs. v. Massachusetts, No. 12-15
Wood v. Moss, No. 13-115

Briefs in Opposition to Certiorari

Adams v. United States, No. 13-597
Akapo v. Holder, No. 11-7854
Alabama v. United States, No. 12-884
Al Alwi v. United States, No. 11-7700
Alden Leeds, Inc. v. United States, No. 11-1486
Ali v. Obama, No. 13-10450
Al Kandari v. United States, No. 11-1054
Allison Engine Co. v. United States, No. 12-1057
Almerfed v. Obama, No. 11-683
Almond Bros. Lumber Co. v. United States, No. 13-811
Almy v. Sebelius, No. 12-356
Al Warafi v. Obama, No. 13-768
America v. Mills, No. 11-855
American Mgmt. Servs. v. Dep't of Army, No. 12-1233
American Snuff Co. v. United States, No. 12-521
Aracoma Coal Co. v. United States, No. 13-941
Ashley Furniture Indus., Inc. v. United States, No. 13-1367
Augustis v. United States, No. 13-1234
Autocam Corp. v. Sebelius, No. 13-482
Beasley v. Shinseki, No. 12-1419
Beineke v. Kappos, No. 12-580
Boland v. Doe, No. 12-987
Bright v. Holder, No. 11-890
Bruce v. Gregory, No. 13-7463
Burden v. Shinseki, No. 13-762
Byron v. Shinseki, No. 12-389
California Table Grape Comm'n v. Delano Farms Co., No. 11-1371
CCA Assocs. v. United States, No. 11-1352
Chaidy v. Holder, No. 12-332
Chhabra v. Holder, No. 12-411
Christie v. Nat'l Collegiate Athletic Ass'n, No. 13-980
CITGO Asphalt Refining Co. v. Frescati Shipping Co., No. 13-462
Cordova-Soto v. Holder, No. 12-95
Cordova-Soto v. Holder, No. 13-1410

Craven v. Cobell, No. 12-234
Dachniwskyj v. Office of Pers. Mgmt., No. 13-281
Daycon Products Co. v. Nat'l Labor Relations Bd., No. 12-1445
Deckers Outdoor Corp. v. United States, No. 13-803
De La Rosa v. Holder, No. 12-152
Director of the Dep't of Revenue of Montana v. Dep't of the Treasury, No. 12-926
Djadjou v. Holder, No. 12-173
Donaldson v. Dep't of Homeland Security, No. 12-1044
Dormescar v. Holder, No. 12-1126
Dupris v. Proctor, No. 13-1465
Eche v. Holder, No. 12-998
Electronic Frontier Foundation v. Dep't of Justice, No. 13-1474
Empresa Cubana Exportadora de Alimentos y Productos Varios v. Dep't of the Treasury, No. 11-945
F. H.-T. v. Holder, No. 13-1261
Finjan, Inc. v. U.S. Patent & Trademark Office, No. 12-1245
First Annapolis Bancorp, Inc. v. United States, No. 11-912
Frederick v. Shinseki, No. 12-749
Gaitan v. Holder, No. 11-1525
Garcia-Reyes v. Holder, No. 13-680
Garcia-Torres v. Holder, No. 11-1226
Good Bear v. Cobell, No. 12-355
Gosselin World Wide Moving v. United States, No. 13-1399
Grosdidier v. Isaacson, No. 13-165
Gupta v. McGahey, No. 13-1095
Hadden v. United States, No. 11-1197
Hagans v. Colvin, No. 13-5756
Hall v. Sebelius, No. 12-262
Hedges v. Obama, No. 13-758
Hegab v. Long, No. 13-256
Henry Ford Health Sys. v. Dep't of Health & Human Servs., No. 11-975
Hepting v. AT&T Corp., No. 11-1200
Herden v. United States, No. 13-704
Hitachi Home Elecs. v. United States, No. 12-148
Holistic Candles & Consumers Assoc. v. Food & Drug Admin., No. 11-1454
Horne v. United States Dep't of Agriculture, No. 12-123
Huang v. Napolitano, No. 12-639
Igartua v. United States, No. 11-876
Initiative & Referendum Inst. v. U.S. Postal Serv., No. 12-722
Intercollegiate Broadcasting Sys., Inc. v. Copyright Royalty Bd., No. 12-928
Jimenez-Galicia v. Holder, No. 12-846
Judicial Watch, Inc. v. Dep't of Defense, No. 13-238
Kellogg Brown & Root Servs., Inc. v. United States, No. 13-1558
Kohl v. United States, No. 12-1008
Kwong v. Holder, No. 12-150
Lane v. Holder, No. 12-1401

Lanus v. United States, No. 12-862
Lara v. Office of Pers. Mgmt., No. 11-915
Latif v. Obama, No. 11-1027
Lattimore v. United States, No. 12-1092
Levin v. United States, No. 11-1351
Liberty Univ. v. Lew, No. 13-306
Lopez v. United States, No. 11-1367
Macarelli ex rel. Halloran v. United States, No. 11-838
Madrigal-Barcenas v. Holder, No. 13-697
Mahoney v. Donovan, No. 13-906
Managed Pharmacy Care v. Sebelius, Nos. 13-253 & 13-380
Marcavage v. Saperstein, No. 11-1402
Marceau v. Blackfeet Housing Authority, No. 12-278
McCarthy v. Int'l Boundary & Water Comm'n, No. 12-1364
McGee v. Dep't of the Air Force, No. 11-8292
Mellouli v. Holder, No. 13-1034
Michigan Dep't of Cmty. Health v. Sebelius, No. 12-589
Middleton v. McDonald, No. 13-1342
Millbrook v. United States, No. 11-10362
Minority Television Project, Inc. v. FCC, No. 13-1124
Mirmehdi v. United States, No. 12-522
Montgomery v. Kappos, No. 12-182
Najbar v. United States, No. 11-967
Nat'l Rifle Ass'n v. Bureau of Alcohol, Tobacco, Firearms, & Explosives, No. 13-137
Nomura Home Equity Loan, Inc. v. Nat'l Credit Union Admin. Bd., No. 13-576
Northover v. Archuleta, No. 13-607
One & Ken Valley Housing Group v. Maine State Housing Auth., No. 13-246
Ortega v. Immigration. & Customs Enforcement, No. 13-1059
Owner-Operator Indep. Drivers Ass'n, Inc. v. Dep't of Transp., No. 13-1126
Palmquist v. Shinseki, No. 12-789
Parks v. Shinseki, No. 13-837
Pasicov v. Holder, No. 12-493
Patel v. Johnson, No. 13-606
Pecore v. United States, No. 12-250
Perez-Guerrero v. Holder, No. 13-323
Pierre v. Holder, No. 11-8335
Pierre v. Holder, No. 13-1301
Pitts v. Shinseki, No. 12-1151
Puerto Rico v. United States, No. 11-837
Rack Room Shoes v. United States, Nos. 13-690 & 13-822
Ragoonath v. Holder, No. 13-1083
Renda v. United States, No. 13-173
Renda Marine, Inc. v. United States, No. 12-699
Ritchie v. United States, No. 13-893
Roeder v. Islamic Republic of Iran, No. 11-730

Rojas-Perez v. Holder, No. 13-174
Roman Catholic Archbishop of Washington v. Sebelius, Nos. 13-829 & 13-891
Romeike v. Holder, No. 13-471
Sanchez v. United States, No. 12-335
Sanchez v. United States, No. 13-1249
Schrader v. Holder, No. 12-1443
Semper v. United States, No. 12-710
Sherley v. Sebelius, No. 12-454
Sioux Honey Ass'n v. United States, No. 11-1337
Smith v. United States, No. 12-1111
Southwest Pharmacy Solutions, Inc. v. Centers for Medicare & Medicaid Servs.,
No. 13-144
Spirit Airlines v. Dep't of Transp., No. 12-656
Tembenis v. Sebelius, No. 13-902
Tenenbaum v. Sony BMG Music Entm't, No. 11-1019
Thomas-Rasset v. Capitol Records, Inc., No. 12-715
Three-Dimensional Media Group v. Kappos, No. 12-48
Torres-Rendon v. Holder, No. 11-1056
Trinidad v. Thomas, No. 12-6615
Tyrues v. Shinseki, No. 13-813
Vance v. Rumsfeld, No. 12-976
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Veterans for Common Sense v. Shinseki, No. 12-296
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Yang v. Holder, No. 11-1119
Yowell v. Abbey, No. 13-1049
Zivotofsky v. Kerry, No. 13-628
Gratz v. Bollinger, No. 02-516, Brief for Respondents Lee Bollinger, et al.
Grutter v. Bollinger, No. 02-241, Brief for Respondents Lee Bollinger, et al.
Patterson v. Gratz, No. 02-571, Brief for Respondents Lee Bollinger, et al.

Amicus Curaie Briefs at Certiorari Stage

Air Wisconsin Airlines Corp. v. Hoeper, No. 12-315
Alabama Dep't of Revenue v. CSX Transp., Inc., No. 13-553
American Trucking Ass'ns., Inc. v. City of Los Angeles, No. 11-798
Arab Bank, PLC v. Linde, No. 12-1485
Arzoumanian v. Munchener Ruckversicherungs-Gesellschaft Aktiengesellschaft
AG, No. 12-9
B&B Hardware, Inc. v. Hargis Indus., Inc., No. 13-352
Bank Melli Iran New York Representative Office v. Weinstein, No. 10-947
BG Group PLC v. Republic of Argentina, No. 12-138
Bowman v. Monsanto Co., No. 11-796
DIRECTV, Inc v. Levin, No. 10-1322
EM Ltd. v. Republic of Argentina, No. 11-604
Faculty Senate of Florida Int'l Univ. v. Florida, No. 10-1139

GlaxoSmithKline v. Classen Immunotherapies, Inc., No. 11-1078
Hillman v. Maretta, No. 11-1221
Kellogg Brown & Root Servs., Inc. v. United States ex rel. Carter, No. 13-1558
Law v. Siegel, No. 12-5196
Limelight Networks, Inc. v. Akamai Techs., Inc., Nos. 12-786 & 12-960
Lozano v. Alvarez, No. 12-820
Medtronic, Inc. v. Stengel, No. 12-1351
O'Neill v. Al Rajhi Bank, No. 13-318
Pfizer, Inc. v. Law Offices of Peter G. Angelos, No. 12-300
POM Wonderful LLC v. The Coca-Cola Co., No. 12-761
Republic of Argentina v. NML Capital, Ltd., No. 12-842
Retractable Techs., Inc. v. Becton, Dickinson & Co., No. 11-1154
Rubin v. Islamic Republic of Iran, No. 11-431
Saint-Gobain Ceramics & Plastics, Inc v. Siemens Med. Solutions USA, Inc., No. 11-301
Sony Computer Entm't. Am. LLC v. 1st Media, LLC, No. 12-1086
United States ex rel. Nathan v. Takeda Pharms. N. Am., Inc., No. 12-1349
Lofton, et al. v. Florida Dep't of Children and Families, et al., No. 04-478, Brief of Child Welfare League of America, et al., as *Amici Curiae* in Support of Petitioners

Miscellaneous

Bipartisan Legal Advisory Group of the U.S. House of Representatives v. Windsor, No. 12-785 (brief in response to petition for *certiorari*)
Conestoga Wood Specialties Corp. v. Sebelius, No. 13-356 (brief in response to petition for *certiorari*)
Eden Foods, Inc. v. Sebelius, No. 13-591 (brief in response to petition for *certiorari*)
Gilardi v. Dep't of Health & Human Servs., No. 13-567 (brief in response to petition for *certiorari*)
Liberty Univ. v. Geithner, No. 11-438 (brief in response to petition for rehearing)
Pedersen v. Office of Pers. Mgmt., No. 12-231 (brief in response to petition for *certiorari*)
Windsor v. United States, No. 12-63 (brief in response to petition for *certiorari*)

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

- a. the date of representation;

- b. the name of the court and the name of the judge or judges before whom the case was litigated; and**
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.**
1. *Halbig v. Burwell*, No. 14-1518 (D.C. Cir. 2014).
U.S. Court of Appeals for the District of Columbia Circuit
Judges Griffith, Edwards, and Randolph
King v. Burwell, No. 14-1158 (4th Cir. 2014).
U.S. Court of Appeals for the Fourth Circuit
Judges Gregory, Thacker, and Davis

I represented the government in these two appeals, which address the availability of federal tax credits to individuals who purchase health insurance on federally-facilitated Health Care Exchanges. The Patient Protection and Affordable Care Act provided for the creation of “Exchanges,” which are State-specific marketplaces where consumers can compare and purchase health plans offered in their state by private insurers. The Act provides that “[e]ach State shall, not later than January 1, 2014, establish” an Exchange, 42 U.S.C. § 18031(b)(1), but allows the Department of Health and Human Services to “establish and operate such Exchange within the State” if the State does not do so, 42 U.S.C. § 18041(c)(1). The Act also established tax credits to help low- and moderate-income Americans purchase insurance, which are available to taxpayers “enrolled through an Exchange established by the State under [section 18031].” The question presented is whether the Internal Revenue Service permissibly interpreted the statute to allow tax credits to all Americans who purchase health insurance through an Exchange, rather than excluding those who purchase insurance through an Exchange established and operated by HHS. I presented argument for the government in the Fourth Circuit in *King*, which ruled in the government’s favor, and in the D.C. Circuit in *Halbig*, where a panel of the D.C. Circuit ruled against the government. The D.C. Circuit vacated its opinion and granted rehearing *en banc* in *Halbig* on September 4, 2014, and is currently holding the case in abeyance. On November 6, 2014, the Supreme Court granted *certiorari* in *King*. The Court held oral argument on March 4, 2015.

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2. *ACLU v. Clapper*, __ F.3d __, No. 14-42 (2d Cir. 2015), 959 F. Supp. 2d 724 (S.D.N.Y. 2013).
U.S. Court of Appeals for the Second Circuit
Judges Sack, Lynch, and Broderick (S.D.N.Y.)
U.S. District Court for the Southern District of New York
Judge Pauley

I represented the government in this litigation regarding the collection of telecommunications companies' business records as part of an anti-terrorism program. Pursuant to Section 215 of the USA PATRIOT Act, the government has applied to the Foreign Intelligence Surveillance Court for orders requiring production of information about telephone calls. That information may include the time, duration, and dialing and receiving numbers, but does not identify the individuals participating in or include the content of the calls. In granting the government's requests, 16 judges on 38 different occasions concluded that this collection is lawful. In this case, Plaintiff challenged the legality of the program on constitutional and statutory grounds and moved for a preliminary injunction. On December 27, 2013, the district court denied the injunction and granted the government's motion to dismiss. Plaintiff appealed. On May 7, 2015, the U.S. Court of Appeals for the Second Circuit vacated the district court's decision, ruling on statutory grounds that the program exceeded the scope of what Section 215 authorizes. I presented argument in both the district court and the court of appeals.

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3. *ACLU v. CIA*, 710 F.3d 422 (D.C. Cir. 2013).
U.S. Court of Appeals for the District of Columbia Circuit
Chief Judge Garland and Judges Tatel and Griffith

I represented the Central Intelligence Agency (CIA) in this Freedom of Information Act (FOIA) case. Plaintiff filed a FOIA request seeking any records in the possession of the CIA related to targeted killing by the government of individuals by unmanned aerial vehicles, or “drones.” The CIA issued a *Glomar* response, indicating that it could neither confirm nor deny the existence or nonexistence of records responsive to plaintiffs’ request pursuant to FOIA Exemptions 1 and 3. The district court upheld the CIA’s *Glomar* response on summary judgment. On appeal, plaintiffs argued that the government waived any FOIA exemptions by officially acknowledging the existence of a drone program. Before oral argument, the CIA moved to remand the case to the district court for consideration of the effect, if any, of the government’s acknowledgement of certain government records in another pending case. That motion was denied, and the court of appeals held argument on September 20, 2012. I presented the argument for the government. The court of appeals reversed, concluding that the CIA’s original *Glomar* response was not justified but remanding for further

proceedings to consider what, if any, information would need to be disclosed under FOIA.

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4. *Windsor v. United States*, 699 F.3d 169 (2d Cir. 2012).
U.S. Court of Appeals for the Second Circuit
Chief Judge Jacobs and Judges Straub and Droney
Massachusetts v. U.S. Dep't of Health and Human Services; Gill v. Office of Personnel Management, 682 F.3d 1 (1st Cir. 2012).
U.S. Court of Appeals for the First Circuit
Chief Judge Lynch and Judges Torruella and Boudin

I represented the government in these two appeals. Section 3 of the Defense of Marriage Act (DOMA) defines the term "marriage" for all purposes under federal law, including the provision of federal benefits, as "only a legal union between one man and one woman as husband and wife." 1 U.S.C. § 7. These cases presented the question whether Section 3 of DOMA violates the Fifth Amendment's guarantee of equal protection of the laws as applied to persons of the same sex who are legally married under the laws of their State. The First Circuit case also presented the question whether Section 3 violates the Tenth Amendment. In February 2011, the Attorney General notified Congress that the President had determined that classifications based on sexual orientation warrant heightened constitutional scrutiny and that, under that standard, Section 3 violates equal protection. Following the Attorney General's announcement, the Bipartisan Legal Advisory Group of the United States House of Representatives (BLAG) intervened in these cases to present arguments in defense of the constitutionality of Section 3. I presented oral argument in the courts of appeals on behalf of the United States and the Executive Branch agencies in these cases. Both courts held that Section 3 is unconstitutional. The Supreme Court granted the government's

petition for a writ of *certiorari* in *Windsor* and affirmed the Second Circuit's judgment on June 26, 2013 (*see* 570 U.S. ___, 133 S. Ct. 2675 (2013)).

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5. *In re Bristol-Myers Squibb Derivative Litigation (Bellikoff v. PricewaterhouseCoopers LLP, et al.)*, 2008 WL 4876804 (2d Cir. 2008).
U.S. Court of Appeals for the Second Circuit
Judges Walker, Parker and Raggi

This case was part of a broader set of litigation against Bristol-Myers Squibb (BMS) following the company's restatement of financial statements for the years 1999-2002. I represented PricewaterhouseCoopers LLP (PwC) in these matters. PwC served as BMS's independent auditor during the relevant time. Several shareholder derivative actions were filed against BMS officers and directors, and against PwC. In this case, the district court granted PwC's motion to dismiss. The court found that plaintiffs had neither made a pre-suit demand on the BMS Board of Directors, as required under the relevant state law, nor pled with particularity that such a demand would have been futile because the BMS directors lacked the necessary independence to consider potential claims against PwC. Plaintiffs appealed, and I took the lead on briefing the appeal. The court of appeals decided the case without oral argument and affirmed, concluding that plaintiffs had not satisfied the demand requirement for derivative suits on behalf of a corporation and that the BMS Board had opposed the derivative litigation.

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6. *Stoneridge Investment Partners, LLC v. Scientific-Atlanta, Inc. and Motorola, Inc.*, 552 U.S. 148 (2008).

Brief for Business Roundtable as *Amicus Curiae* in Support of Respondents.

The issue in this case was whether the private right of action recognized under Section 10(b) of the Securities Exchange Act of 1934 and SEC Rule 10b-5 extends to participants in a “scheme to defraud” who themselves did not employ a deceptive device on which a plaintiff relied. With others at WilmerHale, I drafted an *amicus* brief on behalf of the Business Roundtable, an association of chief executive officers of leading U.S. companies, urging the Supreme Court to reject this expansion of the private right of action. The brief argued principally that the Court should not extend the private right of action into new territory without an indication that Congress had authorized or approved the extension, and that the Court did not owe deference to the SEC’s position in this circumstance. The Supreme Court held that defendants can only be held liable if their own conduct satisfies each of the elements for §10(b) liability and that a plaintiff therefore must prove reliance, in making a decision to purchase or hold a security, upon a material misrepresentation or omission by the defendant itself.

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7. *Cook v. Gates*, 528 F.3d 42 (1st Cir. 2008).
U.S. Court of Appeals for the First Circuit
Judges Howard, Campbell, and Saris (D. Mass.)

I represented a group of gay and lesbian servicemembers who were discharged from the Armed Forces under 10 U.S.C. 654, known as the “Don’t Ask, Don’t Tell” law. Plaintiffs challenged “Don’t Ask, Don’t Tell” on its face and as applied as violating due process, equal protection, and the First Amendment. The district court granted the government’s motion to dismiss the appeal, and the court of appeals affirmed. On the due process claim, the First Circuit concluded that *Lawrence v. Texas* required a balancing of constitutional interests that went beyond rational basis review, but concluded that several factors (including deference to military judgments) required the statute to be upheld. The court also rejected the equal protection and First Amendment challenges. Judge Saris dissented and would have allowed the First Amendment claim to proceed. I oversaw the briefing and argued the case in the district court and the court of appeals.

Co-counsel at WilmerHale included:

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8. *Lorillard Tobacco Co. v. American Legacy Foundation*, 903 A.2d 728 (Del. 2006).

Delaware Supreme Court

American Legacy Foundation v. Lorillard Tobacco Co., 886 A.2d 1 (Del. Ch. 2005).

Delaware Court of Chancery (Vice Chancellor Stephen P. Lamb)

With others at WilmerHale, I represented the American Legacy Foundation, a non-profit organization established by the 1998 Master Settlement Agreement (MSA) between 46 states and the major cigarette manufacturers with the public health mission of reducing youth smoking. The issue in the case was whether the Foundation's anti-smoking advertising campaign violated the prohibition against "vilification" and "personal attacks" in the MSA, or otherwise did not meet the agreement's terms. Lorillard asked the Court to order the Foundation to return more than \$1 billion in payments the Foundation had received since its creation. I supervised a team of associates in completing discovery (including document discovery and fact and expert depositions) and argued a number of motions. I also worked closely with other lawyers at WilmerHale on the summary judgment briefing (almost 400 pages of briefs). The Chancery Court (Vice Chancellor Stephen P. Lamb) adopted definitions of "vilification" and "personal attack" very close to those the Foundation proposed and held that none of the Foundation's ads

violated the MSA. I then worked extensively on the briefing before the Delaware Supreme Court, which affirmed the judgment of the Chancery Court.

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9. *Grutter v. Bollinger*, 539 U.S. 306 (2003).
Court of Appeals (*en banc*): 288 F.3d 732 (6th Cir. 2002).
District Court: 137 F. Supp. 2d 821 (E.D. Mich. 2001) (Friedman, J.).

Gratz v. Bollinger, 539 U.S. 244 (2003).
District Court: 122 F. Supp. 2d 811 (E.D. Mich. 2000) (Duggan, J.).

With others at Wilmer, Cutler & Pickering, I represented the University of Michigan and its Law School in lawsuits challenging their consideration of race in admissions, from the trial courts through the Supreme Court. In the district court, I took a leading role in working with social science experts on the educational benefits of diversity and with statisticians on analysis of the admissions data. At trial in the law school case, I conducted the direct examination of the law school's statistics expert and cross-examined the plaintiff's statistician. I also participated in briefing the legal issues. On appeal, I participated in drafting the briefs and preparing counsel for oral arguments in the court of appeals and the Supreme Court. In *Grutter*, the Supreme Court upheld the consideration of race as one

factor among many in admissions, and upheld the law school's admissions policy; in *Gratz*, the Court invalidated the undergraduate admissions system's consideration of race as insufficiently tailored.

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10. *The Common Fund for Non-Profit Organizations v. KPMG Peat Marwick LLP*, No. 96 Civ. 0255 (GBD) (S.D.N.Y., Jury Trial October 2000).

Memorandum Opinions related to this case are at 1996 WL 551605 and 2003 WL 1108493.

Judge George B. Daniels

Plaintiff Common Fund is a non-profit membership corporation that provides investment management services to colleges, universities, and other non-profit organizations. Following discovery of unauthorized trading activity at its securities lending firm that resulted in the loss of over \$100 million, Common Fund sued the securities lending firm and its principals (for securities fraud and other claims), as well as Common Fund's independent outside auditor (for professional malpractice and breach of contract). I represented Common Fund and worked extensively on essentially all aspects of this matter from 1996 through 2001, from the drafting of the complaint through post-trial motions. I oversaw significant document discovery; took and defended many depositions of fact and expert

witnesses; briefed legal motions; and participated in the trial against the auditor, including by examining a witness. The jury returned a verdict for the auditor.

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

Department of Justice. I have served as a senior official in the Department of Justice since January 2009. Since September 2014, I have served as Acting Associate Attorney General. In that role, I assist the Attorney General and the Deputy Attorney General in formulating and implementing Department policies and programs, and I oversee the Department's civil litigating components, grant-making components, and other offices. This work includes a broad range of matters relating to civil justice, federal and local law enforcement, and public safety. In addition, I serve as Co-Chair of the President's Task Force on Puerto Rico and the Vice Chair of the Steering Committee of the President's Financial Fraud Enforcement Task Force.

From March 2012 to September 2014, I led the Civil Division, the largest litigating component of the Department of Justice. I was confirmed by the Senate to serve as Assistant Attorney General in August 2013, and before that served as Acting Assistant Attorney General and Principal Deputy Assistant Attorney General. In those capacities, I supervised approximately 950 lawyers representing the United States, the President and Cabinet officers and agencies, and other federal officials in a wide range of matters.

The Civil Division's docket covers the full range of government activities. Its cases include defense of legal challenges to Congressional statutes, Administration policies, and federal agency actions, and damages actions against the federal government for accidents and other liability claims. They concern federal benefit programs; commercial issues such as contract disputes, banking, insurance, patents, and debt collection; international trade matters; enforcement of immigration laws; and civil and criminal violations of consumer protection laws. Each year, lawyers in the Civil Division handle thousands of cases that collectively involve billions of dollars in claims and recoveries. During the three years in which I led the Civil Division, the Department of Justice recorded the three largest annual recoveries ever under the False Claims Act – a three-year total of \$14.3 billion in settlements and judgments from civil cases involving fraud against the federal government, including a record \$5.69 billion in fiscal year 2014. Vigorous defense of claims against the government also protects the public fisc.

In addition to supervising the litigation of the cases themselves and making decisions about the positions the Division will take, I oversaw investigations before they proceed to litigation and approve many settlements. I also worked to resolve disagreements about legal issues within the Department and among client agencies.

I devoted significant attention to the Civil Division's extensive docket of national security cases. These include defending the constitutionality of statutes authorizing the exercise of military detention authority; defending the wartime detention of individuals held at Guantanamo Bay in habeas proceedings; defending federal terrorist designations and screening provisions for travel; defending individual servicemembers and other government officials from suits seeking money damages for actions they have taken in the line of duty; and litigating FOIA requests seeking information relating to classified national security matters. The Division also defends in federal court every removal order involving terrorist and other national-security-risk aliens and litigates detention, benefits denial, and naturalization and denaturalization cases involving these individuals. In all of these areas, I sought to ensure that the Division vigorously defends the national security interests of the United States consistent with the rule of law.

Additionally, at the Attorney General's direction, I led the team of Department lawyers coordinating the implementation of the Supreme Court's decision in *United States v. Windsor*, which struck down as unconstitutional Section 3 of the Defense of Marriage Act. The Department worked closely with agencies to identify the laws, rules, policies, and practices where marital status is a relevant consideration, and to ensure that, in light of the Supreme Court's decision, same-sex couples received equal access to the benefits

and obligations of marriages as opposite-sex couples, to the greatest extent possible under the law.

Prior to joining the Civil Division, I served for just over three years in senior positions in the Department's leadership offices, as Counselor to the Attorney General (August 2010 to March 2012), Associate Deputy Attorney General (February to August 2010), and as Chief of Staff and Counselor to the Deputy Attorney General (January 2009 to February 2010). In those roles, I advised the Department's leadership on a range of matters as requested. My specific portfolios focused on civil litigation, appellate matters, and national security litigation and policy. While I did not personally handle legal arguments in court, I did often participate in cases raising significant issues of constitutional law, including cases listed in response to Question 14e above. And I worked extensively on national security litigation, including detainee habeas cases, state secrets cases, and *Bivens* actions against current and former government officials. I also contributed to the management of the Department, including through active involvement in the budget process.

Private Practice. A substantial portion of my work in private practice involved matters outside of litigation. In the area of securities litigation and enforcement, I represented a range of clients (including a national accounting firm, individuals, financial institutions, and corporations) in cases involving securities and other financial frauds in federal and state courts, and in enforcement proceedings by the SEC and other regulators. Many of these matters involved representations of clients in parallel civil, criminal, and regulatory proceedings. Outside of litigation, I defended witness testimony before regulatory agencies and handled witness proffers of information, made legal and factual presentations on why it would not be appropriate for the government to bring an action, and negotiated settlements.

I also had substantial experience conducting high-profile, international internal corporate investigations for boards of directors or board committees. In these matters, the law firm was retained to conduct a thorough investigation of alleged misconduct, to make an independent evaluation of the facts, and to recommend disciplinary action or other remedial measures. Most notably, with other lawyers at the firm, I was involved of several of the most high-profile investigations of the last decade, including:

- Representation of the Special Investigative Committee of the Board of Enron Corp. in an investigation of the transactions between Enron and partnerships controlled by its former chief financial officer that led to the collapse of the company. In less than four months, our team reviewed thousands of documents, interviewed more than 65 witnesses, and produced a 200-page report.
- Representation of the Special Investigative Committee of the Board of WorldCom, Inc., chaired by former Attorney General Nicholas deB. Katzenbach, in its investigations of accounting irregularities and the company's resulting bankruptcy, then the largest bankruptcy in U.S. corporate history.

I also played a leading role in investigations related to alleged accounting issues on behalf of the Audit Committees of Royal Ahold, NV (an international food distributor and owner of supermarket chains) and Nortel Networks Corporation (a telecommunications company).

In these matters just described, I was one of several partners at the firm leading very large teams. On several other investigations, however, I was the lead lawyer – including on an investigation for a pharmaceutical company and one for a financial services firm. Much of my work in connection with government investigations and internal corporate investigations is not public.

I played significant roles in administration of the law firm. Among other things, I served as co-Vice Chair of the firm's Securities Department, part of the team responsible for managing a practice of more than 150 lawyers that is widely recognized as one of the leaders in the field. This role involved a range of day-to-day administrative activity, from preparing reports to management and monitoring productivity of lawyers to dealing with associate morale and thinking about strategic issues. I also served on the firm's Executive Committee and the committees on partner compensation and partnership elevation, as well as on a task force to study the future structure of the firm.

I have not performed lobbying activities.

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

During law school I served as a Teaching Assistant for an undergraduate history course at Yale College: American Political History, 1945-1984 (January-May 1991; January-May 1993). I led two discussion sections per week and graded all exams and papers for the students in those sections. I have not been able to locate a syllabus.

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

As a U.S. government employee, I participate in the Thrift Savings Plan.

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

None.

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

I earn a salary as a federal employee. For other information, see my SF-278 as provided by the Office of Government Ethics.

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

See attached net worth statement.

22. **Potential Conflicts of Interest:**

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

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Justice's designated ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement I have entered into with the Department's designated ethics official.

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

In the event of a potential conflict of interest, I will consult with ethics officials in the Department of Justice.

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

Throughout my time in private practice, I maintained an active *pro bono* practice on behalf of a variety of clients and in several different areas. In recognition of my record of *pro bono* work, I received the law firm's John H. Pickering *Pro Bono* Award in 2003. In addition, I served for several years on the Board of Directors of the Washington Council of Lawyers, a voluntary bar association whose mission is to promote the practice of *pro bono* and public interest law.

Some of my *pro bono* clients were individuals, others were non-profit organizations, and one was an arm of local government. To give a few examples, early in my career I worked on a team of firm lawyers who successfully overturned the conviction and death sentence of a Georgia inmate on state habeas corpus review. Later, on behalf of the board of a non-profit organization, I supervised an investigation into allegations of misconduct by a member of the management. I represented a preschool in a zoning dispute and resulting settlement. I also represented individuals and organizations in several cases related to LGBT issues. In addition to the *Cook* case listed above, I handled a six-day jury trial against a major teaching hospital on behalf of a plaintiff who claimed that the hospital had prevented him from visiting his critically ill partner because he was not family. I also filed *amicus* briefs on behalf of a variety of organizations in cases relating to adoption of children by gay parents and same-sex marriage.

Of particular note, in 2007 and 2008, I supervised a team of lawyers that conducted an investigation, on behalf of the Council of the District of Columbia's Office of Tax and Revenue Investigation Special Committee, into the theft of over \$48 million in District of Columbia funds by Harriette Walters, a long-time employee in the Real Property Tax Administration of the Office of Tax and Revenue. (Ms. Walters pleaded guilty to federal charges on September 15, 2008.) We prepared a 100-page report that examined the facts and circumstances surrounding Walters's scheme and to make recommendations to help prevent a recurrence of any similar scheme to steal from the taxpayers of the District of Columbia.