UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Fernando Manzano Olguin

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

   United States District Judge for the Central District of California

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 Courthouse
   312 North Spring Street, Suite 901
   Los Angeles, California 90012

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

   1961; Los Angeles, California

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.

   1985 – 1989, U.C. Berkeley School of Law (Boalt Hall); J.D., 1989
   1985 – 1989, U.C. Berkeley Graduate School of Arts & Science; M.A., 1989
   1980 – 1982, 1983 – 1985, Harvard University; B.A. (*cum laude*), 1985

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.

   2001 – present
   United States District Court
   312 North Spring Street, Suite 901
   Los Angeles, California 90012
   United States Magistrate Judge

1995 – 2001
Traber, Voorhees & Olguin
128 North Fair Oaks Avenue, Suite 204
Pasadena, California 91101
Partner

1994 – 1995
Mexican American Legal Defense & Educational Fund
634 South Spring Street
Los Angeles, California 90014
Education Program Director

1991 – 1994
United States Department of Justice
Civil Rights Division, Housing and Civil Enforcement Section
P.O. Box 65998
Washington, D.C. 20035
Trial Attorney

1989 – 1991
United States District Court for the District of Arizona
Sandra Day O'Connor United States Courthouse
401 West Washington Street
Phoenix, Arizona 85003
Judicial Law Clerk to the Honorable C.A. Muecke (deceased)

Spring 1989
San Francisco Lawyers Committee for Urban Affairs
131 Steuart Street, Suite 400
San Francisco, California 94105
Law Clerk (work-study job)

Fall 1988
Kane, Ballmer & Berkman
515 South Figueroa Street, Suite 1850
Los Angeles, California 90071
Intern

Summer 1988
Rogers, Joseph, O'Donnell & Quinn
311 California Street
San Francisco, California 94104
Summer Associate

Summer 1988
Burns & Levinson
125 Summer Street

Boston, Massachusetts 02110
Summer Associate

Fall 1987
U.C. Berkeley
Ethnic Studies Department
Berkeley, California 94720
Teaching Assistant (work-study job)

Summer 1987
Los Angeles County Public Defender
210 West Temple Street, 19th Floor
Los Angeles, California 90007
Law Clerk

Fall 1986
ACLU of Northern California
39 Drumm Street
San Francisco, California 94111
Law Clerk (work-study job)

Summer 1986
O'Donnell & Gordon (no longer exists)
Summer Associate

Summer 1985
West San Gabriel Valley Consortium (no longer exists)
Administrative Assistant

Other Affiliations (uncompensated):

2011 – present
Western Justice Center Foundation
55 South Grand Avenue
Pasadena, California 91105
Member, Board of Directors

1995 – present
Centro Latino for Literacy
1709 West Eighth Street, Suite A
Los Angeles, California 90017
Member, Board of Directors (1995 – present)
Vice-President (1998 – 2001)
Treasurer (2001)

1999 – 2000
Sequoyah School

535 South Pasadena Avenue
Pasadena, California 91105
At-large Trustee

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 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.

   Judicial Excellence Award, Mexican American Bar Association (2010)
   United States Justice Department Special Commendation Award (1993 and 1994)
   United States Attorney General's Honors Program (1991)
   U.C. Berkeley, Foreign Language & Area Studies Fellowship
   John Harvard Scholarship

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.

   Administrative Office of the United States Courts
   - Human Resources Advisory Committee (2007 – 2010)
   - Pro Se Working Group (2011 – 2012)

   American Bar Association
   - Litigation Section (1990 – present)
   - Judicial Division (2002 – present)

   Asian-Pacific American Bar Association (1998 – present)
   California Bar Association
   Department of Justice Latino Employees Association (1991 – 1994)
   Federal Bar Association (1999 – present)
   Federal Magistrate Judges Association (2001 – present)
   Hispanic National Bar Association (2008 – present)
   Latina Lawyers Bar Association (2001 – present)
   Los Angeles County Bar Association (1995 – present)
   - Federal Courts Committee (1995 – 2000)

   Mexican-American Bar Association (1997 – present)
   Ninth Circuit Judicial Conference
   - Lawyer Representative for Central District of California (1996 – 2001)
   - Clerk's Liaison Committee (1996 – 2001)

   State Bar Access & Fairness Leadership Academy, Advisory Committee (2003 – 2006)
   United States District Court for the Central District of California
   - Ad Hoc Pro Bono/Pro Se Committee (2005 – 2010)

Attorney Liaison Committee (2003, 2007)
Civil Justice Reform Act and Alternative Dispute Resolution (2006)
Coordinator, Pro Bono Civil Rights Program (2003 – 2007)
Federal/State Liaison Committee (2002, 2007 – 2008)
Gender, Ethnic, Racial Bias & Professional Civility (2002, 2004 – 2005)
Information Technology Committee (2008 – 2010)
Magistrate Judges Committee (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.

California, 1990

My membership in the California Bar was inactive for several months during my clerkship in 1991, and returned to inactive status upon my appointment as a United States Magistrate Judge for the Central District of California. Otherwise, there have been no lapses in membership.

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

Supreme Court of the United States, 1996
United States District Court for the Central District of California, 1992
California Supreme Court, 1990

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.

Centro Latino for Literacy (1995 – present)
Board of Directors (1995 – present)
Vice-President (1998 – 2001)
Treasurer (2001)
Harvard-Radcliffe Club of Southern California (1998 – present)
Los Vecinos, South Pasadena Unified School District (2009 – present)
Marengo Elementary School, PTA (2009 – present)

Pasadena Human Services Commission (1999 – 2000)
Pasadena Unified School District-Wide Facilities Master Plan Committee (1998 – 1999)
Sequoyah School
At-large Trustee (1999 – 2000)
Western Justice Center Foundation (2011 – present)
Board of Directors (2011 – present)

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

To the best of my knowledge, none of the organizations listed in 11a discriminates or has ever discriminated on the basis of race, sex, religion or national origin.

12. **Published Writings and Public Statements**:

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

With Diane August, Kenji Hakuta, and Delia Pompa, LEP Students and Title I: A Guidebook for Educators (Nov. 1995). Copy supplied.

"Guatemalan Refugees in Mexico: International Legal Standards," 13 The Fletcher Forum 327 (Summer 1989). Copy supplied.

I do not recall any other publications, although there may be some I have been unable to recall or identify.

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 was interviewed by the California Higher Education Policy Center about the Center's draft policy recommendations in *Time for Decision* (1994) for a report

on the views of higher education policymakers, *Preserving the Legacy: A Conversation with California Leaders* (March 1995). 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.

Letter to Pasadena Mayor Bogaard requesting a waiver of the residency requirement so I could complete my term on the Human Services Commission, July 14, 2000. Copy supplied.

Between 1999 and 2000, I occasionally made statements during Human Services Commission meetings. I have been unable to obtain notes, transcripts, or recordings of these meetings.

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.

After reviewing my records and publicly-available information, I have listed all presentations, speeches and remarks that I am able to identify.

December 1, 2011: Swore in newly admitted lawyers to the federal court and gave brief remarks. The ceremony is held in Pasadena, California and sponsored by the California State Bar. In general, every June and December I swear in newly admitted lawyers to the federal court and give the same remarks. Remarks supplied.

October 12, 2011: Spoke at a luncheon in Los Angeles, California sponsored by the United States District Court for the Central District of California to celebrate Hispanic/Latino Heritage Month. I introduced the featured speaker, California Supreme Court Associate Justice, Carlos Moreno (Ret.). Remarks supplied.

September 28, 2011: Swore in and gave a speech to new citizens at a naturalization ceremony sponsored by the United States District Court for the Central District of California and the Department of Homeland Security, Immigration and Customs Enforcement. In general, I preside over one to two naturalization ceremonies a year and give the same remarks at locations selected by the United States District Court. Remarks supplied.

September 26, 2011: Served on a panel with two other judges, entitled "Tips from the Bench." I discussed discovery in federal court litigation and responded to questions from the audience relating to litigation in federal court. I have no notes, transcripts or recordings. The panel was sponsored by the Legal Aid Foundation of Los Angeles, 1102 Crenshaw Boulevard, Los Angeles, California 90019.

February 24, 2011: Served on a panel entitled "Basics of Civil Rights Actions," Barristers Section of the Los Angeles County Bar Association, Los Angeles, California. Notes supplied.

October 28, 2010: Gave remarks following receipt of Judicial Excellence Award from the Mexican American Bar Association, Los Angeles, California. Remarks supplied.

October 2, 2010: Gave speech at luncheon sponsored by the California Employment Lawyers Association, Los Angeles, California. Remarks supplied.

May 3, 2009: Served on a panel with another judge entitled "Views from the Bench." I have no notes, transcripts or recordings. The panel was held in Carlsbad, California and sponsored by the Labor and Employment Law Section of the Los Angeles County Bar Association, 1055 West Seventh Street, Suite 2700, Los Angeles, California 90017.

August 1, 2008: Gave speech to high school students attending a summer residential program sponsored by L.A. Works at the University of New Mexico. Remarks supplied.

April 5, 2008: Served on a panel entitled "Definition of Success: Varied Legal Perspectives" during the University of Pennsylvania Latin American Law Students Association's annual conference. I have no notes, transcripts or recordings. The panel was sponsored by the Latin American Law Students Association of the University of Pennsylvania Law School, 3400 Chestnut Street, Philadelphia, Pennsylvania 19104.

July 15, 2005: Served on a panel with two other individuals entitled "Latest Developments in Wage & Hour Law." I spoke about the Class Action Fairness Act. The panel was held in Los Angeles, California and sponsored by the California Employment Lawyers Association. Outline supplied.

September 6, 2003: Gave keynote speech at the State Bar of California's 2003 Diversity Awards Reception in Anaheim, California. Remarks supplied.

June 2, 2002 and December 7, 2002: Gave brief remarks at ceremony sponsored by the University of West Los Angeles Law School for its students who had passed the bar exam. Following remarks, I gave the oath of admission to the federal court to the new admittees. Remarks supplied.

December 3, 2002: Gave brief remarks at ceremony sponsored by Whittier Law School, Costa Mesa, California, for its students who had passed the bar exam. Following remarks, I gave the oath of admission to the federal court to the new admittees. Remarks supplied.

November 19, 2002: Served on a panel with two other U.S. Magistrate Judges to discuss Social Security and be introduced to the Social Security bar. I have no notes, transcripts and recordings. The panel was held in Los Angeles, California and sponsored by the Los Angeles County Bar Association, 1055 West Seventh Street, Suite 2700, Los Angeles, California 90017.

August 15, 2002: Gave brief remarks preceding the swearing-in of the incoming board of directors and President of the Latina Lawyers Bar Association, Los Angeles, California. Remarks supplied.

March 14, 2002: Gave brief remarks at a reception sponsored by the Latina Lawyers Bar Association and the Women's Lawyers of Los Angeles, Los Angeles, California. Remarks 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.

Susan McRae, "Jurist Owes It All to Upward Bound Program in Barrio," Los Angeles Daily Journal, May 6, 2003. Copy supplied.

October 1, 1999: Press conference regarding a housing discrimination lawsuit filed by my clients against their former employer. Press coverage of the conference is listed below:

> Thao Hua, "Ex-Managers Accuse Landlord of Racial Bias," Los Angeles Times, Oct. 2, 1999. Copy supplied.
>
> Press release, "Discrimination Suit Alleges Landlord's Overt Bias," National Fair Housing Advocate Online, Oct. 1, 1999. Copy supplied.

Kenneth Ofgang "Justices Extend Wrongful Termination Tort to Age Bias," Metropolitan New Enterprise, Aug. 28, 1997. Copy supplied.

July 23, 1997: Press conference regarding the certification of two classes against a southern California retail clothing store chain. A copy of the press release is supplied.

Skip Morgan, "Ex-County Worker Claims Harassment," Press Enterprise, Oct. 11, 1996. Copy supplied.

Ines Pinto Alicea, "Outlook on Washington: Congress Targets Illegal Immigrants," Hispanic Outlook in Higher Education, June 15, 1995. Copy supplied.

Ines Pinto Alicea, "Outlook on Washington: Dismantling Affirmative Action," Hispanic Outlook in Higher Education, June 1, 1995. Copy supplied.

Ines Pinto Alicea, "Outlook on Washington: GOP Proposes Merging Education Department," Hispanic Outlook in Higher Education, May 15, 1995. Copy supplied.

Ines Pinto Alicea, "Outlook on Washington: Republicans Look to Cut Financial Aid," Hispanic Outlook in Higher Education, May 1, 1995. Copy supplied.

Richard Martin, "Prepayment Policy at Denny's Sparks Civil Rights Uproar," Nation's Restaurant News, Jan. 27, 1992. Copy supplied.

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

In July 2001, I was appointed and sworn in as a United States Magistrate Judge for the Central District of California, pursuant to 28 U.S.C. § 636. As a United States Magistrate Judge, I preside over both civil and criminal matters. The civil cases include habeas corpus petitions, pro se civil rights cases, social security disability appeals, admiralty, extradition, applications for writs of attachment, and general civil cases where the parties have consented to the Magistrate Judge's jurisdiction for all purposes. Discovery motions and settlement conferences comprise another significant portion of my civil duties. My criminal work involves bail and detention matters, taking guilty pleas and imposing sentences in misdemeanor cases, making probable cause determinations on search and arrest warrants, and ruling on requests for pen registers, trap and trace devices, and electronic communications records.

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

   i. Of these, approximately what percent were:

jury trials:	100%
bench trials:	0%
civil proceedings:	100%
criminal proceedings:	0%

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

See attached list.

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

1. Naylor v. Candelaria, Warden, Case No. CV 03-0154 JFW (FMO)

Petitioner filed a petition for writ of habeas corpus alleging, among other things, that the trial court erred in failing to hold a hearing on the issue of whether he was competent to waive his right to counsel and represent himself. I issued a Report and Recommendation ("R&R"), finding that the record, viewed as a whole, did not reveal the type of "overwhelming indications of incompetence" that are present in cases where a "bona fide doubt" has been found to exist. The District Judge adopted my R&R in its entirety. A copy of the R&R is supplied. The Ninth Circuit, in an unpublished disposition, affirmed the decision in all respects. Naylor v. Candelaria, 143 F. App'x 773 (9th Cir. 2005).

Counsel for Petitioner:

Sean K. Kennedy
Federal Public Defender's Office
321 East Second Street
Los Angeles, CA 90012
(213) 894-2854

Hon. Maria E. Stratton
Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, CA 90012
(213) 974-6231

Counsel for Respondent:

Joseph P. Lee
Office of the California Attorney General
300 South Spring Street, Suite 5000
Los Angeles, CA 90013
(213) 897-2398

2. Sahakian, et al. v. City of Glendale, et al., Case No. CV 05-7419 (FMO)

The parties consented to my jurisdiction for all purposes. Plaintiffs brought suit against the City of Glendale and four of its police officers following a confrontation that occurred outside of plaintiffs' apartment complex after officers were called to investigate a "shots-fired" incident. One of the officers approached one of the plaintiffs to determine if he was involved in the incident. The officer asked the plaintiff some questions

and patted him down for weapons. During the pat down, a struggle ensued and the officer applied a "twist lock control" to the plaintiff's left arm. Thereafter, with the assistance of other officers, the officer took the plaintiff to the ground and handcuffed him. While the officers were taking the plaintiff to the patrol car, the plaintiff's sister and mother became engaged in an altercation with the officers and both were ultimately handcuffed. Plaintiffs brought the action pursuant to 42 U.S.C. § 1983 for violation of their constitutional right to be free from excessive force. They also raised a Monell claim for violation of their civil rights by a public entity, and a civil conspiracy claim. After I granted summary judgment in defendants' favor as to plaintiffs' Monell and civil conspiracy claims, the case proceeded to a jury trial. A copy of the summary judgment decision is supplied. The jury returned a verdict in favor of defendants. The case was affirmed on appeal. Sahakian v. City of Glendale, 388 F. App'x 679 (9th Cir. 2010).

Counsel for Plaintiffs:

Mark Anthony Davis
Mark A. Davis Law Offices
750 East Green Street, Suite 204
Pasadena, CA 91101
(626) 440-0477

Paul W. Wong
Law Offices of Paul Wong
215 North Marengo Avenue, Suite 135
Pasadena, CA 91101
(626) 585-1587

Counsel for Defendants:

Ann M. Maurer
Glendale City Attorney's Office
613 East Broadway, Suite 220
Glendale, CA 91206
(818) 548-2080

3. Lundquist v. Continental Casualty Co., et al., Case No. CV 02-9602 (FMO)

I presided over this case by consent of the parties. Plaintiff alleged that her disability benefits were improperly terminated in violation of ERISA. After considering the administrative record, the parties' trial briefs and counsels' oral argument, I found that the insurance company's denial of benefits was unreasonable and reversed the company's decision to terminate plaintiff's benefits. Lundquist v. Continental Casualty Co., 394 F. Supp. 2d 1230 (C.D. Cal. 2005).

Counsel for Plaintiff:

Glenn R. Kantor
Kantor & Kantor LLP

19839 Nordhoff Street
Northridge, CA 91324
(818) 886-2525

Counsel for Defendants: Robert F. Keehn
Law Office of Robert F. Keehn
1875 Century Park East, Suite 700
Los Angeles, CA 90067
(310) 551-6525

4. Merolillo v. Felker, Warden, Case No. CV 05-0197 RGK (FMO)

Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that: (1) his trial counsel rendered ineffective assistance by failing to request that the jury be properly instructed on causation; (2) the trial court erred by failing to correctly instruct the jury on causation; and (3) the trial court erred by allowing the prosecutor to elicit inadmissible hearsay evidence that the victim's death was caused by brain trauma in violation of petitioner's Sixth Amendment right to confront the witnesses against him. I issued an R&R, finding that defense counsel's failure to request the causation instruction was a sound tactical decision, as it was consistent with petitioner's defense, petitioner was not prejudiced by the trial court's failure to sua sponte instruct the jury with the causation instruction, and any error in allowing the opinion of the non-testifying pathologist to be presented to the jury did not have a substantial and injurious effect on the verdict. The District Judge adopted the R&R in its entirety. Merolillo v. Felker, 2008 WL 4820768 (C.D. Cal. 2008). The case was reversed on appeal. See Merolillo v. Yates, 663 F.3d 444 (9th Cir. 2011), pet. for cert. filed, 2012 WL 727232 (March 5, 2012).

Counsel for Petitioner: Michael Tanaka
Federal Public Defender's Office
321 East Second Street
Los Angeles, CA 90012
(213) 894-4140

Counsel for Respondent: Teresa Torreblanca
Office of the California Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
(619) 645-2279

5. Taylor v. Glendale Police Department, et al., Case No. CV 03-4870 (FMO)

The parties consented to have me preside over this case for all purposes. Plaintiff brought suit against the City of Glendale and three of its police

officers arising out of a confrontation that occurred after officers were called to investigate a noise complaint. Plaintiff was placed in handcuffs and arrested for resisting, delaying, or obstructing an officer in violation of California law. Plaintiff alleged federal and state excessive force, false arrest, and malicious prosecution claims. After granting in part and denying in part defendants' motion for summary judgment, the case settled. A copy of the summary judgment decision is supplied.

Counsel for Plaintiff:

R. Samuel Paz
Law Offices of R. Samuel Paz
5711 West Slauson Avenue, Suite 100
Culver City, CA 90230
(310) 410-2981

Counsel for Defendants:

Ann M. Maurer
Glendale City Attorney's Office
613 East Broadway, Suite 220
Glendale, CA 91206
(818) 548-2080

6. Gibson v. Ortiz, Warden, Case No. CV 01-3661 CJC (FMO)

Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that the trial court's jury instructions concerning "prior bad act" evidence denied petitioner his due process right to be convicted only upon a showing of proof beyond a reasonable doubt. I issued an R&R, finding that the trial court's instructional error misdirected the jury on the burden of proof and unconstitutionally reduced the required burden to a preponderance of the evidence standard. A copy of the R&R is supplied. After the District Judge adopted the R&R, the Ninth Circuit affirmed in a published decision. See Gibson v. Ortiz, 387 F.3d 812 (9th Cir. 2004).

Counsel for Petitioner:

Ralph H. Goldsen
Ralph H. Goldsen Law Offices
5662 Calle Real, Suite 389
Goleta, CA 93117
(805) 681-0400

Counsel for Respondent:

Jennevee H. DeGuzman
Office of the California Attorney General
P.O. Box 944255
Sacramento, CA 94244
(916) 445-9555

Hon. Deborah J. Chuang
Lamoreuux Justice Center
341 The City Drive South

Orange, CA 92868
(657) 622-5544

7. Fortune Elite Enterprises, LLC v. DHL Express Americas, Case No. CV 07-0061 (FMO)

The parties consented to my jurisdiction for all purposes. This was an action for damages stemming from the loss of plaintiff's shipment of goods that were transported by defendant. The Complaint, which was removed from state court, asserted four claims against defendant: (1) breach of contract; (2) fraud; (3) unfair business practices in violation of California Business and Professions Code § 17200 et seq.; and (4) bad faith. I granted defendant's motion for summary judgment, finding that plaintiff's state law claims were preempted by the Airline Deregulation Act of 1978 because the claims related to the rates and services of an air cargo carrier. I also found that there were no genuine issues of material fact in dispute with respect to plaintiff's federal common law claim for breach of contract. I found that it was undisputed that plaintiff's claim for lost or damaged goods was barred by the terms of carriage because plaintiff failed to provide defendant with timely written notice of its claim and there was no evidence that any of defendant's employees converted the shipment for their own use. A copy of the summary judgment decision is supplied. The Ninth Circuit dismissed plaintiff's appeal. See Fortune Elite Enterprises, LLC v. DHL Express (USA), Inc., Case No. 08-55138 (9th Cir. Dec. 17, 2008).

Counsel for Plaintiff:
Margarita Leslie Veloso Tioseco
22733 Macfarlane Drive
Woodland Hills, CA 91364
No phone number available

Counsel for Defendant:
David R. Shane
Robert J. Taitz
Shane and Taitz
1000 Drakes Landing Road, Suite 200
Greenbrae, CA 94904
(415) 464-2020

8. Najera v. Officer Batteny, et al., Case No. CV 00-0809 (FMO)

In this case, which was brought under 42 U.S.C. § 1983, the parties consented to my jurisdiction for all purposes. Plaintiff alleged excessive force in violation of the Fourth Amendment as well as a violation of his right to equal protection, and state claims for assault and battery, negligent infliction of emotional distress, and intentional infliction of emotional distress. After I ruled on various pretrial matters, the case ultimately settled.

Counsel for Plaintiff:	Lisa Woodward Lunt Office of the Federal Public Defender 6411 Ivy Lane, Suite 710 Greenbelt, MD 20770 (301) 344-0600 Michel F. Mills 14121 Beach Boulevard Westminster, CA 92683 (714) 892-2936
Counsel for Defendants:	Cory M. Brente Los Angeles City Attorney's Office City Hall East 200 North Main Street, 6th Floor Los Angeles, CA 90012 (213) 978-6900

9. United States v. One 2000 Range Rover Rhino, Case No. CV 01-4596 (FMO)

The parties consented to have me preside over the case for all purposes. This was a civil forfeiture case brought by the federal government and contested by the claimant, who sought to have the Range Rover vehicle returned to him. After conducting various pretrial proceedings (e.g., ruling on disputed jury instructions and motions in limine), the case settled on the day jury trial was scheduled to commence.

Counsel for Plaintiff:	John E. Lee United States Attorney's Office, Civil Division 300 North Los Angeles Street, Suite 7516 Los Angeles, CA 90012 (213) 894-3995
Counsel for Defendant:	Jerome A. Kaplan Kaplan Kenegos and Kadin 9150 Wilshire Boulevard, Suite 175 Beverly Hills, CA 90212 (310) 859-7700

10. Calles v. Alameida, Jr., Warden, Case No. ED CV 02-0212 R (FMO)

Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that the questions the police asked him in his garage following a shooting in petitioner's home amounted to custodial interrogation and,

therefore, the police were obligated to advise him of his Miranda rights, their failure to do so constituted a violation of his constitutional rights, and petitioner's subsequent custodial statements were involuntary. I issued an R&R finding that the initial questioning of petitioner did not constitute custodial interrogation, the record did not support petitioner's contention that his statements had been coerced, and the state court's conclusion that petitioner's statements were voluntary was neither contrary to, nor an unreasonable application of, clearly established federal law. A copy of the R&R is supplied. After the District Judge adopted my R&R in its entirety, petitioner appealed. The Ninth Circuit denied petitioner's request for a certificate of appealability, effectively affirming my denial of the habeas petition in all respects. Calles v. Alameida, Case No. 05-56141 (9th Cir. Mar. 7, 2006).

Counsel for Petitioner:

Patrick M. Ford
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1901 First Avenue, Suite 400
San Diego, CA 92101
(619) 236-0679

Counsel for Respondent:

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

1. Sahakian, et al. v. City of Glendale, et al., Case No. CV 05-7419 (FMO). Opinion supplied in response to Question 13(c).

Counsel for Plaintiffs:

Mark Anthony Davis
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(626) 440-0477

Paul W. Wong
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Counsel for Defendants: Ann M. Maurer
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Glendale, CA 91206
(818) 548-2080

2. Lundquist v. Continental Casualty Co., et al., Case No. CV 02-9602 (FMO), 394 F. Supp. 2d 1230 (C.D. Cal. 2005).

Counsel for Plaintiff: Glenn R. Kantor
Kantor & Kantor LLP
19839 Nordhoff Street
Northridge, CA 91324
(818) 886-2525

Counsel for Defendants: Robert F. Keehn
Law Office of Robert F. Keehn
1875 Century Park East, Suite 700
Los Angeles, CA 90067
(310) 551-6525

3. Fortune Elite Enterprises, LLC v. DHL Express Americas, Case No. CV 07-0061 (FMO). Opinion supplied in response to Question 13(c).

Counsel for Plaintiff: Margarita Leslie Veloso Tioseco
22733 Macfarlane Drive
Woodland Hills, CA 91364
No phone number available

Counsel for Defendant: David R. Shane
Robert J. Taitz
Shane and Taitz
1000 Drakes Landing Road, Suite 200
Greenbrae, CA 94904
(415) 464-2020

4. Naylor v. Candelaria, Warden, Case No. CV 03-0154 JFW (FMO). Opinion supplied in response to Question 13(c).

Counsel for Petitioner: Sean K. Kennedy
Federal Public Defender's Office
321 East Second Street
Los Angeles, CA 90012
(213) 894-2854

Hon. Maria E. Stratton
Stanley Mosk Courthouse

111 North Hill Street
Los Angeles, CA 90012
(213) 974-6231

Counsel for Respondent: Joseph P. Lee
Office of the California Attorney General
300 South Spring Street, Suite 500
Los Angeles, CA 90013
(213) 897-2398

5. Allied Irish Banks, P.L.C. v. R2D2, LLC, Case No. 08-8527 RSWL (FMO). Order Granting Application for Writ of Attachment supplied.

Counsel for Plaintiff: Mary H. Haas
Davis Wright Tremaine LLP
865 South Figueroa Street, Suite 2400
Los Angeles, CA 90017
(213) 633-6800

Counsel for defendant: Susan Hilary Tregub
17554 Weddington Street
Encino, CA 91316
(818) 679-9278

6. Calles v. Alameida, Warden, Case No. ED CV 02-0212 R (FMO). Decision supplied in response to Question 13(c).

Counsel for Petitioner: Patrick M. Ford
Patrick M. Ford Law Offices
1901 First Avenue, Suite 400
San Diego, CA 92101
(619) 236-0679

Counsel for Respondent: Kevin R. Vienna
Office of the California Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
(619) 645-2204

7. Le v. Astrue, Case No. SA CV 06-0681 (FMO), 540 F. Supp. 2d 1144 (C.D. Cal. 2008).

Counsel for Plaintiff: Jimmy Ogbonna Ewenike
Jimmy O. Ewenike Law Offices
434 South Euclid Street, #104
Anaheim, CA 92802
(714) 491-4840

Counsel for Defendant:

Sharla Cerra
26329 Regent Avenue
Lomita, CA 90717
(310) 617-3527

8. Gibson v. Ortiz, Warden, Case No. CV 01-3661 CJC (FMO). Decision supplied in response to Question 13(c).

Counsel for Petitioner:

Ralph H. Goldsen
Ralph H. Goldsen Law Offices
5662 Calle Real, Suite 389
Goleta, CA 93117
(805) 681-0400

Counsel for Respondent:

Jennevee H. DeGuzman
Office of the California Attorney General
P.O. Box 944255
Sacramento, CA 94244
(916) 445-9555

Hon. Deborah J. Chuang
Lamoreuux Justice Center
341 The City Drive South
Orange, CA 92868
(657) 622-5544

9. Ekot v. Kornelis, Case No. SA CV 03-0547 JVS (FMOx). Order denying third-party Motion for Protective Order supplied.

Counsel for Plaintiff:

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Hunters Hill, NSW 2110
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Counsel for Third-Party:

Thomas K. Bourke
Thomas K. Bourke Law Offices
601 West Fifth Street, 8th Floor
Los Angeles, CA 90071
(213) 623-1092

10. Core Industries, Inc. v. Shinn Fu Corp., Case No. CV 11-3100 PA (FMO). Order Denying Application for Writ of Attachment supplied.

Counsel for Plaintiff:	C. Dennis Loomis Baker and Hostetler LLP 12100 Wilshire Boulevard, 15th Floor Los Angeles, CA 90025 (310) 820-8800
Counsel for Defendant:	Kenneth L. Perkins, Jr. Musick, Peeler & Garrett LLP 650 Town Center Drive, Suite 1200 Costa Mesa, CA 92626 (714) 668-2441

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

Merolillo v. Felker, 2008 WL 4820768 (C.D. Cal. 2008), rev'd, Merolillo v. Yates, 663 F.3d 444 (9th Cir. 2011), pet. for cert. filed, 2012 WL 727232 (Mar. 5, 2012).

Maxwell v. Roe, Case No. CV 02-9555 JVS (FMO), rev'd, 628 F.3d 486 (9th Cir. 2010), cert. denied, 132 S. Ct. 611 (2012).

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

Merolillo v. Felker, Case No. ED CV 05-0197 RGK (FMO). Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that the trial court committed prejudicial error by allowing the prosecutor to elicit inadmissible hearsay evidence that the victim's death was caused by brain trauma in violation of petitioner's Sixth Amendment right to confront the witnesses against him. I issued an R&R, finding that any error in allowing the opinion of the non-testifying pathologist to be presented to the jury did not have a substantial and injurious effect on the verdict because, while the non-testifying pathologist was the only expert who opined that head trauma contributed to the victim's death, his testimony was consistent with the two prosecution experts who testified at trial that petitioner's conduct contributed to the victim's death. After the District Judge accepted the R&R in its entirety, see Merolillo v. Felker, 2008 WL 4820768 (C.D. Cal. 2008), the Ninth Circuit reversed on the ground that the trial court's error in admitting inadmissible hearsay evidence had a substantial and injurious effect on the verdict. See Merolillo v. Yates, 663 F.3d 444 (9th Cir. 2011), pet. for cert. filed, 2012 WL 727232 (Mar. 5, 2012).

Murphy v. Dexter, Case No. CV 08-1313 ODW (FMO). Petitioner alleged that the evidence was insufficient to prove that his prior conviction was a serious or violent felony within the meaning of California's "three strikes" law. I issued an R&R finding that, while the record did not indicate whether petitioner had pled guilty to first or second degree burglary, there was sufficient evidence to demonstrate that petitioner had a prior serious or violent felony conviction since the trial court could reasonably have concluded that the sentencing court's finding that "an unusual circumstance" justified probation necessarily indicated petitioner had pled guilty to first degree burglary under the relevant sections of the California Penal Code. After the District Judge accepted the R&R in its entirety, see Murphy v. Dexter, 2008 WL 4345163 (C.D. Cal. 2008), the Ninth Circuit reversed, finding that the state appellate court was objectively unreasonable in concluding that any rational trier of fact could have found that petitioner was convicted of a serious prior offense within the meaning of California's "three strikes" law. See Murphy v. Sandor, 447 F. App'x 824 (9th Cir. 2011).

Maxwell v. Roe, Case No. CV 02-9555 JVS (FMO). Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that his constitutional rights were violated because: (1) he was convicted on the basis of false testimony of a jailhouse informant, Storch; and (2) the prosecution failed to investigate and disclose material and exculpatory evidence about two jailhouse informants, including Storch. I issued an R&R, concluding that the state court's finding that Storch did not lie when he testified he shared a cell with petitioner for approximately three and a half weeks was not unreasonable. Also, even if Storch lied about the deal he received from the prosecution, his lies were not prejudicial to petitioner. Finally, I found that the prosecution did not violate Brady because petitioner did not show that the evidence allegedly withheld was material or prejudicial. The District Judge accepted the R&R in its entirety. A copy of the R&R is supplied. The Ninth Circuit reversed, finding that petitioner was convicted on the basis of false and material evidence and the prosecution withheld material evidence in violation of Brady. See Maxwell v. Roe, 628 F.3d 486 (9th Cir. 2010), cert. denied, 132 S. Ct. 611 (2012).

Ward as next friend of Crystal M. v. Ortega, Case No. ED CV 02-1022 MMM (FMO). Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that she did not make a knowing and intelligent waiver of her Miranda rights. I issued an R&R, finding that petitioner could not demonstrate that she did not knowingly and intelligently waive her Miranda rights where, other than her age, she did not put forth any evidence indicating that she did not understand her Miranda rights, and the record reflected that petitioner understood her Miranda rights and that petitioner appeared to be "street smart." The District Judge accepted the R&R in its entirety. A copy of the R&R is supplied. The Ninth Circuit reversed, finding that the state court failed to consider the totality of the circumstances and made an erroneous factual determination regarding a pivotal fact. See Ward v. Ortega, 379 F. App'x 687 (9th Cir. 2010).

Monaco v. Moberg, et al., Case No. CV 07-6536 CAS (FMO). Plaintiff filed a civil rights complaint alleging that defendants used excessive force when they assaulted him without provocation and that defendants proceeded to cover up this incident by submitting false allegations against him, which resulted in plaintiff being improperly convicted of battery. I issued an R&R, recommending that the complaint be dismissed with prejudice for failure to state a claim. The District Judge adopted the R&R in its entirety. A copy of the R&R is supplied. The Ninth Circuit vacated the judgment and remanded for the limited purpose of entering a dismissal without prejudice. See Monaco v. Moberg, 362 F. App'x 866 (9th Cir. 2010).

Diouf v. Mukasey, et al., Case No. CV 06-7452 TJH (FMO). Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that his prolonged detention while removal proceedings were pending against him violated the Immigration and Naturalization Act ("INA"). I issued an R&R, recommending that the writ be granted because petitioner's detention for nearly two years was excessive and unauthorized by the controlling statute, 8 U.S.C. § 1226(c). The District Judge accepted the R&R in its entirety. A copy of the R&R is supplied. The Ninth Circuit reversed on the ground that, at the time the district court granted the writ, petitioner was being detained under 8 U.S.C. § 1231(a)(6). Also, while petitioner's detention undoubtedly extended beyond the presumptively reasonable period of six months under § 1231(a)(6), he failed to demonstrate that there was no significant likelihood of removal in the reasonably foreseeable future. See Diouf v. Mukasey, 542 F.3d 1222 (9th Cir. 2008).

Roman v. Hedgpeth, Case No. ED CV 04-1226 JFW (FMO). Petitioner filed a petition for writ of habeas corpus alleging, among other claims, that his right to a fair trial was violated by juror misconduct. I issued an R&R, recommending that the writ be granted because the state court's conclusion that petitioner's right to a fair trial was not violated by the jury's exposure to improper evidence of petitioner's two prior strikes was contrary to, and an unreasonable application of clearly established federal law, and was based on an unreasonable determination of the facts. Roman v. Hedgpeth, 2008 WL 4553137 (C.D. Cal. 2008). The District Judge accepted my R&R in part, concluding that the state court decision was not contrary to clearly established federal law, but it was based on an unreasonable application of clearly established federal law. See Roman v. Hedgpeth, 2008 WL 4553091 (C.D. Cal. 2008).

Burnham v. Barnhart, Case No. CV 03-3813 (FMO). Plaintiff alleged that the Commissioner of the Social Security Administration ("Commissioner") improperly rejected the opinion of his treating physician in denying his disability claim. I issued a decision, finding that the Commissioner properly considered the medical opinions in the record before concluding that plaintiff was not disabled. A copy of the decision is supplied. The Ninth Circuit remanded the matter to the Commissioner for further development of the record, finding that the medical evidence arguably supported plaintiff's claim for benefits, but that the stale state

of the record precluded a final determination on the matter. See Burnham v. Barnhart, 213 F. App'x 562 (9th Cir. 2006).

Brittain v. County of San Bernardino, et al., Case No. ED CV 01-0595 VAP (FMO). Plaintiff alleged that defendants violated her constitutional rights when one defendant acted to remove plaintiff's son from her custody. I issued an R&R, recommending that defendants' motion for summary judgment be denied in part because a jury could conclude that the state's decision to remove plaintiff's child from her custody without notice and a hearing in the absence of an emergency violated her procedural due process rights. I also concluded that a genuine issue of material fact existed as to whether the actions of the defendant who removed plaintiff's son from her custody violated plaintiff's substantive due process rights. The District Judge adopted the R&R in its entirety. A copy of the R&R is supplied. The Ninth Circuit reversed, finding that plaintiff failed to allege a sufficient deprivation of liberty and defendants' actions were not conscience shocking. Additionally, the Due Process Clause did not require a pre-deprivation hearing before plaintiff could be deprived of one week of visitation with her child. See Brittain v. Hansen, 451 F.3d 982 (9th Cir. 2006).

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.

As a Magistrate Judge, I issue orders on non-dispositive matters and in dispositive matters where the parties have consented to magistrate judge jurisdiction. I also issue reports and recommendations in habeas corpus and pro se civil rights cases and dispositive orders in social security disability appeals. My non-dispositive orders include discovery motions, applications for writs of attachment, and admiralty and extradition cases. The orders and reports and recommendations I issue are filed with the court's electronic filing system. While very few orders or reports and recommendations are published, many of the substantive decisions are posted on Westlaw and/or LexisNexis.

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 have not issued any opinions that addressed any significant federal or state constitutional issues.

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

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

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

    a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

    b. a brief description of the asserted conflict of interest or other ground for recusal;

    c. the procedure you followed in determining whether or not to recuse yourself;

    d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

    I follow the recusal statutes and the Code of Conduct for United States Judges. I also recuse myself if I have a relationship with counsel or a party such that it would be improper or create an appearance of impropriety for me to be a judge on the case. Our court does not employ an "automatic" recusal system. I evaluate each case when referred to me and when assigned for the parties' consent to my jurisdiction. CM/ECF maintains a conflict checking tool which I periodically update. The conflict checking tool runs cases against a list I maintain in the system. That list includes attorneys from my former firm, former law clerks, attorneys who are close personal friends, and other entities and individuals whose appearance before me could give rise to an appearance of a conflict. I also review cases as they proceed, examining the list of counsel and parties to determine if an association appears which is not listed in our conflict database.

    In the following cases, I recused myself due to personal, family or staff relationships, former professional relationships (e.g., former law firm, former law clerks) and/or because my impartiality might reasonably be questioned:

    Housing Rights Ctr., et al. v. Nijjar, et al., Case No. CV 02-9712 DSF (FFMx)
    Martinez v. City of South Gate, et al., Case No. CV 03-0979 JFW (SHx)
    UGG Holdings Inc. v. Severn, et al., Case No. CV 04-1137 JFW (PLAx)
    Shmoldas v. MBDA Inc., et al., Case No. CV 04-2287 PA (CWx)
    Unocal Corp. v. Lexington Ins. Co., et al., Case No. CV 05-1857 JFW (VBKx)
    Construction Laborers Trust Funds for Southern California Administrative Co. v. Alfa 26 Construction Co., et al., Case No. 05-3738 JFW (CWx)
    Atkins v. Gillette Co., et al., Case No. CV 05-4024 DDP (VBKx)
    Lipper v. Gillette Co., et al., Case No. CV 05-5022 DDP (VBKx)
    Marr v. Gillette Co., et al., Case No. CV 05-5024 DDP (VBKx)

Weaver v. Internal Affairs Clerk, US District Court Central, et al., Case No. CV 05-6123 UA (MLG)
Deckers Outdoor Corp. v. Chengs Enterprises Inc., Case No. CV 05-8297 DSF (RCx)
MGA Entertainment v. Hasbro Inc., Case No. CV 06-4915 JFW (FFMx)
Multi-Ethnic Immigrant Workers Organizing Network, et al. v. City of Los Angeles, et al., Case No. CV 07-3072 AHM (FFMx)
Disney Enterprises Inc. v. Rizzo, et al., Case No. CV 07-3215 ODW (CTx)
Sanrio Inc., et al. v. El Sol Trading, et al., Case No. CV 07-3608 RGK (MANx)
Nike Inc. v. Jones, et al., Case No. CV 07-3912 PA (JTLx)
The Harman Press v. AAA Cooper Transportation, et al., Case No. CV 07-6792 DSF (SHx)
Tomassi, et al. v. City of Los Angeles, Case No. CV 08-1851 DSF (SSx)
Eastwest United Group, Inc. v. American Bio-Synthetics Corp., et al., Case No. CV 08-4677 SJO (RCx)
Screen Actors Guild, Inc. v. The Skippy Limited Partnership, et al., Case No. CV 08-7807 ODW (FFMx)
The Regents of The University of California, et al. v. Comerchero, et al., Case No. CV 09-0862 MMM (Ex)
International Medical Research, Inc. v. Meco, et al., Case No. CV 09-0865 RGK (RZx)
Astorga, et al. v. GMAC Mortgage, LLC, et al., Case No. CV 09-1226 FMC (FFMx)
Lisker v. City of Los Angeles, et al., Case No. CV 09-9374 AHM (AJWx)
Waitt, et al. v. Internet Brands, Inc., et al., Case No. CV 10-3006 GHK (JCGx)
U.S. Equal Employment Opportunity Commission v. Garfield Medical Center, Inc., Case No. CV 10-6179 GHK (SHx)
United States v. City of Walnut, California, Case No. CV 10-6774 GW (MANx)
Placo San Bernandino, LLC v. City of San Bernardino, et al., Case No. CV 11-1187 GW (AGRx)
Hwa Seung Networks America Corp. v. Keystone Textile, Inc., et al., Case No. CV 11-2556 JHN (VBKx)
Li v. Costco Wholesale Corp., et al., Case No. 11-2996 JHN (JCGx)
Kuhns v. Deitchle, et al., Case No. CV 06-0917 ABC (MANx)

Five pro se litigants (four of whom are prisoners) filed motions requesting my recusal. All of the motions were denied by the assigned District Judge or by a District Judge randomly selected to review the motion.

Martin v. Cash, Case No. CV 10-1501 PSG (FMO)
McKinney v. Los Angeles County Sheriff Department, et al., Case No. CV 04-4185 RMT (FMO)
Sainthill v. LAPD, et al., Case No. CV 03-9168 SJO (FMO)
Sainthill v. U.S. Government, SSA, Case No. CV 02-4106 FMO
Villegas v. Cassim, Case No. CV 04-5888 FMC (FMO)
Zinchenko v. Scribner, Case No. CV 06-0953 JFW (FFM)

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

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

I have held no public offices. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

I have not been a member or held an office in any political party or election committee. I have never held a position or played a role in a political campaign.

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

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

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

From 1989 to 1991, I clerked for the Honorable C.A. Muecke, United States District Judge for the District of Arizona (deceased).

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.

1991 – 1994
United States Department of Justice
Civil Rights Division, HCE
P.O. Box 65998
Washington, D.C. 20035
Trial Attorney

1994 – 1995
Mexican American Legal Defense & Educational Fund
634 South Spring Street
Los Angeles, California 90014
Education Program Director

1995 – 2001
Traber, Voorhees & Olguin
128 North Fair Oaks Avenue, Suite 204
Pasadena, California 91101
Partner

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.

Since assuming the position of United States Magistrate Judge in 2001, I have conducted numerous settlement conferences and successfully settled a number of cases. However, I did not serve as a mediator or arbitrator while in private practice.

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 civil litigator. In 1991, after completing a two-year judicial clerkship with a District Judge from the District of Arizona, I was selected through the United States Attorney General's Honors Program to work in the Civil Rights Division of the United States Department of Justice. While at the Justice Department, I prosecuted violations of the federal Fair Housing Act and the Public Accommodations Act. I left the Department of Justice in 1994, and spent a year at the Mexican American Legal Defense and Educational Fund as the Director of the Education Program, where I was responsible for coordinating and monitoring education issues and matters on a national scale. From 1995 to my appointment as a Magistrate Judge in 2001, I was a named partner in the Pasadena-based law firm, Traber, Voorhees & Olguin, where I litigated housing and employment cases. In addition to my litigation matters, I was involved in firm administration, client intake, budgeting and recruiting.

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

During my practice, I worked as a lawyer for the federal government, a private, non-profit organization, and with a private law firm. The clients I represented were, with very few exceptions, economically disadvantaged,

women and/or members of minority groups. Nearly all of my clients, including the complainants on whose behalf the United States filed suit, lacked the financial and legal resources to pursue their cases.

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.

Prior to my appointment as a United States Magistrate Judge, all of my practice was in civil litigation. As an attorney with the United States Department of Justice (1991– 1994), I appeared in federal court 100% of the time. When I went into private practice, I appeared in both federal and state courts, with approximately 65% of my court appearances in federal court and 35% in state court. I would estimate that during my time in practice, I appeared in court four to seven times a month.

i. Indicate the percentage of your practice in:
   1. federal courts: 75%
   2. state courts of record: 25%
   3. other courts: 0%
   4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 100%
   2. criminal proceedings: 0%

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 tried two civil cases to verdict, serving as chief counsel in one case and associate counsel in the other case.

i. What percentage of these trials were:
   1. jury: 50%
   2. non-jury: 50%

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 practiced before the Supreme Court of the United States.

17. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases

were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. United States v. Denny's Restaurants, Inc., Civ. No. 93-20208-JW (N.D. Cal.) (consolidated)

I was lead counsel for the United States in a federal civil rights enforcement action alleging violations of the Public Accommodations Act. The case settled and resulted in what many consider to be the most comprehensive civil rights injunction ever entered into by the Department of Justice. The injunction, which I prepared and negotiated, applied to all Denny's restaurants in the country and required the appointment of a Civil Rights Monitor who was responsible for: (1) training all Denny's employees, managers and agents in the requirements of the Public Accommodations Act; (2) investigating all complaints of discrimination and making reasonable cause determinations as to whether discrimination had occurred; (3) ensuring that all of Denny's advertisements included Denny's non-discrimination policies; (4) ensuring that Denny's includes African-American and other non-white persons in its advertising; and (5) testing Denny's restaurants throughout the country to monitor Denny's practices.

Judge: Hon. James Ware

Opposing Counsel: Robert M. Barrett
Holcombe Bomar, P.A.
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(864) 594-5321

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Antonio M. Lawson
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(510) 878-7818

2. United States. v. Plaza Mobile Estates, et al., Civ. No. 91-6255-RMT(GHKx) c/w 92-3015-RMT (GHKx) (C.D. Cal.)

I was lead counsel for the United States in a federal civil rights enforcement action alleging violations of the Fair Housing Act on the basis of familial status. The case, which I initially filed on behalf of five complainants, was consolidated with another case and eventually became a multi-state pattern or practice case. A portion of the case settled, resulting in a comprehensive injunction and approximately $2.2 million in damages for the complainants and class members. The case is considered to be one of the largest familial status cases ever settled since the 1988 amendments to the Fair Housing Act, which added familial status as a protected class.

Judge: Hon Robert M. Takasugi (deceased)

Opposing Counsel: Barbara J. Ferguson
24 South Penobscot Court
Simpsonville, SC 29681
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Irvine, CA 92602
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Co-Counsel: William B. Senhauser
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Agoura Hills, CA 91301
(213) 345-9559

Brian F. Heffernan
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Alexandria, VA 22303
(703) 407-6839

Theresa M. Traber
Bert Voorhees
Traber & Voorhees
128 North Fair Oaks Avenue, Suite 204
Pasadena, CA 91103
(626) 585-9611

3. United States v. Casitas Capistrano Assoc., No. 1, et al., Civ. No. 92-2723-DWW (C.D. Cal.)

I was lead counsel in a federal civil rights enforcement action alleging violations of the Fair Housing Act. I filed the case on behalf of five complainants, four of whom claimed they were discriminated against because of their race and national origin when the manager of the condominium association made derogatory remarks about the complainants to the effect that Latinos "tend to multiply" and that the condominium complex "had no intention of becoming like the complex across the railroad track." After a bench trial, the trial judge ruled in favor of the United States and awarded over $60,000 in damages to the complainants. United States v. Casitas Capistrano Assoc. No. One, Inc., et al., 1993 WL 787196 (C.D. Cal. 1993).

Judge: Hon. David W. Williams (deceased)

Opposing Counsel: J. Stephen Pascover
San Bernardino County Superior Court
303 West Third Street, 4th Floor
San Bernardino, CA 92415
(909) 382-7685

James R. Robie (deceased)

Co-Counsel: Diane Houk
Emery Celli Brinckerhoff & Abady LLP
75 Rockefeller Plaza, 20th Floor
New York, NY 10019
(212) 763-5000

4. Pedroza v. Fashion 21, Inc., Civ. No. BC 079974 (Los Angeles Superior Court)

I was lead counsel in a class action against a retail clothing store chain that operates stores in California, Texas and Hawaii. Plaintiff served as a class representative for two classes: (1) an overtime class, consisting of all current and former employees who had been denied overtime wages due to them; and (2) a discrimination class, consisting of all current and former non-Asian-American employees who had been paid lower wages because of their race, ethnicity and/or national origin. After an overtime and wage class was certified by the court, the case settled on the eve of trial for an injunction and $1 million in damages and attorneys' fees.

Judge: Hon. Bruce E. Mitchell

Opposing Counsel: Bryan K. Sheldon
Christopher Kim
Lim, Ruger & Kim
1055 West Seventh Street, Suite 2800
Los Angeles, CA 90017
(213) 955-9500

Christine Chang-Min
Chambers Attorney
California Supreme Court
300 South Spring Street
Los Angeles, CA 90013
(213) 830-7574

5. Macias v. County of Riverside, et al., Civ. No. 97-1835 (Mc) (C.D. Cal. 1999)

I was lead counsel in a case alleging discrimination and harassment on the basis of gender and national origin against the Riverside County Public Defender's Office ("RCPD"). Plaintiff alleged, among other things, that her former supervisors engaged in an extended campaign of harassment, discrimination and retaliation against her because of her gender and national origin (Mexican), in violation of Title VII of the 1964 Civil Rights Act, 42 U.S.C. §§ 2000e, et seq., and the California Fair Employment and Housing Act, Cal. Gov't Code §§ 12900, et seq. The

case settled for approximately $400,000, including attorneys' fees and costs.

Judge: Hon. James W. McMahon (Ret.)
Hon. Carla Woehrle

Opposing Counsel: Hon. Robert M. Padia (Ret.)
1240 Lyndhurst Drive
Riverside, CA 92507
(unable to locate current telephone number)

Gail F. Montgomery
41720 Crazy Horse Canyon Road
Aguanga, CA 92536
(unable to locate current telephone number)

Arthur K. Cunningham
Lewis Brisbois Bisgaard & Smith LLP
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(909) 387-1130

Co-Counsel: Pegine E. Grayson
361 Plumosa Drive
Pasadena, CA 91107
(626) 755-1186

Carol Klauschie
255 East Temple Street
Los Angeles, CA 90012
(213) 894-2838

6. Stevenson v. Superior Court, 16 Cal. 4th 880 (1997) (California Supreme Court No. S052588)

This was an appeal from a state court of appeal decision upholding the trial court's decision to sustain the defendant's demurrer to the plaintiff's complaint. The trial court had ruled that there was no common law cause of action for age discrimination in California. The plaintiff's trial counsel retained my firm to prepare the briefing before the California Supreme Court. Although I did not argue the case, I did all the briefing before the California Supreme Court, which reversed the court of appeal, holding that there is a common law cause of action for age discrimination in California. Stevenson v. Superior Court, 16 Cal. 4th 880 (1997).

Justices: Chief Judge Ronald M. George (Ret.)
Joyce L. Kennard

Marvin R. Baxter
Kathryn M. Werdegar
Ming W. Chin
Stanley Mosk (Ret.)
Janice Brown (Ret.)

Trial Judge: Hon. Thomas Stoever (Ret.)

Opposing Counsel: Todd E. Croutch
Fonda & Fraser LLP
100 West Broadway, Suite 650
Glendale, CA 91210
(818) 649-3590

Co-Counsel Antonio M. Lawson
Lawson Law Offices
7700 Edgewater Drive, Suite 255
Oakland, CA 94621
(510) 878-7818

7. Spencer, et al., v. Conway, et al., Case No. CV 00-0350 GLT (EEx) (C.D. Cal.)

I was co-lead counsel on behalf of a couple who were resident managers at defendants' apartment complex. Plaintiffs alleged that defendant Conway instructed them not to rent to minority tenants. Specifically, in a letter to plaintiffs, defendant Conway wrote, "No more blacks and no more Mexicans are my instructions to you." When plaintiffs refused to follow defendant Conway's instructions, they were harassed and ultimately terminated and evicted from their apartment. I filed a motion for judgment on the pleadings and obtained a liability finding on an issue of first impression, i.e., whether the federal Fair Housing Act is violated when an apartment owner instructs residential managers not to rent to minority applicants, even if no further discriminatory action is taken as a result of the instruction. Spencer v. Conway, 2001 WL 34366573 (C.D. Cal. 2001). The case subsequently settled.

Judge: Hon. Gary L. Taylor (Ret.)

Opposing Counsel: Gregory J. Ferruzzo
Ferruzzo & Ferruzzo LLP
3737 Birch Street, #400
Newport Beach, CA 92660
(949) 608-6900

Co-Counsel: D. Elizabeth Martin (Pierson)
Law Office of Spix & Martin

1505 East 17th Street, Suite 230
Santa Ana, CA 92705
(714) 835-5112

8. Walker, et al. v. Lakewood Condominium Owners Assoc., et al., Civ No. CV 93-4531 KMW (ANx) (C.D. Cal. 1997)

I served as associate counsel in a class action on behalf of a group of former and current African-American tenants who alleged they were discriminated against on the basis of their race by the owners and management of an apartment complex. The case was settled for nearly $1.7 million and a consent decree that required, among other things, the: (1) training of all employees, including the residential complex's security guards; (2) development of an eviction policy; (3) inclusion of the Equal Opportunity Housing logo in all advertising; and (4) display of a fair housing sign in the rental office with the name and phone numbers of the local fair housing council and the various governmental agencies that enforce fair housing laws.

Judge: Hon. Kim McLane Wardlaw

Opposing Counsel: Edith Norton Dinneen
1707 South Hesperides Street
Tampa, FL 33629
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Littler Mendelson
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Ilse H. DiPinto
Crandall Wade & Lowe
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Rancho Cucamonga, CA 91729
(909) 483-6700

John Sanford Todd
(deceased)

Thomas M. Phillips
The Phillips Firm
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Los Angeles, CA 90071
(213) 244-9913

9. United States v. Pacific Serena Homeowners Assoc., et al., Civ. No. 92-110G (LSP) (S.D. Cal.)

This case involved a subdivision known as Pacific Serena, located in Encinitas, California. A family with a two-year-old daughter alleged that they sought to purchase a unit in the subdivision but were turned down because of their familial status. I was lead counsel for the United States in a federal civil rights enforcement action alleging violations of the Fair Housing Act on the basis of familial status. The case settled, resulting in a consent decree and damages for the complainants on whose behalf the case was brought.

Judge: Hon. Earl B. Gilliam (deceased)

Hon. Leo S. Papas (Ret.)

Opposing Counsel: Jay J. Brown
Alan H. Burson
Feist, Vetter, Knauf and Loy
810 Mission Avenue Suite 300
P.O. Box 240
Oceanside, CA 92049
(619) 722-1914

10. United States v. Bay Heights Owners Assoc., Inc., et al., Civ No. 93-C-0565 (E.D. Wis. 1993-1994) (lead counsel)

This case concerned the sale of a condominium in a complex known as Bay Heights Condominiums, located in South Milwaukee, Wisconsin. I was lead counsel for the United States in a federal civil rights enforcement action challenging the complex's rule that prohibited children under the age of 14 from living at the complex. The case settled, resulting in a consent decree and damages for the complainants on whose behalf the case was brought.

Judge: Hon. Rudolph T. Randa

Opposing Counsel: Debra A. Slater
Weiss Berzowski Brady LLP
700 North Water Street, Suite 1500
Milwaukee, WI 53202
(414) 276-5800

Co-Counsel: Barbara Z. Quindel
Hawks Quindel SC
222 East Erie Street, Suite 210
P.O. Box 442

Milwaukee, WI 53201
(414) 271-8650

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.)

    Prior to becoming a Magistrate Judge, I spent my legal career as a litigator and the cases described above were representative of my practice. My former legal activities include participation in the Los Angeles County Bar Association and the Mexican American Bar Association of Los Angeles. In addition, I served as a moot court judge at the local law schools.

    As a current Magistrate Judge, I have been involved in court governance at both the district and national level. At the district level, I have served on the Attorney Liaison, Federal-State Liaison, Pro Bono/Pro Se, and the Information Technology Committees. From approximately April 2003 to 2007, I was the Coordinator of the Central District's Pro Bono Civil Rights Program ("Program"). The Program consists of a volunteer panel of private law firms that have agreed to assist pro se plaintiffs in prisoner civil rights cases filed pursuant to 42 U.S.C. § 1983. Prisoner civil rights cases were chosen as the focus of the Program because the plaintiffs, most of whom are incarcerated, have no means to obtain private counsel, and pro se litigants comprise more than 60 percent of a Magistrate Judge's caseload and more than 30 percent of the Central District's caseload. During the time that I was responsible for the Program, I helped increase the number of volunteer law firms from 13 to approximately 40 law firms. Finally, I currently serve on the Magistrate Judges Committee, which is, among other things, responsible for reviewing and recommending to the full court candidates for the position of Magistrate Judge.

    On a national level, I was selected by the Administrative Office of the United States Courts (AO) to serve as the Magistrate Judge representative on the Human Resources Advisory Council, which provides advice to the Administrative Office on judiciary-wide human resources matters, including operational personnel management, core and supplemental benefits administration, training, work measurement, employee relations and fair employment practices. In addition, I just completed an appointment to the AO's Pro Se Working Group, which was charged with reviewing and recommending formulas for the allocation of pro se law clerks to the Judicial Resources Committee.

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.

    None.

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

    I have no plans, commitments, or agreements to pursue outside employment during service with the court.

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.

        If confirmed, my current recusal list would remain in place and I would regularly review and update the list. I will also continue to review the parties and attorneys listed in the matters that are assigned to me to ensure that there are no conflicts of interest.

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

I will continue to follow the federal recusal statutes and the Code of Conduct for United States Judges, just as I do in my current position. I will continue to recuse myself from cases in which I perceive there is any appearance of impropriety. If necessary, I will seek guidance from the Committee on Codes of Conduct of the Judicial Conference of the United States.

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.

While my law practice was directed at assisting individuals who were economically disadvantaged and seeking to have their rights vindicated, my pro bono work outside the office was devoted to assisting non-profit organizations. For example, I have been on the Board of Directors of Centro Latino for Literacy since 1995. Centro Latino was founded in 1991 to address widespread illiteracy among Latino adults and promote family literacy. It has pioneered an innovative approach to effectively educate adults who are illiterate in their Spanish native language. Since its inception, Centro Latino has graduated over 1,000 Latino adults who learned to read and write in their own language. After learning to read and write in their Spanish native language, the students go on to learn basic reading and writing skills in English. Centro Latino conducts its programs in diverse Los Angeles communities with high concentrations of low-income Latino residents.

Since 2011, I have been a member of the Board of Directors of the Western Justice Center Foundation ("Foundation"), which is located in Pasadena, California. The Foundation designs, implements and promotes innovative methods of conflict prevention and resolution for children, communities and courts.

I also served as a member of the Pasadena Unified School District-Wide Facilities Master Plan Committee ("Committee"). After Pasadena voters approved a $240 million dollar school bond initiative, the Pasadena Unified School District School Board created a District-Wide Master Plan Committee comprised of community representatives, including parents, business representatives, community organizations, teachers and other school employee labor representatives. As a member of the Committee, I was involved in studying and proposing recommendations relating to the District's long-term facilities priorities that would balance educational opportunities, cost effectiveness, community needs and facility utilization.

Finally, I served on the Pasadena Human Services Commission ("Commission"). The purpose of the Commission is to advise and make recommendations to the Pasadena City Council regarding the human service needs of the residents of Pasadena. As a member of the Commission, I was involved in reviewing and making recommendations relating to proposals submitted by human services organizations dedicated to serving the residents of Pasadena. The Commission also heard testimony from residents and city officials on a variety of human service needs and gaps in the City of Pasadena.

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.

I submitted my application to Senator Feinstein's Central District Judicial Advisory Committee ("Advisory Committee") in early December, 2011. On December 16, 2011, I was interviewed by the Advisory Committee. On January 13, 2012, I was interviewed in San Diego by Senator Feinstein's Statewide Chair, David S. Casey, Jr. I met with Senator Feinstein and one of her staffers on March 2, 2012, in Washington, DC. Since March 9, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On April 13, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 14, 2012, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

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

5-14-12
(DATE)

Fernando M. Olguin
(NAME)

ANALISSA REBECCA BLACKWATER
Commission # 1858422
Notary Public - California
Los Angeles County
My Comm. Expires Jul 19, 2013

Analissa Rebecca Blackwater
(NOTARY)