

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Noel John Francisco

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

Solicitor General of the United States

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.

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

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

August 21, 1969; Syracuse, NY

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.

University of Chicago Law School, JD 1996 (attended 1993 – 1996)

University of Chicago, BA 1991 (attended 1988 – 1991)

Brandeis University, no degree received (attended 1987 – 1988)

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.

Affiliations (Compensated):

March 2017 – present
U.S. Department of Justice
Office of the Associate Attorney General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Senior Advisor

January 2017 – March 2017
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Acting & Principal Deputy Solicitor General

2005 – 2017
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
Partner (2008 – 2017)
Of Counsel (2005 – 2007)

2003 – 2005
U.S. Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Deputy Assistant Attorney General

2001 – 2003
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500
Associate Counsel to the President (2001 – 2003)
Assistant Counsel to the President (2001)

1998 – 2001
Cooper, Carvin & Rosenthal, PLLC (now Cooper & Kirk, PLLC)
1523 New Hampshire Avenue, NW
Washington, D.C. 20036
Associate

1997 – 1998

U.S. Supreme Court

1 First Street, NE

Washington, D.C. 20543

Law Clerk to Justice Antonin Scalia

1996 – 1997

U.S. Court of Appeals for the Fourth Circuit

1100 E. Main Street

Richmond, VA 23219

Law Clerk to Judge J. Michael Luttig (retired; Judge Luttig also maintained chambers in McLean, VA)

1995

Katten, Muchin, Zavis LLP (now Katten, Muchin, Rosenman LLP)

525 W. Monroe Street

Chicago, IL 60661

Summer Associate

1994

Nixon, Hargrave, Devans & Doyle (now Nixon Peabody LLP)

1300 Clinton Square

Rochester, NY 14604

Summer Associate

1992 – 1993

Gleacher & Company, Inc.

810 Seventh Avenue, 41st Floor

New York, NY 10019

Financial Analyst

1991 – 1992

Morgan Stanley & Co. LLC

1585 Broadway

New York, NY 10036

Financial Analyst

Affiliations (Uncompensated):

2011 – present

D.C. Circuit Historical Society

E. Barrett Prettyman United States Courthouse

333 Constitution Avenue, Room 4726

Washington, D.C. 20001

Board Member

2015 – 2017
Lumen Christi Institute
1220 E 58th Street
Chicago, IL 60637
Board Member

2007 – 2012
D.C. Commission on Judicial Disabilities & Tenure
515 5th Street, NW, Room 246
Washington, D.C. 20001
Member

2006 – approx. 2014
St. Ann's Catholic Church Parish Council
4001 Yuma Street, NW
Washington, D.C. 20016
Chairman (approx. 2010 to approx. 2014)
Member (2006 to approx. 2010)

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 for selective service.

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

Recognized as a "Litigation Trailblazer," National Law Journal (2016).

Awarded the Lincoln Liberty Award by the Georgetown Law Republicans (2015).

Recognized among "Washington D.C. Super Lawyers," Super Lawyers (2014).

Recognized among "Washington D.C. Super Lawyers," Super Lawyers (2013).

Recognized as an "Appellate MVP," Law360 (2013).

Recognized among "The 100 Most Influential Lawyers in America," National Law Journal (2013).

Graduated with High Honors, University of Chicago Law School (1996).

Graduated with Honors, University of Chicago (1991).

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.

To my recollection:

D.C. Commission on Judicial Disabilities & Tenure
Member (2007 – 2012)

President's Task Force on Puerto Rico's Status
Member (2003)

American Bar Association
Member (1999 – 2000)

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
Admitted 1999

Virginia
Admitted 1998

In 2003, my D.C. bar membership temporarily lapsed due to an inadvertent failure to timely pay dues. The dues were promptly paid as soon as the oversight was discovered and my D.C. bar membership was promptly reinstated.

- 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 (2006 – present)
United States Court of Appeals for the First Circuit (2013 – present)
United States Court of Appeals for the Second Circuit (2011 – present)
United States Court of Appeals for the Third Circuit (2008 – present)
United States Court of Appeals for the Fourth Circuit (2011 – present)
United States Court of Appeals for the Sixth Circuit (2005 – present)
United States Court of Appeals for the Seventh Circuit (2000 – present)
United States Court of Appeals for the Eighth Circuit (2015 – present)
United States Court of Appeals for the Tenth Circuit (2013 – present)
United States Court of Appeals for the D.C. Circuit (2011 – present)

U.S. District Court for the District of Columbia (2006 – present)

I have also been admitted *pro hac vice* to various courts for specific cases.

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.

To my recollection:

D.C. Circuit Historical Society
Board Member (2011 – present)

Alexander Hamilton Society
Member (2011 – present (intermittent))

Federalist Society
Member (1996 – present (intermittent))

Lumen Christi Institute
Board Member (2015 – 2017)

St. Ann's Catholic Church
Member, Parish Council (2006 – approx. 2010)
Chairman, Parish Council (approx. 2010 – approx. 2014)

Knights of Columbus
Member (approx. 1989 – unknown)

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate 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.

The Knights of Columbus is a Catholic fraternal organization limited to men, although there is a corresponding organization for women. To my knowledge, none of the other organizations discriminate or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implications 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.

To my recollection and through searches of publicly available databases by persons acting on my behalf, I and persons acting on my behalf have found the following works that I authored or co-authored.

January 2017: "What Impact Will The New Trump Administration Have On State Attorney General Activity?" Jones Day. Copy supplied.

November 24, 2016: "In The Eye Of The Storm: The Constitutional, Regulatory, And Political Implications Of *PHH v. CFPB*," Mondaq. Copy supplied.

November 21, 2016: "The Criminal Analogue To 12(b)(6): Judicial Power To Dismiss Indictments," Mondaq. Copy supplied.

November 18, 2016: "Energy And Environmental Ramifications Of The Trump Election," Mondaq. Copy supplied.

October 6, 2016: "The FBI Treated Clinton With Kid Gloves," Wall Street Journal. Copy supplied.

October 3, 2016: "Time For A New Pleading Standard In Criminal Cases," Forbes. Copy supplied.

September 1, 2016: "Encouraging The Power To Dismiss Indictments: Courts Should Embrace The Criminal Analogue To The Civil Power To Dismiss," Metropolitan Corporate Counsel. Copy supplied.

August 22, 2016: "United States: 12(b)(6)," Mondaq. Copy supplied.

July 21, 2016: "United States: The Criminal Analogue To 12(b)(6): Judicial Power To Dismiss Indictments," Mondaq. Copy supplied.

April 14, 2015: "Common Misconceptions Regarding CFIUS And The CFIUS Process," Mondaq. Copy supplied.

August 1, 2014: "D.C. Circuit Holds That CFIUS Must Provide Due Process Before Prohibiting A Transaction," Mondaq. Copy supplied.

July 1, 2014: "Supreme Court Invalidates NLRB Recess Appointments," Federal NewsFeed Mondaq. Copy supplied.

January 2, 2014: "OCC And FDIC Guidance On Supervisory Concerns And Expectations Regarding Deposit Advance Products," Mondaq. Copy supplied.

June 4, 2013: "Another Court Of Appeals Invalidates Recess NLRB Appointment," Mondaq. Copy supplied.

May 1, 2013: "Essay: *Noel Canning v. NLRB* – Enforcing Basic Constitutional Limits On Presidential Power," Virginia Law Review. Copy supplied.

March 1, 2013: "Administrative Dissonance: National Labor Relations Board Decision Making in the Aftermath of *Noel Canning*," Metro Corp. Conuns. Copy supplied.

February 13, 2013: "NLRB Proceedings in the Wake of *Noel Canning*," Mondaq. Copy supplied.

January 31, 2013: "United States: D.C. Circuit Holds That President Obama's 'Recess' Appointments to the National Labor Relations Board Are Constitutionally Invalid," Mondaq. Copy supplied.

January 2013: "D.C. Circuit's Invalidation of NLRB Appointments May Affect the CFPB," Jones Day. Copy supplied.

Summer 2012: "Remembering Andy Steinberg: A Tribute," Jones Day. Copy supplied.

January 10, 2011: "The FDA Food Safety Modernization Act: Tackling The FDA's Ability To Prevent, Detect, And Respond To Foodborne Illness Outbreaks," Mondaq. Copy supplied.

April 7, 2009: "Possible Challenges To Retroactive Restrictions On Executive Compensation," Mondaq. Copy supplied.

January 16, 2009: "Exon-Florio Alert: Regulations Implementing Finsa Take Effect," Mondaq. Copy supplied.

Fall 2007: "Practitioner Note: Massive, Unchecked Power by Design: The Unconstitutional Exercise of Executive Authority by the Public Company Accounting Oversight Board," New York University Journal of Law and Business. Copy supplied.

August 22, 2007: "Congress Reforms CFIUS Review Process," Mondaq. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the

name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

To my recollection and through searches of publicly available databases by persons acting on my behalf, I and persons acting on my behalf have compiled responsive materials in Appendix 12(b).

- 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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I and persons acting on my behalf have found the following communications relating to matters of public policy or legal interpretation that I issued or provided or that others presented on my behalf to public bodies or public officials.

May 31, 2011: Witness, "Hearing Of The Courts" before the Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, United States House of Representatives. Copy supplied.

May 31, 2011: Written Statement, "Formal Rulemaking And Judicial Review: Protecting Jobs And The Economy With Greater Regulatory Transparency And Accountability" before the Committee on the Judiciary, Subcommittee on Courts, Commercial and Administrative Law, United States House of Representatives. Copy supplied.

March 30, 2011: Letter, "Confirmation Hearing On Donald B. Verrilli, Jr., Of Connecticut, Nominee To Be Solicitor General Of The United States; Virginia A. Seitz, Of Virginia, Nominee To Be Assistant Attorney General, Office Of Legal Counsel, U.S. Department Of Justice; And Denise E. O'Donnell, Of New York, Nominee To Be Director, Bureau Of Justice Assistance, U.S. Department Of Justice," Senate Committee on the Judiciary. Copy supplied.

July 12, 2007: Opinion, "Continuing Investigation Into The U.S. Attorneys Controversy And Related Matters (Part III)," Subcommittee on Commercial Administrative Law, Committee on the Judiciary. Copy supplied.

March 29, 2007: Witness, "Ensuring Executive Branch Accountability," before the Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, United State House of Representatives. Copy supplied.

January 8, 2006: Letter, "Confirmation Hearing On Samuel A. Alito, Jr., Of New Jersey, To Be An Associate Justice Of The Supreme Court Of The United States," Senate Committee on the Judiciary. 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.

Other than what is supplied in Appendix 12(c), to my recollection and through searches of my records and publicly available databases, I and persons acting on my behalf have found the following remarks that I delivered:

November 18, 2016: Panelist, "Civil Rights: The Second Amendment: Enforcing the Heller Decision," Federalist Society 2016 National Lawyers Convention. Mayflower Hotel, Washington, D.C. Recording available at: <http://www.fed-soc.org/multimedia/detail/the-second-amendment-enforcing-the-heller-decision-event-audiovideo>.

October 26, 2016: Speaker, Fifth Annual Catholic Information Center 2016 John Paul II New Evangelization Award Dinner. Mayflower Hotel, Washington, D.C. Recording available at: <https://www.youtube.com/watch?v=3jK86b76exU>. Press coverage supplied ("Catholic Group Honors Justice Scalia, Posthumously for His Witness of Faith").

October 24, 2016: Speaker, "Religious Freedom, Executive Power, And The Supreme Court." Trimble Hall, University of Puget Sound, Tacoma, WA. Notes supplied.

October 21, 2016: Keynote Speaker, "The U.S. Supreme Court And Executive Authority," Virginia Bar Association 18th Annual Corporate Counsel Fall Forum. The Jefferson Hotel, Richmond, VA. Notes supplied.

July 26, 2016: Speaker, "Jones Day's Noel Francisco And Hank Asbill Discuss The Supreme Court Decision, *McDonnell v. United States*." Jones Day, Washington, D.C. Recording available at <http://www.jonesday.com/supreme-court-decision-mcdonnell-v-united-states-07-26-2016/>.

July 20, 2016: Speaker, "Presidential Power: Judicial Appointments & Executive Regulation." Jones Day, Washington, D.C. Recording available at <https://www.youtube.com/watch?v=mu2HFXjdgHI>.

July 15 – 20, 2016: Speaker, "Jones Day Presidential Forum: 2016 Policy Insights." Jones Day, Washington, D.C. Recording available at <https://www.youtube.com/watch?v=njXxxc6ESUk>.

May 19, 2016: Keynote Speaker, "The Legacy Of Justice Scalia: Remembering A Conservative Legal Titan's Impact On The Law." Recording available at: <https://www.youtube.com/watch?v=PutHkz99O1k>.

May 17, 2016: Speaker, State Council Of Higher Education For Virginia Meeting. Washington and Lee University, Lexington, VA. Notes supplied.

May 12, 2016: Speaker, "*Zubik v. Sebelius*, *Little Sisters Of The Poor v. Sebelius* And Other Related Contraceptive Mandate Litigation." Catholic Association of Latino Leaders, Chicago, IL. I have no notes, transcript, or recording. The address of the Catholic Association of Latino Leaders is 3424 Wilshire Blvd., 4th Floor Los Angeles, CA 90010.

April 29, 2016: Speaker, "Discussion On The Life Of Justice Antonin Scalia. James Wilson Institute On Natural Rights And The American Founding," Washington, D.C. I have no notes, transcript, or recording. The address of the James Wilson Institute is 722 12th Street NW, Fourth Floor, Washington, D.C. 20005.

April 5, 2016: Speaker, "Redistricting, RICO, Remedies And Religion." Jones Day, Washington, D.C. Recording available at <http://www.jonesday.com/jones-day-lawyers-argued-four-cases-before-the-us-supreme-court-in-march-04-05-2016/>.

March 9, 2016: Speaker, "The Impact Of Potential Consumer Financial Protection Bureau Regulations." Community Financial Services Association Annual Conference. The Atlantis, Paradise Island, Bahamas. Notes supplied.

December 15, 2015: Speaker, "Executive Roundtable Series: The President's Last Stand: The Regulatory Environment In The President's Final Year." Jones Day, Washington, D.C. Notes supplied.

December 10, 2015: Speaker, "The Present And Future Of Religious Freedom," Lumen Christi Institute. Jones Day, Chicago, IL. Notes supplied.

December 2, 2015: Panelist, Discussion on Practicing Law. Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.

October 31 – November 7, 2015: Speaker, Client Seminars, Regulations Governing Foreign Investment in the United States. Jones Day China Offices. Notes supplied.

October 21, 2015: Speaker, "*Zubik v. Sebelius, Little Sisters Of The Poor v. Sebelius* And Other Related Contraceptive Mandate Litigation." Heritage Foundation Conference on Religious Liberty, Washington, D.C. Notes supplied.

August 2015: Speaker, "Government Regulation And Overreach Challenges." Jones Day, Washington, D.C. Recording available at <https://www.youtube.com/watch?v=LGDajrcPWSw>.

July 10, 2015: Panelist, "Law Firm Recruiting." Blackstone Fellowship, Washington, D.C. I have no notes, transcript, or recording. The address of the Blackstone Fellowship is 15100 N. 90th Street, Scottsdale, AZ 85260.

April 2, 2015: Speaker, "Litigating Against The Federal Government." Federalist Society, Yale Law School chapter. I have no notes, transcript, or recording. The address of Yale Law School is 127 Wall Street, New Haven, CT 06511.

March 5, 2015: Speaker, "The Impact Of Potential Consumer Financial Protection Bureau Regulations." Community Financial Services Association Annual Conference. La Costa Resort and Spa, Carlsbad, CA. Notes supplied.

February 16, 2015: Panelist, Discussion on Religious Freedom. Federal Bar Council, Winter Bench & Bar Conference, Dominican Republic. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, NY 10038.

December 10, 2014: Speaker, Executive Roundtable Series: A Roundtable Series for Legal and Business Solutions. Jones Day, Washington, D.C. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Ave NW, Washington, D.C. 20001.

November 10, 2014: Guest Lecturer, "*NLRB v. Noel Canning*." Class by Prof. Suzy Prucka at the University of Maryland Baltimore Campus, Baltimore, MD. Notes supplied.

September 28, 2014: Speaker, "Religious Liberty After The *Hobby Lobby* Decision." Diocese of Bridgeport Red Mass. Egan Chapel of St. Ignatius of Loyola, Fairfield University, Fairfield, CT 06824. Notes supplied.

September 20, 2014: Speaker, "*NLRB v. Noel Canning*." Vanderbilt Law School, Nashville, TN. I have no notes, transcript, or recording. The address of Vanderbilt Law School is 131 21st Avenue, South, Nashville, TN 37203.

September 17, 2014: Panelist, "The Supreme Court: Past And Prologue, Federalism And Separation Of Powers." Cato Institute, Washington, D.C. Recording available at <https://www.cato.org/events/13th-annual-constitution-day>.

September 7, 2014: Panelist, “Panel II: Federalism And Separation Of Powers” for “The Supreme Court: Past And Prologue A Look at the October 2013 and 2014 Terms.” Cato Institute, Washington, D.C. Recording available at: <https://www.cato.org/events/13th-annual-constitution-day>.

July 18, 2014: Speaker, “2014 Annual Supreme Court Round Up.” The Federalist Society. Mayflower Hotel, Washington, D.C. Recording available at: <http://www.fed-soc.org/multimedia/detail/2014-annual-supreme-court-round-up-event-audiovideo>.

July 8, 2014: Panelist, “Scholars & Scribes Review The Rulings: The Supreme Court’s 2013-2014 Term.” The Heritage Foundation, Washington, D.C. Recording available at: <https://www.youtube.com/watch?v=zugdQWHQomY>.

July 1, 2014: Speaker, “*NLRB v. Noel Canning* – Post-Decision SCOTUScast.” The Federalist Society. Recording available at <http://www.fedsoc.org/multimedia/detail/national-labor-relations-board-v-noel-canning-post-decision-scotuscast>.

June 28 – July 7, 2014: Speaker, Client Seminars, Regulations Governing Foreign Investment in the United States. Jones Day China Offices. Notes supplied.

June 27, 2014: Panelist, “Supreme Court 2013 Term Review.” American Constitution Society for Law & Policy. National Press Club, Washington, D.C. Recording available at: <https://www.c-span.org/video/?320194-1/supreme-court-term-review>.

June 27, 2014: Speaker, “Recess Appointments Case Decided: *NLRB v. Noel Canning* – Podcast.” Federalist Society, Washington, D.C. Recording available at: <http://www.fed-soc.org/multimedia/detail/recess-appointments-case-decided-nlr-b-v-noel-canning-podcast>.

June 26, 2014: Speaker, “*NLRB v. Noel Canning* Supreme Court Decision.” U.S. Chamber of Commerce. Jones Day, Washington, D.C. Notes supplied.

June 25, 2014: Speaker, “End Of Term Press Briefing, Discussion Of *NLRB v. Noel Canning*.” U.S. Chamber of Commerce, Washington, D.C. Recording available at: <https://www.uschamber.com/event/10th-annual-us-chamber-litigation-center-end-term-media-briefing>. Press coverage supplied (“High Court’s UARG Ruling Leaves Open Questions On GHG Permit Threshold”).

May 2, 2014: Speaker, “30th Annual Labor Law Symposium, Discussion On *NLRB v. Noel Canning*.” Associated General Contractor Labor & Employment Law Council, Washington, D.C. Notes supplied.

March 18, 2014: Guest Lecturer, “*NLRB v. Noel Canning*.” Class by Prof. Pam Harris at Georgetown Law School, Washington, D.C. I have no notes, transcript, or

recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.

March 6, 2014: Guest Lecturer, "*NLRB v. Noel Canning*." Class by Prof. Don Ayer at Georgetown Law School, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.

March 1, 2014: Speaker, "*NLRB v. Noel Canning*." National Ready Mixed Concrete Association Annual Convention. The Cosmopolitan, Las Vegas, NV. Notes supplied.

February 25, 2014: Speaker, "*NLRB v. Noel Canning*." The Federalist Society, Dallas Chapter. Belo Mansion, Dallas, TX. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, NW, Suite 300, Washington, D.C. 20006.

February 11, 2014: Speaker, "*NLRB v. Noel Canning*." The Federalist Society, Notre Dame Law School Chapter. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, NW, Suite 300, Washington, D.C. 20006.

February 4, 2014: Speaker, "*NLRB v. Noel Canning*." The Federalist Society, University of Chicago Law School Chapter. Notes supplied.

December 12, 2013: Speaker, "Executive Roundtable Series – A Year-End Legislative Roundup and Forecast." Jones Day. I have no notes, transcript, or recording. The address of Jones Day's Washington, D.C. Office is 51 Louisiana Avenue, NW, Washington, D.C. 20001.

November 16, 2013: Speaker, The Federalist Society, University of Chicago Law School Chapter. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, NW, Suite 300, Washington, D.C. 20006.

November 14, 2013: Panelist, "Recess Appointments: Implications Of *Noel Canning*," Federalist Society 2013 National Lawyers Convention. Mayflower Hotel, Washington, D.C. Recording available at: <http://www.fed-soc.org/multimedia/detail/recess-appointments-implications-of-noel-canning-event-audiovideo>. Press coverage supplied ("Recess Time: Court Ponders Whether the President Can Make Appointments While Congress is Out" and "The Myth of the Anti-Government Constitution").

November 8, 2013: Panelist, "*NLRB v. Noel Canning*." The Federalist Society Columbus, Ohio Chapter. Athletic Club of Columbus, Columbus, OH. I have no notes, transcript, or recording. The address of the Columbus, Ohio Chapter of The Federalist Society is P.O. Box 1434, Columbus, OH 43216.

October 24, 2013: Opening Speaker, 2013 Space & Satellite Regulatory Colloquium. Jones Day, Washington, D.C. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Ave NW, Washington, D.C. 20001.

September 25, 2013: Guest Lecturer, "Practicing Law In Washington, D.C.," Class by Prof. David H. Thompson at Georgetown Law School, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.

June 22, 2013: Speaker, Oswego High School Commencement Ceremony. Oswego High School, Oswego, NY. Notes supplied.

June 18, 2013: Speaker, "Presidential Power In The Age of Obama: Return To An Imperial Presidency?" The Federalist Society, Jacksonville Lawyers Chapter, Jacksonville, Florida. Notes supplied.

April 24, 2013: Speaker, "*NLRB v. Noel Canning*." Heritage Foundation Legal Conference, Orlando, FL. Notes supplied.

April 17, 2013: Speaker, "*NLRB v. Noel Canning*." International Foodservice Distributors Association Washington Insight Conference. Hyatt Regency on Capitol Hill, Washington, D.C. I have no notes, transcript, or recording. The address of the International Foodservice Distributors Association is 1410 Spring Hill Road, Suite 210, McLean, VA 22102.

April 9, 2013: Speaker, "*Noel Canning* And Other NLRB Developments." Jones Day 2013 Government Contractor Labor & Employment Discussion Group, McLean, Virginia. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Ave NW, Washington, D.C. 20001.

March 26, 2013: Speaker, "*Noel Canning*." Federalist Society Luncheon, Washington, D.C. Notes supplied.

March 15, 2013: Panelist, "*NLRB v. Noel Canning*," New York University Law School, New York, NY. Notes supplied.

February 27, 2013: Participant, "Same-Sex Marriage Mock Moot Court: *Hollingsworth v. Perry*, No. 12-144." The Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.

February 7, 2013: Speaker, "Judicial Challenge To NLRB Recess Appointments – Podcast." Federalist Society. Recording available at: <http://www.fed->

soc.org/multimedia/detail/judicial-challenge-to-nlr-recess-appointments-podcast. Press coverage supplied (“The Federalist Society for Law and Public Policy Studies 2013 Annual Report”).

February 7, 2013: Speaker, “The *Noel Canning* Decision – The D.C. Circuit’s Holding That the President’s Recess Appointments To The NLRB Were Constitutionally Defective: Legal, Policy And Practical Considerations Webinar.” Jones Day, Washington, D.C. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Ave NW, Washington, D.C. 20001.

January 25, 2013: Speaker, “*Noel Canning* Decision On Recess Appointments – Podcast.” Federalist Society. Washington, D.C. Recording available at: <http://www.fed-soc.org/multimedia/detail/noel-canning-decision-on-recess-appointments-podcast>. Press coverage supplied (“The Federalist Society for Law and Public Policy Studies 2013 Annual Report”).

January 4, 2013: Panelist, Discussion on *Zubik v. Burwell*, *Little Sisters of the Poor v. Sebelius*, and Related Cases. Cato Institute, Washington, D.C. Notes supplied.

December 12, 2012: Speaker, “Executive Roundtable Series A Year-End Legislative Roundup and Forecast.” Jones Day, Washington, D.C. Notes supplied.

October 24, 2012: Speaker, “Outbound Seminar – Managing Legal Risks in Global Expansion of Chinese Companies.” Jones Day Shanghai Office, Shanghai, China. Notes supplied.

September 11, 2012: Speaker, The George Washington University Newman Center on Religious Liberty. The George Washington University Law School, Washington, D.C. Notes supplied.

April 24, 2012: Speaker, “*NLRB v. Noel Canning*.” Supreme Court Law Clinic. West Virginia University College of Law, Washington, D.C. I have no notes, transcript, or recording. The address of the West Virginia University College of Law is 101 Law School Dr., Morgantown, WV 26505.

January 25, 2012: Speaker, “Executive Orders: Executive Necessity Or Executive Overreach?” The Federalist Society, The Minnesota Lawyers Chapter, Minneapolis, Minnesota. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, NW Suite 300, Washington, D.C. 20006.

December 7, 2011: Panelist, “Taking On The Government: Litigation Against The Executive And Legislative Branches.” Jones Day, Washington, D.C. Notes supplied.

November 22, 2011: Guest Lecturer, "*RJ Reynolds Tobacco Co. v. U.S. Food And Drug Administration*," Class taught by Prof. Kimani Paul-Emile at Fordham Law School, New York, NY. Notes supplied.

September 27, 2011: Speaker, "A Review Of The Supreme Court's 2010 Term And Preview Of What's Coming Next," Jones Day, Washington, D.C. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Avenue, NW, Washington, D.C. 20001.

July 11, 2011: Speaker, Quarterly Supreme Court Reviews Live Webcast. Washington, D.C. I have no notes, transcript, or recording. Address Unknown.

December 15, 2010: Speaker, "A Year-End Legislative Roundup And Forecast." Jones Day, Washington, D.C. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Avenue, NW, Washington, D.C. 20001.

July 15, 2010: Speaker, "Perspectives On Federal Regulation." Jones Day, Pittsburgh, PA. I have no notes, transcript, or recording. The address of the Jones Day Pittsburgh Office is 500 Grant Street, Suite 4500, Pittsburgh, PA 15219.

June 19, 2010: Panelist, "ACS Convention Panel: Detainees & Justice – Military Commissions v. Trials Within The Federal Court System." American Constitution Society. Recording available at: <http://www.acslaw.org/news/video/acs-convention-panel-detainees-justice-military-commissions-v-trials-within-the-federal-c>.

February 18, 2010: Panelist, "High Court Halftime: The October 2009 Term At Midpoint." Washington Legal Foundation, Washington, D.C. I have no notes, transcript, or recording, but press coverage is supplied. ("Summary of WLF's Program: High Court Halftime: The October 2009 Term at Midpoint").

November 4, 2009: Speaker, Jones Day Government Regulation Practice. Jones Day, Washington, D.C. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Avenue, NW, Washington, D.C. 20001.

June 19, 2009: Panelist, "The Levers of Change: How Progress Is Made In Today's Policy Environment." American Constitution Society for Law and Policy 2009 Annual National Convention. Washington, D.C. Recording available at <https://www.c-span.org/video/?287159-1/legal-system-policy-development>. Press coverage supplied ("Et Tu, Scalia?").

April 20, 2009: Speaker, "Executive Power." University of Chicago Federalist Society, Chicago, IL. Notes supplied.

March 23, 2009: Panelist, "Legislative Developments." Securities Industry and Financial Markets Association (SIFMA) Compliance & Legal Division Annual Seminar, JW Marriott Desert Ridge, Phoenix, AZ. I have no notes, transcript, or recording. The address for the SIFMA is 120 Broadway, 35th Floor, New York, NY 10271.

January 12, 2009: Speaker, "RICO Litigation." National Association of Criminal Defense Lawyers, Aspen, CO. Notes supplied.

October 17, 2008: Speaker, "High Courts Review: An Analysis Of Recent Major Business Decisions And What To Expect Next." Jones Day, Houston, TX. Notes supplied.

October 16, 2008: Speaker, "High Courts Review: An Analysis of Recent Major Business Decisions And What To Expect Next." Jones Day, Dallas, TX. Notes supplied.

October 14, 2008: Speaker, "High Courts Review: An Analysis Of Recent Major Business Decisions And What To Expect Next." Jones Day, Chicago, IL. Notes supplied.

October 10, 2008: Speaker, "High Courts Review: An Analysis Of Recent Major Business Decisions And What To Expect Next." Jones Day, San Francisco, CA. Notes supplied.

October 7, 2008: Speaker, "High Courts Review: An Analysis Of Recent Major Business Decisions And What To Expect Next." Jones Day, Los Angeles, CA. Notes supplied.

October 6, 2008: Speaker, "High Courts Review: An Analysis Of Recent Major Business Decisions And What To Expect Next." Jones Day, Atlanta, Georgia. Notes supplied.

January 11, 2008: Speaker, "Reviewing Supreme Court Business Cases." Jones Day, Houston, TX. Notes supplied.

January 10, 2008: Speaker, "Reviewing Supreme Court Business Cases." Jones Day, Dallas, TX. Notes supplied.

October 30, 2007: Panelist, "*Medellin v. Texas*." University of Chicago Federalist Society. University of Chicago, Chicago, IL. Recording available at: <http://www.law.uchicago.edu/audio/cruzfrancisco103007>. Notes supplied.

March 30, 2007: Speaker, "President's Authority to Appoint and Remove U.S. Attorneys." Republican National Lawyer's Association, Washington, D.C. I have

no notes, transcript, or recording. The address for the Republican National Lawyer's Association is P.O. Box 18965, Washington, D.C. 20036.

October 17, 2006: Speaker, Aerospace, Defense & Intelligence Companies: Maximizing Value Through Mergers & Acquisitions. Jones Day, Washington, D.C. Notes supplied.

June 28, 2006: Panelist, National Security Law. National Association of Attorneys General Summer Conference, Coeur d'Alene, ID. I have no notes, transcript, or recording. The address for the National Association of Attorneys is 2030 M Street NW, 8th Floor, Washington, D.C. 20036.

Spring 2003: Guest Lecturer, "Role Of The Office Of Counsel To The President." Class taught by Prof. Hadley Arkes at Princeton University, Princeton, NJ. I have no notes, transcript, or recording. The address for Princeton University is Princeton University, Princeton, NJ 08544.

Summer 2002: Speaker, National Federation of Filipino American Associations. I have no notes, transcript, or recording. The address for the National Federation of Filipino American Associations is 1322 18th Street, NW, Washington, D.C. 20036.

Summer 2002: Speaker, Opening Ceremony. Safe Haven Museum, Oswego, NY. I have no notes, transcript, or recording. The address for the Safe Haven Museum is 2 East 7th Street, Oswego, NY 13126.

November 15, 2001: Panelist, "Is Federalism Consistent With Nationwide Markets And Globalization? The Case Of The Insurance Industry." Location Unknown. Transcript 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.

To my recollection and through searches of my records and publicly available databases, I and persons acting on my behalf have found the following articles in which I am quoted:

March 1, 2017: "How Don McGahn Introduced Jones Day To Politics," American Lawyer. Copy supplied.

November 7, 2016: "Former Gov. Bob McDonnell Hosts Party To Celebrate Overturned Corruption Conviction; Former Gov. Bob McDonnell, Whose Corruption Conviction Was Overturned, Throws Party To Thank Those Who Stood By Him," The Virginian. Copy supplied.

September 24, 2016: "Federal Judge Questions Fattah's Push For A New Trial," Philadelphia Inquirer. Copy supplied.

September 23, 2016: "The Supreme Court's Punt On *The Little Sisters Of The Poor* Cannot be Returned," Volokh Conspiracy. Copy supplied.

September 14, 2016: "United States: Former Virginia Governor Robert McDonnell's Public Corruption Case Dropped By U.S. DOJ Following Supreme Court Decision," TendersInfo. Copy supplied.

September 12, 2016: "DOJ Drops McDonnell Case; 'Overreach' Ruling By High Court Led to Dismissal," The National Law Journal. Copy supplied.

September 8, 2016: "Prosecutors Will Drop Cases Against Former Va. Governor Robert McDonnell, Wife," Washington Post. Copy supplied.

Autumn 2016: "New Lumen Christi Board Members Include Distinguished Chicago and D.C.-Based Lawyers." Copy supplied.

June 30, 2016: "Litigators Of The Week: Henry Asbill And Noel Francisco Of Jones Day," American Lawyer. Copy supplied.

June 30, 2016: "SC Decision May Possibly Benefit Silver And Skelos Petitions," Legal Monitor Worldwide. Copy supplied.

June 29, 2016: "McDonnell Decision Gives Boost To White-Collar Defense Lawyers; From The Courts," Daily Business Review. Copy supplied.

June 28, 2016: "An Exculpated McDonnell Gratefully Looks To Life Ahead," Washington Post. Copy supplied.

June 28, 2016: "Court Curbs Aggressive Graft Prosecutions," Dow Jones Institutional News. Copy supplied.

June 28, 2016: "Decision Complicates Corruption Cases Against Officials From New York To Illinois," New York Times. Copy supplied.

June 28, 2016: "Former Virginia Governor's Conviction Overturned," Telegram & Gazette. Copy supplied.

June 28, 2016: "Overturned," Richmond Times Dispatch. Copy supplied.

June 27, 2016: "Lawyer For Ex-Gov. Bob McDonnell Savors High Court Victory," Wall Street Journal. Copy supplied.

June 27, 2016: "Supreme Court Green Lights Gift Bonanza By Ruling Public Officials Can Take Free Stuff As Long As They Don't Do An 'Official Act' In Return In Reversal Of Virginia Governor Robert McDonnell Case," MailOnline. Copy supplied.

June 27, 2016: "Supreme Court Throws Out Corruption Conviction Of Ex-Virginia Gov. Bob McDonnell – 4th Update," Dow Jones. Copy supplied.

April 27, 2016: "Supreme Court Hears Arguments In McDonnell Corruption Conviction Appeal," CBS. Copy supplied.

April 24, 2016: "Ted Cruz; Republican Ambition, Risk And Confidence," Dayton Daily News. Copy supplied.

April 6, 2016: "Atheists Seek Removal Of Cross After Losing Case Against WWI Memorial," Newsmax. Copy supplied.

March 10, 2016: "Ted And Heidi Cruz: Ambition Enough For Two; Null," The News & Observer. Copy supplied.

January 26, 2016: "2000 Recount Shaped Cruz's Image As Outsider," New York Times. Copy supplied.

January 14, 2016: "Before He Was An Outsider, Ted Cruz Was Inside Famous Recount Fight; Recollections Differ On His Contributions," USA Today. Copy supplied.

January 1, 2016: "Fight Club; Jones Day Is Ready, Willing And Able To Go Toe-To-Toe With The Feds," The American Lawyer. Copy supplied.

December 31, 2015: "Americans Strongly Support Preserving Religious Freedom: Survey," Washington Times. Copy supplied.

November 16, 2015: "Gibson, Dunn & Crutcher," The National Law Journal. Copy supplied.

September 8, 2015: "DOJ Drops Case Against Ex-Va. Governor Bob McDonnell," National Law Journal. Copy supplied.

September 1, 2015: "U.S. News: Ex-Governor Of Virginia Stays Free For Appeal," Wall Street Journal. Copy supplied.

August 31, 2015: "Former Virginia Governor Bob McDonnell To Remain Free During Supreme Court Appeal," Wall Street Journal. Copy supplied.

August 7, 2015: "Will Critic Of Labor Board Get Appointment To Serve On It?" The Examiner. Copy supplied.

July 11, 2015: "Appeals Court Upholds McDonnell Convictions," Richmond Times Dispatch. Copy supplied.

March 3, 2015: "Stark Contrast: The 2 Attorneys Arguing The Obamacare Case," Politico. Copy supplied.

February 18, 2015: "Jones Day Welcomes Two Government Regulation Partners In Washington," TendersInfo. Copy supplied.

2015: "Remembering the Society's 2015 Mock Court Program," Historical Society of the District of Columbia Circuit. Copy supplied.

August 14, 2014: "The Supreme Court Takes The Laboring Oar," Metropolitan Corporate Counsel. Copy supplied.

July 6, 2014: "For These Supreme Court Justices, Unanimous Doesn't Mean Unity; Despite A High Number Of 9-To-0 Decisions This Term, The Divisions Among The Justices Are Still Clear," Washington Post Blogs. Copy supplied.

July 1, 2014: "Supreme Court Nixes Obama NLRB Recess Appointments, But Justifies Authority," National Legal and Policy Center. Copy supplied.

June 28, 2014: "U.S. Supreme Court To Rule On Birth Control," Agence France Presse. Copy supplied.

June 27, 2014: "NLRB Needs To Scramble To Revisit Cases – Update," Dow Jones Institutional News. Copy supplied.

May 30, 2014: "Patton Boggs To Lose 3 More Partners," Washington Post. Copy supplied.

May 30, 2014: "Election Lawyers Leave Patton Boggs For Jones Day," Legal Times. Copy supplied.

May 14, 2014: "United States: Jones Day Welcomes Washington Government Contracts Partner Fernand Lavallee," TendersInfo. Copy supplied.

February 25, 2014: "Jones Day Volunteers On Obamacare Challenges," Daily Business Review. Copy supplied.

February 12, 2014: "For Jones Day And Noel Francisco, Advocacy Is An Avocation," National Law Journal. Copy supplied.

January 13, 2014: "Balance Of Power At Stake In High Court Case," NPR. Copy supplied.

January 13, 2014: "Supreme Court Hears Arguments On Presidential Recess Appointments; Benghazi Documents Released; Obamacare Enrollment Numbers Analyzed," Fox News. Copy supplied.

December 6, 2013: "Digital Library Aids Lawyers In NLRB Case," Legal Intelligencer. Copy supplied.

April 22, 2013: "CFPB Director Appointment Is Invalid, Illegal, Unconstitutional," Congressional Press Releases. Copy supplied.

January 31, 2013: "Mauricio Llamas, Founding Partner Of Environlaw, Joins Jones Day In Mexico City," PracticeView Database. Copy supplied.

January 28, 2013: "Ruling Puts Presidential Power At Risk; 'Recess' Only After End Of Session, Judges Say," Washington Times. Copy supplied.

January 26, 2013: "Recess Appointment Ruling May Void Cordray Tenure," Columbus Dispatch. Copy supplied.

January 26, 2013: "Ruling Casts Doubt On Way Obama Named Cordray To Consumer Post In Similar Case, Court Says 3 Recess Appointments Were Unconstitutional," Plain Dealer. Copy supplied.

January 25, 2013: "Appeals Court Rules Obama Recess Appointments Illegal," Credit Union Times. Copy supplied.

January 25, 2013: "Court Ruling Upsets Conventional Wisdom On Recess Appointments," NPR. Copy supplied.

January 25, 2013: "Senate GOP Cheers NLRB Ruling," Politico. Copy supplied.

January 3, 2013: "United States: FAA Assistant Chief Counsel, Rebecca MacPherson, To Join Jones Day As Of Counsel," Euclid Infotech: Banks and Financial Institution News. Copy supplied.

December 5, 2012: "Court Hears Challenge To Obama Recess Appointments," Associated Press. Copy supplied.

November 28, 2012: "Judge Orders Tobacco Companies To Admit To Lying," Winston-Salem. Copy supplied.

October 29, 2012: "The President Who Would Be King; The Obama Power Play That Could Forever Change The Way Washington Works," Newsweek. Copy supplied.

October 15, 2012: "Tobacco Companies Say Corrective Statements Go Too Far, Akin To 'Forced Public Confessions'," The Canadian Press. Copy supplied.

June 18, 2012: "Jones Day," National Law Journal. Copy supplied.

April 12, 2012: "Appeals Court Hears Case On Tobacco Ads; U.S. FDA Asking For Unconstitutional Ruling By Lower Court To Be Overturned On Graphic Warnings," Nanaimo Daily News. Copy supplied.

March 11, 2012: "Instrumental To Their Careers Scholarship Named For Oswego Music Teacher Edward Lisk, Whose Teachings Resonate With Former Students Across The U.S.," The Post Standard. Copy supplied.

February 2, 2012: "Feds Argue For Cigarette Pack Images," Chattanooga Times Free Press. Copy supplied.

January 1, 2012: "Volcker Addresses Jones Day Gathering," Metropolitan Corporate Counsel. Copy supplied.

November 10, 2011: "Big Tobacco Fights Ad Ban Says Worcester Law Violates Speech Rights," Boston Herald. Copy supplied.

October 4, 2011: "Life Sciences Newsbriefs: Week Of September 26, 2011," Mondaq Business Briefing. Copy supplied.

June 9, 2010: "Publishing Company Under Fire For Putting Warning Label On Constitution," Fox News. Copy supplied.

November 20, 2009: "The Jones Day Lawyers Looking To Take Down Sox," Wall Street Journal. Copy supplied.

November 19, 2009: "These Men Could Kill SarbOx," Bloomberg Business Week. Copy supplied.

May 20, 2009: "Jones Day Welcomes Former U.S. Commerce And Treasury Dept. Legal Official To Washington Office," Business Wire. Copy supplied.

January 8, 2009: "Obama Pick To Analyze Broad Powers Of President," New York Times. Copy supplied.

October 21, 2008: "Guantanamo and the Uighurs," Diane Rehm Radio Show. Audio available online at: <http://dianerehm.org/shows/2008-10-21/guantanamo-and-uighurs>

July 23, 2008: "Ex-Backers Dismayed By Mukasey's Wary Start," New York Times. Copy supplied.

June 23, 2008: "High Court Turns Down FMLA Rights Dispute; Appeals Courts Conflict On Severance Waivers," Business Insurance. Copy supplied.

February 26, 2008: "Funds Urged To Set Open Policies," Daily Deal. Copy supplied.

November 25, 2007: "Tom Altman and Noel Francisco in D.C.," The High School Physics Project. Recording available at: <https://www.youtube.com/watch?v=2wYARE29-a4>

October 4, 2007: "Secret U.S. Endorsement Of Severe Interrogations - Correction Appended," New York Times. Copy supplied.

September 28, 2007: "Filling Ranks; Justice Department; The First Line Of Business For Michael Mukasey Will Be Reducing The Number Of Vacancies At Justice," Palm Beach Daily Business Review. Copy supplied.

September 3, 2007: "Gonzales' Controversial Tenure As Attorney General To End Sept. 17; News; V&E Says There Have Been No Discussions With AG About Returning To Firm," Texas Lawyer. Copy supplied.

August 30, 2007: "Job Opening For Attorney General With Credibility," CNN. Copy supplied.

August 28, 2007: "Gonzales; Next In Line, Please," The Hotline. Copy supplied.

August 27, 2007: "Attorney General Gonzales Resigns," The NewsHour with Jim Lehrer. Copy supplied.

August 27, 2007: "Gonzales Leaves Justice With Few Defenders," NPR. Copy supplied.

August 17, 2007: "A Security Twist To Buying; U.S. Companies," New Jersey Law Journal. Copy supplied.

August 1, 2007: "Holding Court; The Nation's Most Influential Circuit Court Judges," Inside Counsel. Copy supplied.

August 1, 2007: "Judge J. Harvie Wilkinson III Is A Conservative In The Most Traditional Sense Of The Word," Inside Counsel. Copy supplied.

August 1, 2007: "Senior Judge Laurence Silberman President Reagan Appointed Republican Party Insider Laurence Silberman To The Powerful D.C. Circuit In 1985," Inside Counsel. Copy supplied.

June 13, 2007: "Golden Mosque In Samarra Bombed Again; Lebanese Lawmaker Assassinated," CNN – The Situation Room. Copy supplied.

June 4, 2007: "DOJ Probes Turn To Civil Rights Division; Judiciary Committee To Question Ex-Official Schlozman While Internal Investigation Looks At Hiring Practices; National," NY Law Journal. Copy supplied.

April 22, 2007: "Gonzales Insists On Sharing The Blame," Salt Lake Tribune. Copy supplied.

April 19, 2007: "What Will Senate Hearings Mean For Gonzales?," NPR. Copy supplied.

April 15, 2007: "The Nation; Gonzales: Keeping His Distance, Or Deficient?; Some Say The Attorney General Delegates And Doesn't Worry About The Details. Others Question His Priorities," LA Times. Copy supplied.

April 9, 2007: "A General Rebellion," U.S. News. Copy supplied.

April 1, 2007: "Democrats Pushing For Testimony From Rove; In The Fallout Of The U.S. Attorney Firings Scandal, Democrats In Congress Sense An Opportunity To Investigate Bush Point-Man And Republican Guru Karl Rove," Miami Herald. Copy supplied.

March 30, 2007: "Lawyer On Fast Track Derailed D. Kyle Sampson Had Little Experience Before Rocketing Up The Administration Ladder," LA Times. Copy supplied.

March 30, 2007: "U.S. Attorney Scandal Gives Democrats A Chance To Investigate Rove," Knight Ridder Washington Bureau. Copy supplied.

March 29, 2007: "AG's Top Aide Expected To Back Firings: To Testify Today In D.C. Probe," Boston Globe. Copy supplied.

March 29, 2007: "Former Attorney General Chief Of Staff Testifies To Congress," International Wire. Copy supplied.

March 28, 2007: "Gonzales' Ex-Deputy To Testify On Attorney Firings," NPR. Copy supplied.

March 28, 2007: "Key Witness In Attorney Scandal 'Under Attack,' Friends Say," CNN. Copy supplied.

March 20, 2007: "Will Top White House Officials Testify Before Congress? Yes," National Review. Copy supplied.

March 16, 2007: "Gonzales: The Texan Who Can't Shoot Straight," U.S. News. Copy supplied.

March 14, 2007: "Daybook Wed Update," AP Alert – D.C. Daybook. Copy supplied.

March 14, 2007: "Gonzales Under Fire; Scramble To Save Nuclear Submarine," CNN. Copy supplied.

March 14, 2007: "President Supports Gonzales Despite Calls for Resignation," PBS Newshour. Copy supplied.

March 14, 2007: "Justice Department," Diane Rehm Radio Show. Recording available at: <https://dianerehm.org/shows/2004-03-14/justice-department>.

January 23, 2007: "Nightline," ABC Nightline. Copy supplied.

January 22, 2007: "Justice Thomas; Justice Served," ABC. Copy supplied.

November 15, 2006: "Donald Rumsfeld: War Criminal?; Al-Jazeera Headed To America?; U.S. Army Lieutenant Who Refused Deployment To Iraq Speaks Out; Outrage Over O.J. Simpson Book," CNN. Copy supplied.

July 24, 2006: "Bush 'Signing Statements' Deemed Unconstitutional: President Oversteps Authority With Right To Revise Laws: ABA Panel," Chicago Sun Times. Copy supplied.

July 24, 2006: "U.S. Lawyers' Group Criticizes President George W. Bush For Law Interpretations," AP Worldstream. Copy supplied.

February 4, 2006: "Spying 101; A Legal Primer," The National Journal. Copy supplied.

October 16, 2005: "Miers' Mind A Mystery - Except Toward Bush," St. Petersburg Times. Copy supplied.

October 4, 2005: "Bush Crony For The Supreme Court," Daily Mail (UK). Copy supplied.

October 4, 2005: "Hardball For October 4, 2005," MSNBC Hardball. Copy supplied.

October 4, 2005: "Noel Francisco, Scalia Clerk, Luttig Clerk, Former Associate White House Counsel, Federalist Society Member, On The Nominee," Hugh Hewitt Radio Show. Copy supplied.

October 3, 2005: "Bush Chooses White House Counsel Harriet Miers For Supreme Court," AP DataStream. Copy supplied.

October 3, 2005: "Bush Nominates Miers To Supreme Court; Interview With Kyle Maynard," CNN Larry King Live. Copy supplied.

October 3, 2005: "Supreme Court: Bush Nominates Miers as Justice, Positions; Unknown." American Health Line. Copy supplied.

August 28, 2002: "Adoption A Hit In White House," Washington Post. Copy supplied.

August 27, 2002: "Making 'Compassion' Concrete," Washington Post. Copy supplied.

March 12, 1997: "What's Next, An Endowed Chair For Johnnie Cochran?" Wall Street Journal. Copy supplied.

Through searches of my records, I and persons acting on my behalf have found the following interviews; however, I have no recollection of all the interviews listed below and persons acting on my behalf found no corresponding articles or recordings through searches of publically available databases:

November 14, 2016: "The Record" Alumni Magazine, University of Chicago Law School Interview.

October 11, 2016: The Financial Times Interview.

September 13, 2016: Bloomberg Radio's "Bloomberg Law" Interview.

June 27 – 28, 2016: Various News Outlets, *McDonnell v. U.S.* Interviews.

May 18, 2016: Josh Blackman Interview.

July 24, 2014: Pittsburgh Post Gazette Interview..

July 8, 2014: Law 360 Interview.

July 8, 2014: Legal Bisnow Interview.

July 8, 2014: Bloomberg BNA Interview (Reporter – Kimberly Robinson).

December 17, 2013: NPR Interview (Reporter – Nina Totenberg).

December 2, 2013: Law 360 Interview.

February 15, 2013: Law 360 Interview (Reporter – Scott Flaherty).

March 21, 2007: Washington Post Radio 101.7 FM Interview.

March 19, 2007: NPR Interview.

March 7, 2007: NPR Interview.

July 27, 2006: Tavis Smiley Show Interview.

May 3, 2006: Open Source Radio Show Interview.

April 1, 2006: Ron Kessler Interview.

November 4, 2005: Ray Richardson Show Interview.

October 24, 2005: Radio Show Interview (Call-in Number: 866-338-1059).

October 15, 2005: Joe Watkins Radio Show Interview.

October 12, 2005: Unspecified Radio Show Interview.

October 12, 2005: Ray Richardson Radio Show Interview.

October 8, 2005: Ron Kessler Interview.

October 8, 2005: Ron Insana Radio Show Interview.

October 6, 2005: Virginia Radio Show Interview (Call-in Number: 703-445-9409).

October 6, 2005: Detroit Radio Show Interview (Call-in Number: 313-872-7600).

October 6, 2005: Nebraska Radio Show Interview (Call-in Number: 402-556-9000).

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I and persons acting on my behalf have found the following press releases in which I am quoted:

October 10, 2016: "Jones Day Welcomes Former GAO Deputy Assistant General Counsel Cherie Owen To Washington Office," Jones Day. Copy supplied.

September 9, 2016: "Former Virginia Governor Robert McDonnell's Public Corruption Case Dropped By U.S. DOJ Following Supreme Court Decision," Jones Day. Copy supplied.

May 25, 2016: "Jones Day Welcomes Government Regulation Partner Michael Hazzard To Washington," Jones Day. Copy supplied.

June 29, 2015: "Jones Day Announces Arrival Of Media Telecom Partner Rémy Fekete And Team In Paris," Jones Day. Copy supplied.

February 16, 2015: "Jones Day Welcomes Two Government Regulation Partners In Washington," Jones Day. Copy supplied.

May 28, 2014: "Jones Day Welcomes Three Prominent Election Law Partners In Washington," Jones Day. Copy supplied.

May 12, 2014: "Jones Day Welcomes Washington Government Contracts Partner Fernand Lavalée," Jones Day. Copy Supplied.

February 24, 2014: "Ursula Schliessner Joins Jones Day In Brussels As EU Regulatory Partner," Jones Day. Copy supplied.

January 23, 2014: "Jones Day Welcomes Communications Lawyer Bruce Olcott As Washington Partner," Jones Day. Copy supplied.

December 18, 2013: "Jones Day Partner Giovanna Cinelli Chosen As Vice Chair Of Women In Aerospace," Jones Day. Copy supplied.

May 13, 2013: "Jones Day Welcomes Government Contracts Partner Andy Jackson In Washington," Jones Day. Copy supplied.

January 31, 2013: "Mauricio Llamas, Founding Partner Of EnvironLaw, Joins Jones Day In Mexico City," Jones Day. Copy supplied.

January 2, 2013. "FAA Assistant Chief Counsel Rebecca MacPherson To Join Jones Day As Of Counsel," Jones Day. Copy supplied.

March 8, 2012: "Jones Day Welcomes Renato Antonini As International Trade Partner In Brussels," Jones Day. Copy supplied.

September 27, 2011: "Jones Day Hosts High-Level Global Debt Crisis Discussion At IMF/World Bank Meetings," Jones Day. Copy supplied.

November 2010: "Washington Partner Lily Fu Claffee To Join U.S. Chamber As Senior Vice President, General Counsel And Chief Legal Officer," Jones Day. Copy supplied.

May 20, 2009: "Jones Day Welcomes Former U.S. Commerce And Treasury Dept. Legal Official To Washington Office," Jones Day. Copy supplied.

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.

U.S. Court of Appeals for the Fourth Circuit
Law Clerk (1996 – 1997), Appointed by Judge Luttig.

U.S. Supreme Court
Law Clerk (1997 – 1998), Appointed by Justice Scalia.

The White House
Assistant Counsel to the President (2001), Appointed by President George W. Bush.

The White House
Associate Counsel to the President (2001 – 2003), Appointed by President George W. Bush.

U.S. Department of Justice, Office of Legal Counsel
Deputy Assistant Attorney General (2003 – 2005), Appointed by Attorney General John D. Ashcroft.

D.C. Commission on Judicial Disabilities & Tenure
Member (2007 – 2012), Appointed by President George W. Bush.

- 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.

To my recollection, while practicing at Jones Day, I represented political interests, including, serving as counsel to the Trump-Pence Campaign in connection with the administration transition and the Mitt Romney Campaign in connection with a litigation filed in D.C. concerning participation in presidential debates.

To my recollection, while practicing at Cooper, Carvin & Rosenthal, PLLC (now Cooper & Kirk, PLLC), I represented political interests, including the Bush-Cheney Campaign in connection with the 2000 Florida recounts.

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 Justice Antonin Scalia of the U.S. Supreme Court from 1997 to 1998. I served as a law clerk to Judge J. Michael Luttig (retired) of the U.S. Court of Appeals for the Fourth Circuit from 1996 to 1997.

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

I have not practiced alone.

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

March 2017 – present
U.S. Department of Justice
Office of the Associate Attorney General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Senior Advisor

January 2017 – March 2017
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Acting & Principal Deputy Solicitor General

2005 – 2017
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
Partner (2008 – 2017)
Associate (2005 – 2007)

2003 – 2005
U.S. Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Deputy Assistant Attorney General

2001 – 2003
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500
Associate Counsel to the President (2001 – 2003)
Assistant Counsel to the President (2001)

1998 – 2001
Cooper, Carvin & Rosenthal, PLLC (now Cooper & Kirk, PLLC)
1523 New Hampshire Avenue, NW
Washington, D.C. 20036
Associate

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

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

b. Describe:

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

Immediately after graduation from the University of Chicago Law School, I served as a law clerk to Judge J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit, and then as a law clerk to Associate Justice Antonin Scalia of the Supreme Court of the United States.

After completing these clerkships, I became an associate at Cooper, Carvin & Rosenthal in Washington, D.C., where I assisted on a wide range of litigation matters. These included, among others, “Winstar” cases brought by financial institutions, a school desegregation case for the Rockford School Board in Rockford, Illinois, and other constitutional and commercial litigation matters. In 2000, I, along with other attorneys from Cooper, Carvin & Rosenthal, assisted in drafting briefs and other pleadings for the Bush-Cheney Campaign as part of the 2000 Florida Recount.

In January 2001, I spent a very brief period as part of the Bush-Cheney transition, after which, in January 2001, I joined the Office of Counsel to the President as an Assistant Counsel. In June 2001, I was promoted to Associate Counsel and Special Assistant to the President. During my time in the White House Counsel's Office, I advised the President and White House staff on a wide range of legal and legal policy matters, including judicial and other Executive Branch appointments, Executive Orders, questions of constitutional and international law, and other issues.

In June 2003, I became a Deputy Assistant Attorney General in the Department of Justice's Office of Legal Counsel. There, I handled a wide range of legal matters involving constitutional law, international law, and other issues. Publically available memoranda I issued are supplied in Appendix 12(b).

In July 2005, I joined the Washington, D.C. Office of the Jones Day law firm as Of Counsel, and was promoted to Partner in 2008. There, I principally handled a wide array of commercial, criminal, and constitutional litigation. For example, I argued the following three cases before the Supreme Court of the United States: *Noel Canning v. NLRB*, which involved a challenge to President Obama's recess appointments to the National Labor Relations Board; *Zubik v. United States*, which involved a challenge to federal regulations governing the provision of contraceptive insurance coverage by religious organizations; and *McDonnell v. United States*, which involved a challenge to the criminal conviction of former Virginia Governor Bob McDonnell. I also represented numerous other clients on commercial and administrative law matters, including, for example, the Internet Corporation for Assigned Names and Numbers (ICANN), in a matter involving an attempt to attach certain country code top level domain names (ccTLDs); IBM in a matter involving the Foreign Corrupt Practices Act (FCPA); and R.J. Reynolds Tobacco Company in legal challenges to federal laws and regulations governing the sale and marketing of tobacco products, as well as a lawsuit brought by the United State Government against Reynolds and other tobacco companies under the Racketeer Influenced and Corrupt Organization (RICO) Act. I also handled and supervised several *pro bono* matters, often involving representations of individuals who were bringing habeas corpus challenges to their criminal convictions. I am not a trial lawyer; accordingly, my litigation matters, both in trial and appellate courts, generally involved motions practice and appeals. Finally, a relatively small part of my practice involved transactional work, principally advising on U.S. regulatory aspects of mergers and acquisitions, such as reviews before the Committee on Foreign Investment in the United States (CFIUS).

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

See response to 14(b)(i).

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

I estimate that approximately 90% of my practice involved litigation, with the remaining 10% involving transactional, regulatory, and other matters. During my five-year tenure in the Office of Counsel to the President and the Department of Justice Office of Legal Counsel, I did not appear in court at all. Since then, the frequency of my appearance in courts has increased over time, and, prior to joining the Department of Justice in January 2017, I appeared in court on a fairly frequent basis. As noted above, these appearances generally involved appeals and motions practice.

- i. Indicate the percentage of your practice in:

The following are estimates to the best of my recollection:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 80% |
| 2. state courts of record: | 15% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

- ii. Indicate the percentage of your practice in:

The following are estimates to the best of my recollection:

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

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

- i. What percentage of these trials were:

The following are estimates to the best of my recollection:

- | | |
|--------------|-----|
| 1. jury: | 5% |
| 2. non-jury: | 95% |

Based on a search of publically available databases, I estimate that I have represented clients in approximately twenty-four cases that were tried to verdict.

Most of these cases were resolved through motions practice. To the best of my recollection, I have only participated in one case where, during my participation, the matter was tried before a jury, *McDonnell v. United States*. In that case, my participation involved motions practice, jury instructions, and arguing the case on appeal.

- 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 argued three cases before the United States Supreme Court. I have filed numerous other briefs before the Supreme Court, including on petitions for certiorari, on the merits, and as amicus.

Argued Cases:

No. 15-474, *McDonnell v. United States* (application for stay of mandate; reply in support of application for stay of mandate; petition for writ of certiorari; reply in support of petition; brief for petitioner; supplemental joint appendix; reply for petitioner; argued on behalf of petitioner)

Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119, 15-191, *Zubik v. Burwell* (petition for writ of certiorari on behalf of Zubik; petition for writ of certiorari on behalf of Roman Catholic Archbishop of Washington; reply in support of petition on behalf of Zubik; reply in support of petition on behalf of Roman Catholic Archbishop of Washington; supplemental brief in support of petition on behalf of Zubik; supplemental brief in support of petition on behalf of Priests for Life; brief for petitioners in Nos. 14-1418, 14-1453, & 14-1505; joint appendix Vols. 1-3; reply for petitioners in Nos. 14-1418, 14-1453, & 14-1505; argued on behalf of petitioners in Nos. 14-1418, 14-1453, & 14-1505; supplemental brief for petitioners; supplemental reply brief for petitioners)

No. 12-1281, *NLRB v. Noel Canning* (brief for respondent in opposition of petition; brief for respondent; response to Motion of Senate Republican Leader for Leave to Participate in Oral Argument (unavailable); argued on behalf of respondent)

Merits Briefs:

No. 16-327, *Lee v. United States* (brief for respondent)

No. 16-142, *Honeycutt v. United States* (brief for respondent)

No. 15-1248, *McLane Company v. EEOC* (reply for respondent)

No. 15-1503, 15-1504, *Turner v. United States* (brief for respondent)

No. 14-7506, *Ortiz v. United States* (brief for respondent; motion to dismiss)

No. 08-861, *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.* (petition for writ of certiorari; reply in support of petition; brief for petitioner; joint appendix; reply brief for petitioner)

No. 06-873, *Chamber of Commerce v. Lockyer* (petition for writ of certiorari; joint appendix; reply in support of petition; brief for petitioner; reply brief for petitioner)

No. 99-1978, *United States v. Hatter* (brief for respondents)

Amicus Briefs:

No. 16-466, *Bristol-Myers Squibb Co. v. Superior Ct. of Calif.* (amicus brief for the United States supporting petitioner)

No. 16-405, *BNSF Railway Co. v. Tyrrell* (amicus brief for the United States supporting petitioner)

No. 16-369, *Los Angeles County v. Mendez* (amicus brief for the United States supporting petitioners)

No. 16-254, *Water Splash, Inc. v. Menon* (amicus brief for the United States supporting petitioner)

No. 15-1509, *U.S. Bank National Ass'n v. Village at Lakeridge* (amicus brief for the United States advocating denial of petition)

No. 15-1189, *Impression Products v. Lexmark Int'l* (amicus brief for the United States supporting reversal in part and vacatur in part)

Nos. 15-1039, 15-1195, *Sandoz, Inc. v. Amgen, Inc.* (amicus brief for the United States supporting petitioner/cross-respondent)

No. 15-1031, *Howell v. Howell* (amicus brief for the United States supporting respondent)

No. 13-356, *Conestoga Wood Specialties Corp. v. Burwell* (amicus brief for the United States Conference of Catholic Bishops supporting Hobby Lobby and Conestoga Wood Specialties Corp., et al.)

No. 12-656, *Spirit Airlines v. Dep't of Transportation* (amicus brief for Airlines for America and Air Line Pilots Association, Int'l supporting petitioners)

No. 10-10, *Turner v. Rogers* (amicus brief for Senators Demint, Graham, Johanns, and Rubio supporting respondents)

No. 07-539, *Progress Energy, Inc. v. Taylor* (amicus brief for Chamber of Commerce of the United States of America supporting petitioner)

No. 06-873, *Mohawk Indus. v. Williams* (amicus brief for Chamber of Commerce of the United States of America supporting petitioner)

No. 05-1481, *Sidley Austin LLP v. EEOC* (amicus brief for Chamber of Commerce of the United States of America supporting petitioner)

Petition for Writ of Certiorari:

No. 16-7080, *Tyree v. Chao* (brief for the respondent in opposition of petition)

No. 16-6989, *Fox v. United States* (brief for the respondent in opposition of petition)

No. 16-6872, *Valdez v. United States* (brief for the respondent in opposition of petition)

No. 16-6224, *Vennes v. United States* (brief for the respondent in opposition of petition)

No. 16-6076, *Carrasquillo-Penaloza v. United States* (brief for the respondent in opposition of petition)

No. 16-1073, *Carrillo v. U.S. Bank Nat'l Ass'n* (petition for a writ of certiorari)

No. 16-991, *Sessions v. Bashkim Shuti* (petition for a writ of certiorari)

No. 16-978, *Sessions v. Baptiste* (petition for a writ of certiorari)

No. 16-966, *Sessions v. Golicov* (petition for a writ of certiorari)

No. 16-880, *Habeas Corpus Center v. U.S. Dep't of Justice* (brief for the respondent in opposition of petition)

No. 16-875, *Allied Indus. Development Corp. v. Surface Transp. Bd.* (brief for the respondent in opposition of petition)

No. 16-808, *Vitreo Retinal Consultants of the Palm Beaches, P.A. v. U.S. Dep't of Health and Human Servs.* (brief for the respondent in opposition of petition)

No. 16-755, *Menendez v. United States* (brief for the respondent in opposition of petition)

No. 16-742, *Kerr v. Haugrud* (brief for the respondent in opposition of petition)

No. 16-721, *West Virginia v. U.S. Dep't of Health and Human Servs.* (brief for the respondent in opposition of petition)

No. 16-709, *Daniels v. Merit Sys. Protection Bd.* (brief for the respondent in opposition of petition)

No. 16-679, *McFadden v. United States* (brief for the respondent in opposition of petition)

No. 16-639, *Rowland v. United States* (petition for a writ of certiorari)

No. 16-612, *Langbord v. United States* (brief for the respondent in opposition of petition)

No. 603, *Conrad v. United States* (brief for the respondent in opposition of petition)

No. 16-572, *Citizens Against Reservation Shopping v. Haugrud* (brief for the respondent in opposition of petition)

No. 16-564, *Darin v. United States* (brief for the respondent in opposition of petition)

No. 16-548, *Belмора LLC v. Bayer Consumer Care* (brief for the respondent in opposition of petition)

No. 16-531, *Ameren Services Co. v. FERC* (brief for the respondent in opposition of petition)

No. 16-508, *Viloski v. United States* (brief for the respondent in opposition of petition)

No. 16-402, *Carpenter v. United States* (brief for the respondent in opposition of petition)

No. 16-368, *Noble Energy, Inc. v. Haugrud* (brief for the respondent in opposition of petition)

Nos. 16-293, 16-294, *In Re Fields* (brief for the respondent in opposition of petition)

No. 15-1131, *Michigan Catholic Conference v. Sebelius* (petition for a writ of certiorari; reply in support of petition; second petition for a writ of certiorari)

No. 15-1003, *Diocese of Fort Wayne-South Bend, Inc. v. Burwell* (petition for a writ of certiorari)

No. 15-834, *University of Dallas v. Burwell* (petition for a writ of certiorari)

No. 14-492, *University of Notre Dame v. Burwell* (petition for a writ of certiorari; reply in support of petition; supplemental brief in support of petition)

No. 13-829, *Roman Catholic Archbishop of Washington v. Sebelius* (petition for a writ of certiorari; reply in support of petition)

No. 12-521, *American Snuff Co. v. United States* (application to extend time to file petition for writ of certiorari; application to extend further time; petition for writ of certiorari; reply in support of petition)

No. 09-977, *R.J. Reynolds Tobacco Co. v. United States* (petition for a writ of certiorari; reply in support of petition)

No. 08-917, *McSwain v. Warren* (petition for a writ of certiorari; reply in support of petition)

No. 99-1995, *Envirocare of Texas v. Waste Control Specialists* (brief for the respondent in opposition of petition)

Miscellaneous Filings:

No. 16A683, *Habeas Corpus Resource Center v. U.S. Dep't of Justice* (opposition to application to recall and stay the mandate pending the disposition of a petition for a writ of certiorari)

No. 16-399, *Perry v. Merit Systems Protection Board* (joint appendix)

No. 16-309, *Maslenjak v. United States* (joint appendix)

No. 13A1277, *Diocese of Cheyenne v. Burwell* (application for injunction pending appeal; supplemental brief; letter from counsel for the applicants withdrawing application)

No. 13A690, *Michigan Catholic Conference v. Sebelius* (application for injunction pending appeal; letter from counsel for the applicants withdrawing application)

No. 13A689, *The Catholic Diocese of Nashville v. Sebelius* (application for injunction pending appeal; letter from counsel for the applicants withdrawing application)

No. 13A688, *Roman Catholic Archbishop of Washington v. Sebelius* (application for injunction pending appeal; letter from counsel for the applicants withdrawing application)

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. *McDonnell v. United States*, 136 S. Ct. 2355 (2016); *McDonnell v. United States*, 792 F.3d 478 (4th Cir. 2015) (Supreme Court of the United States: Chief Justice Roberts, Associate Justices Kennedy, Thomas, Ginsberg, Breyer, Alito, Sotomayor, and Kagan) (U.S. Court of Appeals for the Fourth Circuit: Judges Motz, King, and Thacker) (U.S. District Court for the Eastern District of Virginia: Judge Spencer) (Representation: 2013 – 2016)

Former Virginia Governor Bob McDonnell was convicted of bribery for allegedly accepting payments in exchange for agreeing to perform certain “official acts” in violation of 18 U.S.C. §§ 1343, 1349, and 1951. Former Governor McDonnell appealed, principally arguing that the conduct alleged did not constitute “official action” and the jury was not properly instructed on the meaning of “official action.” The U.S. Court of Appeals for the Fourth Circuit affirmed the conviction. The Supreme Court granted certiorari and vacated and remanded, holding that the jury had not been properly instructed on the definition of “official acts.” During the trial, I assisted on motions and jury instructions issues. On appeal, I presented oral argument in both the Fourth Circuit and the Supreme Court.

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2. *National Labor Relations Board v. Noel Canning*, 134 S. Ct. 2550 (2014); *Noel Canning v. National Labor Relations Board*, 705 F.3d 490 (D.C. Cir. 2013) (Supreme Court of the United States: Chief Justice Roberts, Associate Justices Scalia, Kennedy, Thomas, Ginsberg, Breyer, Alito, Sotomayor, and Kagan) (U.S. Court of Appeals for the D.C. Circuit: Judges Sentelle, Henderson, and Griffith) (Representation: 2012 – 2014)

The Noel Canning Company challenged a National Labor Relations Board (NLRB) ruling against it on the ground that the President's recess appointments to the NLRB were unconstitutional. The D.C. Circuit held that the recess appointments were unconstitutional and, therefore, that the NLRB lacked a quorum. The Supreme Court granted certiorari and affirmed. In the D.C. Circuit, I represented both the Noel Canning Company and the U.S. Chamber of Commerce, which had sought to intervene as a party. In the Supreme Court, I represented the Noel Canning Company. I presented oral argument in both the D.C. Circuit and the Supreme Court.

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3. *Zubik v. Burwell*, 136 S. Ct. 1557 (2016); *Priests for Life v. U.S. Dep't of Health and Human Services*, 772 F.3d 229 (D.C. Cir. 2014); *Roman Catholic Archbishop of Washington v. Sebelius*, 19 F. Supp. 3d 48 (D.D.C. 2013) (Supreme Court of the United States: Chief Judge Roberts, Associate Justices Kennedy, Thomas, Ginsberg, Breyer, Alito, Sotomayor, and Kagan) (U.S. Court of Appeals for the D.C. Circuit: Judges

Rogers, Pillard, and Wilkins) (U.S. District Court for the District of Columbia, Judge Jackson) (Representation: 2012 – 2016)

In 2013, numerous religious organizations filed lawsuits challenging federal regulations that required such organizations to cover certain contraceptives as part of their health plans, unless they submitted a form either to their insurer or to the Federal Government, stating that they objected on religious grounds to providing contraceptive coverage. The religious organizations argued that the regulations violated the Religious Freedom Restoration Act of 1993. In *Zubik v. Burwell*, the Supreme Court consolidated seven separate petitions raising this issue—arising out of the Third, Fifth, Tenth, and D.C. Circuit Courts of Appeals—into a single case, including Petition Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119 and 15-191. After oral argument and supplemental briefing, the Supreme Court vacated the lower court rulings stating: “Given the gravity of the dispute and the substantial clarification and refinement in the positions of the parties, the parties on remand should be afforded an opportunity to arrive at an approach going forward that accommodates petitioners’ religious exercise while at the same time ensuring that women covered by petitioners’ health plans ‘receive full and equal health coverage, including contraceptive coverage.’” I presented oral argument in the Supreme Court, the D.C. Circuit, and the D.C. District Court.

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4. *Solomon v. United States*, 467 F.3d 928 (6th Cir. 2006) (Judges Gilman, Griffin, and Duggan) (Representation: 2005 – 2006)

Petitioner, who was serving a 240-month sentence for a drug conviction, had until April 24, 1997 to file a federal habeas petition challenging his 1992 drug conviction. Acting *pro se*, on April 10, 1997, he filed a “Motion of Notification of Intent to File” a federal habeas petition; he then filed the habeas petition itself on June 26, 1997, after the statutory deadline. The district court dismissed the habeas petition as untimely. The Sixth Circuit reversed, holding that the petition was timely under the doctrine of equitable tolling because petitioner diligently attempted to meet the statutory deadline for filing but was impeded from doing so for reasons beyond his control. I represented petitioner *pro bono*

and presented oral argument in the Sixth Circuit.

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5. *McSwain v. Davis*, 287 Fed. Appx. 450, 2009 U.S. App. LEXIS 15218 (6th Cir. 2008) (Judges Suhrheinrich, Rogers, and Bell) (Representation: 2007 – 2008)

Petitioner, a former prostitute, suffered from Dissociative Identity Disorder (“DID”), formerly known as multiple personality disorder, which she had likely developed in early childhood as a result of years of sexual abuse. In 1978, she was convicted of killing one of her customers. In 1988, after having been diagnosed with DID, she challenged her convictions first in state and then federal court. Although the state court initially invalidated her conviction, in 2003, the Michigan Court of Appeals reversed. She then filed a federal habeas petition claiming that, in light of her DID, she was incompetent to stand trial at the time of her original conviction. The federal district court dismissed the motion as untimely, on the ground that her 1988 diagnosis did not constitute newly discovered evidence and she was not entitled to equitable tolling. The Sixth Circuit affirmed. I represented petitioner *pro bono* and presented oral argument in the Sixth Circuit.

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6. *Vollagarcia v. Warden, Nobel Correctional Institute*, 599 F.3d 529 (6th Cir. 2010)
(Judges Martin, Suhrheinrich, and White) (Representation: 2009 – 2010)

Petitioner, who was serving two consecutive seven-year jail terms, challenged his sentence as unconstitutional. Under applicable law, although the maximum sentence to which he was subject was eight years, the court could impose a sentence of greater than two years only if it found that a two-year sentence would demean the seriousness of the offense or not adequately protect the public from future crime. The state court's seven-year sentence was based on a finding that a two-year sentence would have demeaned the seriousness of the offense. Petitioner contended that this sentence violated the Supreme Court's decisions in *Apprendi v. New Jersey* and *Blakely v. Washington*, which held that facts that increase a sentence beyond the statutorily-prescribed maximum must be found by a jury beyond reasonable doubt. The federal district court granted Petitioner's habeas petition, and the Sixth Circuit affirmed. I represented petitioner *pro bono* and presented oral argument in the Sixth Circuit.

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7. *Weinstein v. Islamic Republic of Iran*, 831 F.3d 470 (2016) (Chief Judge Garland and Judges Henderson and Randolph) (Representation: 2014 – 2016)

Plaintiffs, victims of terrorist attacks and their family members, hold unsatisfied judgments against defendants Iran, North Korea, and Syria arising out of lawsuits brought pursuant to the Foreign Sovereign Immunities Act (FSIA). To satisfy their judgments, plaintiffs sought to attach Internet data managed by the Internet Corporation for Assigned Names and Numbers (ICANN)—and in particular, to attach the country-code top level domain names (ccTLDs) and Internet Protocol (IP) addresses for Iran, Syria, and North Korea. The district court granted ICANN's motion to quash the writs of attachment on the ground that the data were not attachable under District of Columbia law. The D.C. Circuit affirmed, albeit on different grounds, holding that plaintiffs had forfeited certain arguments, and it rejected others because allowing the plaintiffs to attach the ccTLDs at issue threatened to undermine the interests of ICANN and other third-parties. I presented oral argument in the D.C. Circuit.

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8. *R.J. Reynolds Tobacco Co. v. Food and Drug Administration*, 696 F.2d 1205 (D.C. Cir. 2012); *R.J. Reynolds Tobacco Co. v. Food and Drug Administration*, 845 F. Supp. 2d 266 (D.D.C. 2012); *R.J. Reynolds Tobacco Co. v. Food and Drug Administration*, 823 F. Supp. 2d 36 (D.D.C. 2011) (U.S. Court of Appeals for the D.C. Circuit: Judges Rogers, Brown, and Randolph) (U.S. District Court for D.C.: Judge Richard J. Leon) (Representation: 2011 – 2012)

In 2011, the Food and Drug Administration (FDA) promulgated a rule that required that the warnings on cigarette packages and advertising include one of nine graphic images and the National Cancer Institute's smoking cessation hotline telephone number "1-800-QUIT-NOW". Several tobacco companies sued to invalidate the rule as unconstitutional under the First Amendment. The district court preliminarily enjoined the rule and, thereafter, granted summary judgment in favor of the tobacco companies, holding that the rule violated the First Amendment. The D.C. Circuit affirmed. I represented R.J. Reynolds Tobacco Co. and Santa Fe Natural Tobacco Co., and presented oral argument in both the District Court and the D.C. Circuit.

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9. *Discount Tobacco City & Lottery Inc. v. United States*, 674 F.3d 509 (6th Cir. 2012); *Commonwealth Brands v. United States*, 678 F.Supp.2d 512 (W.D.Ky. 2010) (U.S. Court of Appeals for the Sixth Circuit: Judges Clay, Stranch, and Barrett) (United States District Court for the Western District of Kentucky: Judge McKinley) (Representation: 2009 – 2012)

Plaintiffs, tobacco manufactures and sellers, filed suit challenging several provisions of the Family Smoking Prevention and Tobacco Control Act (FSPTCA), which imposed restrictions on the marketing and sale of tobacco products, including a ban on the use of color or graphics in advertising; a requirement that tobacco advertisements include graphic warnings, the specifics of which the Food and Drug Administration would promulgate in a future rulemaking; restrictions on the marketing and sale of “modified risk tobacco products”; and other restrictions. The district court invalidated the FSPTCA’s prohibition on the use of color or graphics in tobacco advertising and one other provision, but upheld the FSPTCA’s other restrictions. The Sixth Circuit largely affirmed, agreeing that the prohibition on the use of color or graphics in tobacco advertising was unconstitutional, but upholding the remaining provisions of the Act. I represented R.J. Reynolds Tobacco Company and American Snuff Company, and presented oral argument in both the District Court and the Sixth Circuit.

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10. *Delta Air Lines v. Export-Import Bank*, 85 F. Supp. 3d 436 (D.D.C. 2015) (Judge Contreras) (Representation: 2014 – 2015)

The Export-Import Bank provided loan guarantees to foreign purchasers of U.S.-made aircraft, including, for example, loan guarantees to Air India to purchase certain aircraft manufactured by Boeing. Delta Air Lines sued the Export-Import Bank, arguing that the Bank's loan guarantees violated the Export-Import Bank Act of 1945 and the Administrative Procedure Act. A U.S. manufacturer with a major stake in the resolution of this issue was Boeing, since Delta's lawsuit principally challenged the Export-Import Bank's authority to provide loan guarantees to foreign airlines seeking to purchase Boeing's airplanes. I represented Boeing in this matter as *amicus curiae* in support of the Export-Import Bank. The District Court granted summary judgment in favor of the Export-Import Bank. The District Court did not hold oral argument in this matter.

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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.)

See answer to Question 15, above. I have not performed lobbying activities on behalf of clients.

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.

I have never taught a course, although as noted in my response to Question 12(d), I have, on occasion, appeared as a guest lecturer at classes taught by others.

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.

I anticipate receiving the following payments from Jones Day:

In the 4th quarter of 2017, I will receive \$54,000 paid into my account in the Jones Day Retirement Plan (a defined contribution plan).

Jones Day has withheld \$550,000 of my partnership income as a tax retainer to pay taxes on my behalf that are attributable to my income earned as a Partner of the Firm. At some point between now and January 20, 2024, I will receive the unused portion, if any, of this retainer.

When I reach the age of 65, I will receive approximately \$33,000 annually as part of the Jones Day defined benefit pension plan, assuming plan investment performance meets expectations.

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.

No.

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).

See OGE-278.

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

My completed Statement of Net Worth is attached.

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.

During the nomination process, I consulted with the Department of Justice's ethics office. I will continue to consult with them if confirmed and will recuse myself from any matter in which it is required.

- 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 consult with the Department of Justice's ethics office if confirmed and will recuse from any matter in which it is required.

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 work load, 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.

I have been very fortunate in my career. I believe that, to whom much is given, much is expected. I therefore have long been committed to performing *pro bono* work. I estimate that, while at Jones Day, I devoted approximately 200 hours per year (and sometimes more) to engaging in *pro bono* work. For example, as described in my response to Question 15, I personally argued three *pro bono* cases in the courts of appeals on behalf of indigent prisoners (see entries 15.4, 15.5, and 15.6). I also regularly served as the supervising partner for Jones Day associates in the handling of their *pro bono* matters. In addition, my representation of Catholic Charities and other Catholic organizations in the *Zubik* and related litigation was handled on a *pro bono* basis.