

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lydia Kay Griggsby

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

Judge, United States Court of Federal Claims

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

Office: United States Senate Judiciary Committee
 Hart Senate Office Building, Suite 221
 Washington, DC 20510

Residence: Silver Spring, Maryland

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

1968; Baltimore, Maryland

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

1990 – 1993, Georgetown University Law Center; J.D., 1993
1986 – 1990, University of Pennsylvania; B.A., 1990

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2006 – present
United States Senate
Committee on the Judiciary, Chairman Patrick Leahy
Hart Senate Office Building, Suite 221

Washington, DC 20510
Chief Counsel for Privacy and Information Policy (2008 – present)
Privacy Counsel (2006 – 2008)

2004 – 2005
United States Senate
Select Committee on Ethics
Hart Senate Office Building, Suite 220
Washington, DC 20510
Counsel

1998 – 2004, Summer 1991
United States Attorney's Office for the District of Columbia
Civil Division
555 Fourth Street, NW
Washington, DC 20530
Assistant United States Attorney (1998 – 2004)
Summer Law Clerk (Summer 1991)

1995 – 1998
United States Department of Justice
Civil Division, Commercial Litigation Branch
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

1993 – 1995
DLA Piper, LLP
The Marbury Building
6225 Smith Avenue
Baltimore, Maryland 21209
Associate Attorney

Summer 1992
Venable, LLP
750 East Pratt Street
Suite 900
Baltimore, Maryland 21202
Summer Associate

September 1990 – May 1991
Georgetown University Law Center
Edward Bennett Williams Law Library
111 G Street, NW
Washington, DC 20001
Student Librarian

Other Affiliations (Uncompensated):

2011 – 2012

The Society, Incorporated

c/o Stoddard Baptist Home

1818 Newton Street, NE

Washington, DC 20010

Vice President, Washington, DC Chapter (2011 – 2012)

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 was not required to register for the selective service.

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

Professional Honors:

Department of Justice Special Achievement Award (2003, 2000, 1999, 1997)

Inspector General's Award for Enhancing the Quality of Life for Federally Assisted Housing Residents Through Civil Litigation, (2001)

Secretary of State Commendation Letter for Successful Civil Litigation in James C. Wood, Jr. ex rel. United States v. The American Institute in Taiwan (2001)

United States Attorney's Community Outreach Award (2000)

White House Closing the Circle Award for Successful Environmental Enforcement Litigation (2000)

Educational Honors:

American Criminal Law Review, Topics Editor (1992 – 1993)

Center for Applied Legal Studies Clinic (1991 – 1992)

Sphinx Senior Honor Society (1989 – 1990)

Onyx Honor Society (1989 – 1990)

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.

Alliance of Black Women Attorneys (affiliate of the National Bar Association) (1993 – 1995)

American Bar Association (1993 – 1995; 2003 – 2004; 2013 – present)

Committee on Children's Rights Litigation (2003)
Greater Washington Area Chapter (affiliate of the National Bar Association), Women
Lawyers Division (1996 – 1998)
National Bar Association (2012 – present)

10. **Bar and Court Admission:**

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

1993, Maryland
2000, District of Columbia

There have been no lapses in membership.

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

Supreme Court of the United States, 2004
United States Court of Appeals for the District of Columbia Circuit, 2000
United States District Court for the District of Columbia, 1998 (inactive)
United States Court of Federal Claims, 1995

There have been no lapses in membership although as noted my membership in the United States District Court for the District of Columbia is inactive. The United States District Court for the District of Columbia requires that attorneys renew their membership every three years to maintain active status. Since I completed my tenure with the U.S. Attorney's Office for the District of Columbia in 2004, I have not practiced before the U.S. District Court for the District of Columbia and I currently maintain provisional membership or inactive status.

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.

Delta Sigma Theta Sorority, Incorporated (1987 – present)
Parliamentarian, Washington, DC Alumnae Chapter (2008 – 2010)
Folger Shakespeare Theater (2011 – present)
Volunteer Usher (2011 – present)

Junior League of Washington (2011 – present)
 Pearls of the Patuxent River, Incorporated (2011 – present)
 Parliamentarian (2012 – 2013)
 The Society, Incorporated (2007 – present)
 Member, National Chapter Establishment Committee (2013 – present)
 Member, National Nominating Committee (2011 – 2013)
 Vice President, Washington, DC Chapter (2011 – 2012)
 University of Pennsylvania Secondary School Committee (2000 – 2006)

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

Membership in The Junior League of Washington; Delta Sigma Theta Sorority, Incorporated; The Society, Incorporated; and The Pearls of the Patuxent River, Incorporated is extended only to women. Delta Sigma Theta Sorority, Incorporated is an international sorority and public service organization. The Junior League of Washington; the Society, Incorporated; and the Pearls of the Patuxent River, Incorporated are community service organizations that serve communities located within the Washington, DC metropolitan area. Otherwise, to the best of my knowledge, none of the organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

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.

Tax Evasion, Seventh Survey of White Collar Crime, 29 Am. Crim. L. Rev. 609 (1991-1992). Copy supplied.

Letter to the Editor entitled, “No Big Deal,” the Daily Pennsylvanian, November 7, 1989. 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 the best of my knowledge, I have not prepared or contributed to the preparation of any publicly available reports, memoranda or policy statements.

- 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.

September 22, 2008: I provided brief remarks regarding Freedom of Information Act policy and procedure during a meeting of the Board of Regents of the Smithsonian Institution held in Washington, DC. Copy of meeting minutes 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.

October 9, 2013: I participated on a conference panel entitled "Privacy Versus Protection," during the CyberMaryland Conference held at the Baltimore Convention Center in Baltimore, Maryland. Notes supplied.

April 18, 2013: I participated on a conference panel entitled "ECPA Reform Panel," during the United States Chamber of Commerce, Telecommunications & E-Commerce Committee's Spring Meeting held in Washington, DC. Notes supplied.

March 16, 2012: I participated on a conference panel regarding the Freedom of Information Act legislative outlook, during a conference held at the American University, Washington College of Law in Washington, DC. Audio and video of the panel is available at: <http://www.c-spanvideo.org/program/AUWa> and at <http://media.wcl.american.edu/Mediasite/Play/23039047-9a32-49e4-a5cf-65c4b6a37bfe>.

March 2, 2012: I participated in a panel discussion entitled "The Legislative Agenda for Technology Policy Issues," during the TechAmerica U.S. Innovation Policy Technology Roundtable held in the Capitol Visitor Center located in

Washington, DC. I discussed potential digital privacy and cybersecurity legislation in the Congress. I have no notes, transcripts or recordings. The address for TechAmerica is 601 Pennsylvania Avenue, NW, #600, Washington, DC 20004.

March 14, 2011: I participated on a conference panel entitled “A Legislative Outlook – an Inside Look at FOIA activity in the 112th Congress,” during the Fourth Annual Freedom of Information Day Celebration held at the American University, Washington College of Law in Washington, DC. Notes supplied.

April 8, 2010: I participated in a briefing on federal data breach legislation, held at the Electronic Privacy Information Center. I discussed the legislative outlook for federal data breach notification legislation in the Congress. I have no notes, transcripts or recordings, but press coverage is supplied. The address for the Electronic Privacy Information Center is 1718 Connecticut Avenue, NW, Washington, DC 20009.

January 22, 2010: I participated on a conference panel entitled, “Legislative Staffers and Agency Led Discussion 2010 Top Issues,” during a conference sponsored by the Electronic Privacy Information Center in Washington, DC. I discussed the legislative outlook for federal data breach notification and digital privacy legislation in the Congress. I have no notes, transcripts or recordings. The address for the Electronic Privacy Information Center is 1718 Connecticut Avenue, NW, Washington, DC 20009.

January 20, 2010: I participated on a conference panel entitled, “Transparency in the Obama Administration: A First-Year Assessment of the New Office of Government Information Services,” during a conference sponsored by the Collaboration on Government Secrecy held at the American University, Washington College of Law in Washington, DC. Audio and video available at: <http://media.wcl.american.edu/Mediasite/Play/9e7a5cd0-c307-4f89-88ae-d74bca4b12b8>.

October 28, 2009: I participated on a conference panel on federal data breach legislation during a policy briefing sponsored by Symantec held in the Hart Senate Office Building located in Washington, DC. I discussed the legislative outlook for federal data privacy legislation in Congress. I have no notes, transcripts or recordings, but press coverage is supplied. The address for Symantec is 350 Ellis Street, Mountain View, California 94093.

January 29, 2009: I participated on a conference panel entitled, “Information Policy in the New Administration,” during a conference sponsored by the Collaboration on Government Secrecy and American University’s Washington College of Law, held in Washington, DC. Video available at: <http://media.wcl.american.edu/Mediasite/Play/4d44c7ea-4797-42f6-9846-52423ca9fc01>.

December 4, 2008: I participated in a conference panel entitled “Laws in the Works,” during the American Society of Access Professionals’ 2008 Annual Symposium & Training Conference held at the Walter E. Washington Convention Center located in Washington. DC. Remarks supplied.

March 17, 2008: I participated on a conference panel for the First Annual “Freedom of Information Day” Celebration, during a conference held at the American University, Washington College of Law in Washington, DC. Audio available at: <http://www.podfeed.net/episodes.asp?p=35&id=2749&ct=1>.

July 6 – 7, 2006: I participated in a two-day conference on Internet Drugs during the “Keep Internet Neighborhoods Safe” Conference held at Harvard Law School in Cambridge, Massachusetts. I participated in a policy discussion about the risks to youth associated with the purchase and sale of prescription drugs via the Internet. I have no notes, transcripts or recordings. The address of Harvard Law School is 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

February 23, 2004: I participated in a panel discussion on government employment and the value of a liberal arts education at the University of Pennsylvania in Philadelphia, Pennsylvania. I discussed my professional experiences as an attorney for the Department of Justice. I have no notes, transcripts or recordings, but press coverage is supplied. The address for the University of Pennsylvania is 3451 Walnut Street, Philadelphia, Pennsylvania 19104.

May 17, 1990: I participated on a conference panel entitled, “Student Life Exchanges: The Greek Experience,” during the University of Pennsylvania’s 250th Celebration, at the University of Pennsylvania in Philadelphia, Pennsylvania. I discussed my experiences as an undergraduate student and member of a university-affiliated sorority. I have no notes, transcripts or recordings. The address for the University of Pennsylvania is 3451 Walnut Street, Philadelphia, Pennsylvania 19104.

- 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.

Andrew Noyes, *Leahy Plans Hearing to Look at Cybersecurity Cooperation*, Nat’l J.’s Congress Daily, Oct. 29, 2009. Copy previously supplied in response to 12d.

Beverley Lumpkin, *Congress Needs to Learn a Little Openness Itself*, Project on Government Oversight Blog, Mar. 13, 2008. Copy supplied.

E-Government; Definition of 'Media' Was an Obstacle Delaying FOIA Bill, Tech. Daily, Aug. 8, 2007. Copy supplied.

Bill Miller, *Owners of Troubled Properties Targeted; U.S. Suits Seek to Seize Crime-Ridden Buildings*, Wash. Post, July 27, 2000. Copy supplied.

Bill Miller, *Nuisance Law Claims Its First Success; Owners of Troubled Logan Circle Building Promise to Clean It Up*, Wash. Post, June 2, 1999. Copy supplied.

Adam Levine, *After Four-Year Absence, Sorority Chapter Begins Anew on Campus*, the Daily Pennsylvanian, April 16, 1990. Copy supplied.

Adam Levine, "150 Gather for Mandela Rally," the Daily Pennsylvanian, February 15, 1990. Copy supplied.

Su-Lin Cheng, "Greek Leaders Express Support for Proposed Peer Review Panel," the Daily Pennsylvanian, November 2, 1989. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]

civil proceedings:	_____%
criminal proceedings:	_____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that

were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

- e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

15. Public Office, Political Activities and Affiliations:

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

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

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

Voter Protection Counsel, Obama for America (2012, 2008). I provided pro bono legal advice on election laws and procedures.

16. Legal Career: Answer each part separately.

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

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

I have not served as a law clerk.

- 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.

1993 – 1995
DLA Piper, LLP
The Marbury Building
6225 Smith Avenue
Baltimore, Maryland 21209
Associate Attorney

1995 – 1998
United States Department of Justice
Civil Division, Commercial Litigation Branch
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

1998 – 2004
United States Attorney's Office for the District of Columbia
Civil Division
555 Fourth Street, NW
Washington, DC 20530
Assistant United States Attorney

2004 – 2005
United States Senate
Select Committee on Ethics
Suite 220, Hart Senate Office Building
Washington, DC 20510
Counsel

2006 – present
United States Senate
Committee on the Judiciary
Suite 221, Hart Senate Office Building
Washington, DC 20510
Privacy Counsel (2006 – 2008)
Chief Counsel for Privacy and Information Policy (2008 – present)

- 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.

I began my career in private practice at DLA Piper, LLP. The areas of focus during my tenure with the firm were commercial real estate transactions and banking law. I drafted legal documents for commercial real estate transactions. I researched legal issues related to real estate law

on behalf of clients, conducted title searches, and drafted legal memoranda and correspondence.

In 1995, I was appointed to the position of Trial Attorney for the Civil Division, Commercial Litigation Branch of the Department of Justice. My legal practice changed from commercial transaction work to civil litigation involving monetary claims brought against the United States. From 1995 to 1998, I was the lead counsel in several civil cases litigated in the United States Court of Federal Claims. During that time period, I also occasionally litigated appellate cases before the United States Court of Appeals for the Federal Circuit.

In 1998, I was appointed as an Assistant United States Attorney for the District of Columbia. My legal practice continued to focus on civil litigation. However, my areas of focus changed to include employment discrimination law, matters arising under the Federal Tort Claims Act, the Freedom of Information Act and the Privacy Act. My practice also changed to include affirmative litigation on behalf of the United States. During my tenure at the United States Attorney's Office for the District of Columbia, I served as the Affirmative Civil Enforcement Coordinator for the office and represented the United States in cases brought under the False Claims Act. During my tenure as an Assistant United States Attorney, I litigated numerous cases before the United States District Court for the District of Columbia and litigated several appellate matters before the United States Court of Appeals for the District of Columbia Circuit.

In 2004, I commenced employment with the United States Senate as Counsel for the Select Committee on Ethics. The character of my legal practice changed to providing confidential legal advice and guidance to Members, officers and employees of the Senate regarding the Senate's Code of Conduct and federal ethics law. I investigated ethics complaints and drafted letters and ethics opinions.

In 2006, I commenced employment as Counsel for the United States Senate Committee on the Judiciary. The character of my legal practice changed to providing legal advice on civil law and policy matters related to the Freedom of Information Act, the Privacy Act and the Electronic Communications Privacy Act. In my current position, I draft and negotiate legislation, draft legal memoranda and correspondence, prepare hearing statements and questions and engage in other legislative activities on behalf of the Committee on the Judiciary.

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

The clients with whom I worked closely while in private practice were financial institutions, such as Maryland National Bank and GE Capital Corporation. For these clients, I researched legal issues related to real estate law, conducted title searches, and negotiated deeds of trust, contracts of sale and other legal agreements.

During my tenure with the Department of Justice and at the United States Attorney's Office for the District of Columbia, I represented the United States Government in civil litigation.

During my tenure with the Senate Select Committee on Ethics, I represented the members of the Select Committee.

In my current position, I represent the Chairman of the Senate Committee on the Judiciary.

- 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.

While in private practice, I did not engage in litigation or appear in court. During my tenure as an employee of the United States Senate, I have not engaged in litigation or appeared in court.

During my tenure as a Trial Attorney with the Department of Justice and Assistant United States Attorney with the U.S. Attorney's Office for the District of Columbia, I frequently appeared in court.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|------|
| 1. federal courts: | 100% |
| 2. state courts of record: | 0% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|------|
| 1. civil proceedings: | 100% |
| 2. criminal proceedings: | 0% |

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

All of the cases in federal district court or the United States Court of Federal Claims in which I participated and which have been tried to final decision were resolved on the court pleadings. Based upon a PACER search, I estimate that I

prepared the court pleadings and briefs in approximately 30 to 40 cases that were resolved on the pleadings.

i. What percentage of these trials were:

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

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

I have not practiced before the Supreme Court of the United States.

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

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

1. United States v. Toyota Motor Corporation, No. 99-01888 (D.D.C. July 1, 2003).

This case involved civil claims against Toyota Motor Corporation for Clean Air Act violations involving 2.2 million vehicles manufactured between 1996 and 1998. Following several years of litigation and extensive discovery, the parties resolved the case under a consent decree that required Toyota to, among other things, spend \$20 million on a supplemental environmental project to make its vehicles run cleaner, accelerate compliance with certain emission control requirements, and pay a \$500,000 civil penalty. The United States District Court for the District of Columbia (Judge Henry H. Kennedy, Jr.) approved the consent decree on July 1, 2003.

I began working on the case during the settlement negotiations phase. I worked closely with co-counsel at the Environmental Enforcement Section of the Department of Justice. As counsel of record, I had the primary responsibility for drafting the court pleadings in this case associated with the settlement. The case received significant national attention because of the far-reaching impact of the settlement on so many Toyota vehicles and the positive impact on the environment.

My co-counsels were: Mark A. Gallagher, U.S. Department of Justice, Environmental Enforcement Section, P.O. Box 7611, Washington, DC 20044, 202-514-2701; and John Peter Suarez, former Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, now Vice President and General Counsel, Sam's Club, Department 8352, 608 S.W. Eighth Street, Bentonville, AR 72716, 479-277-7430.

The defendants were represented by: Hamilton Loeb, Paul, Hastings, Janofsky & Walker, LLP, 1299 Pennsylvania Avenue, NW, Tenth Floor, Washington, DC 20004, 202-551-1711.

2. United States v. 57/55 Pound Bags, more or less, of Potato Starch, No. 02-02361 (D.D.C. January 7, 2003).

This case involved a complaint for forfeiture in rem filed under the Federal Food, Drug and Cosmetic Act against articles of contaminated food stored at a Washington, DC food market. At the government's request, the district court issued a warrant for arrest in rem to seize the food. Thereafter, the parties entered into a consent decree condemning the seized food, ordering the owner to pay the cost to destroy the contaminated food and awarding other costs. The United States District Court for the District of Columbia (Judge Ellen S. Huvelle) approved the consent decree on January 7, 2003. Along with counsel for the Food and Drug Administration, I prepared the government's court pleadings in the case, represented the government in court and negotiated and drafted the consent decree. This case received local attention because the litigation eliminated a public health threat at the food establishment.

My co-counsels were: Daniel E. Troy, former Chief Counsel, Food and Drug Administration, U.S. Chamber of Commerce, 1776 K Street, NW, Suite 800, Washington, DC 20006, 202-719-7550; and Michael N. Varrone, Trial Attorney, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-796-8721.

The defendant was represented by: Simon M. Osnos, Osnos & Associates, LLC, 7700 Leesburg Pike, Suite 434, Falls Church, Virginia 22043, 703-356-8428.

3. James C. Wood, Jr. ex rel. United States v. The American Institute in Taiwan, No. 98-01952, slip op. (February 28, 2001), *aff'd*, 286 F.3d 526 (D.C. Cir. 2002).

This appeal involved a *qui tam* lawsuit brought under the False Claims Act against the American Institute in Taiwan, a unique entity that Congress established in the Taiwan Relations Act to conduct consular services and cultural exchange with the people on Taiwan. The United States declined to intervene in the case and moved to dismiss the case on the grounds that the American Institute enjoyed sovereign immunity from suit under the False Claims Act. In the district court, Judge Colleen Kollar-Kotelly ruled in favor of the government and dismissed the case. On appeal, the United States Court of Appeals for the District of Columbia Circuit (Circuit Judges Tatel, Garland and Williams) affirmed the district court's decision and held that the American Institute in

Taiwan was immune from suit under the doctrine of sovereign immunity. I handled the case at the appellate level, assisting in drafting the government's appellate briefs and the preparation for oral argument.

My co-counsels were: Douglas N. Letter, Appellate Staff Director and Terrorism Litigation Counsel, Civil Division, Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530, 202-514-2000; and R. Craig Lawrence, Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 Fourth Street, NW, Washington, DC 20530, 202-252-7566.

The appellant was represented by: William Paul Lawrence, II, Waters & Krause, LLP, 37163 Mountville Road, Middleburg, Virginia 20117, 540-687-6999; and Bradley S. Weiss, Miner, Barnhill & Galland, PC, 14 West Erie Street, Chicago, Illinois 60610, 312-751-1170.

4. United States v. Borger Management, No. 00-02392 (D.D.C. December 5, 2000) and United States v. Calomiris, No. 00-02391 (D.D.C. December 5, 2000).

These two cases involved the first civil cases litigated under the Residential Lead-Based Paint Hazard Reduction Act. The litigation resulted in consent agreements with two of Washington, DC's largest property management companies at the time, resolving allegations that the landlords violated the lead disclosure law by failing to warn their tenants about lead-based paint hazards in their buildings. The cases were filed in the United States District Court for the District of Columbia as part of a coordinated effort by the Federal Government to eliminate childhood lead poisoning. Under the consent decrees, the landlords agreed to abate lead-based paint hazards in all of their rental units, at an estimated cost of \$500,000, to pay civil penalties and to commit \$10,000 towards support of community-based projects to reduce the incidence of childhood lead poisoning in the District of Columbia. The district court (Judges Royce C. Lamberth and James Robertson) approved the consent decrees on December 5, 2000. I served as counsel of record for the United States in both cases. I prepared the court pleadings in the cases, participated in the settlement negotiations and assisted in the drafting of the consent decrees entered in the cases. The cases received significant local and national attention because they were the first of their kind and served as a model for subsequent lead disclosure litigation in other jurisdictions.

My co-counsels were: John B. Shumway, Attorney, Office of General Counsel, United States Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, 202-708-1112; and Arthur James Parker, Assistant Attorney General, District of Columbia Office of the Attorney General, Suite 450 North, 441 Fourth Street, NW, Washington, DC 20001, 202-727-3400.

The defendants in the Calomiris case were represented by: Harold L. Segall, Beveridge & Diamond, PC, 1350 I Street, NW, Washington, DC 20005, 202-789-6038.

The defendants in the Borger case were represented pro se.

5. McCain v. Reno, 98 F. Supp. 2d 5 (D.D.C. 2000).

This case involved a facial challenge to the constitutionality of the Bureau of Prisons' ("BoP") regulation governing the handling of incoming inmate mail. The plaintiff alleged that the BoP's policy, which permitted prison officials to open mail sent by a state or federal court outside the presence of the inmate, violated the First, Sixth and Fourteenth Amendments. The government argued that the inmate mail policy was related to legitimate penological interests and did not violate plaintiff's constitutional rights. I was responsible for the responsive pleading and motion for summary judgment. The United States District Court for the District of Columbia (Judge Paul Freidman) agreed with the government and rejected plaintiff's constitutional challenges to the regulation. The district court entered summary judgment in favor of the Bureau of Prisons on March 31, 2000.

The plaintiff was represented pro se.

6. Ignatiev v. United States, No. 98-02152, slip op. (D.D.C. November 2, 1999), *aff'd in part, rev'd in part*, 238 F.3d 464 (D.C. Cir. 2001); Mihaylov v. United States, No. 98-02151, slip op. (D.D.C. November 2, 1999) *aff'd in part, rev'd in part*, 238 F.3d 464 (D.C. Cir. 2001).

These two related cases involved a novel Federal Tort Claims Act ("FTCA") claim against the United States Secret Service concerning the discretionary function exception to the FTCA. The plaintiffs-appellants sustained injuries during a robbery that occurred outside of the Chancery of Bulgaria located in Washington, DC. The Secret Service provided protection services for the Chancery and the agency had assigned agents to the Chancery on the night of the attack. Plaintiffs-appellants alleged that, in failing to prevent the robbery, the Secret Service was negligent in performing its duty to protect the Chancery under a duty imposed by the Vienna Convention, the Consular Convention and federal law. The government maintained that the discretionary function exception to the FTCA prohibited the claim.

The United States District Court for the District of Columbia (Judge Henry H. Kennedy, Jr.) agreed with the government's position that the FTCA claim against the Secret Service fell within the discretionary function exception to that law and dismissed the cases. On appeal, the United States Court of Appeals for the District of Columbia Circuit (Circuit Judges Williams, Garland and Silberman) held that plaintiffs-appellants failed to make a valid legal claim under the FTCA based on international and statutory law, but concluded that the district court should have given plaintiffs-appellants the opportunity to conduct discovery of the facts necessary to establish jurisdiction upon other grounds before dismissing the case. On remand, the district court granted the government's motion for summary judgment on May 27, 2005 (Mihaylov v. United States, No. 98-02151, slip op. at 3 (May 27, 2005) and Ignatiev v. United States, No. 02152, slip op. at 3 (May 27, 2005)).

I litigated the cases at the trial and appellate levels from 1998 to 2004 and presented oral argument in the cases on behalf of the United States before the United States District Court for the District of Columbia (Judge Henry H. Kennedy, Jr.) and the United States Court of Appeals for the District of Columbia Circuit (Circuit Judges Williams, Garland and Silberman). The cases resolved an important legal issue regarding the application of the discretionary function exception to decisions about the allocation of law enforcement resources at foreign chanceries and embassies.

My co-counsel was: R. Craig Lawrence, Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 Fourth Street, NW, Washington, DC 20530, 202-252-7566.

The plaintiffs-appellants were represented by: Marjorie A. O'Connell, 2055 L Street, NW, Washington, DC 20036, 202-466-8200.

7. United States v. Property Identified as 1421 12th Street, NW, Washington, DC, No. 99-00998 (D.D.C. June 2, 1999).

This case involved the first federal civil lawsuit filed against a drug-related nuisance property in the United States. The defendant apartment building had been a magnet for criminal activity for many years, resulting in more than 100 police calls to the property to respond to assaults, robberies and other crimes. The lawsuit was the first case filed under a law enacted by the District of Columbia City Council authorizing a court to order that a drug-related nuisance property be abated. The case also involved federal civil asset forfeiture claims that allowed the United States to establish federal jurisdiction and to bring the case in the United States District Court for the District of Columbia. The property owners entered into a consent agreement that required that the owners increase security at the property. The district court (Judge Henry H. Kennedy, Jr.) approved the consent decree on June 2, 1999. I was responsible for developing the litigation strategy for this case, preparing the court pleadings in the case and negotiating and drafting the consent decree. I worked closely with co-counsel in the Criminal Division of the United States Attorney's Office and with individuals residing in the local community who were concerned about this property. The case received significant local and national attention because it was the first case of its kind.

My co-counsel in this case was: Barry Wiegand, Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 555 Fourth Street, NW, Washington, DC 20530, 202-252-7566.

The defendant was represented by: Scott A. Fenske, 1920 N Street, NW, #800, Washington, DC 20036, 202-331-8800; and Gary G. Everngam, now Associate Judge, District Court of Maryland, Montgomery County, District Court Building, 191 East Jefferson Street, Rockville, MD 20850, 301-663-8800.

8. Snyder v. Office of Personnel Management, 136 F.3d 1474 (Fed. Cir. 1998).

This appeal involved a challenge to the Office of Personnel Management's ("OPM") regulations requiring that federal retirement annuities be reduced to provide for a survivor annuity for a spouse, if the federal employee is married at the time of retirement. The case presented a unique question regarding how the OPM's regulations should apply when a retiree divorces after separating from federal service and multiple divorce decrees purport to address the distribution of the retirement annuity.

The petitioner in the case sought to eschew payment of the spousal annuity to his former spouse. The petitioner was married at the time of his retirement from federal service but, subsequently, he and his spouse filed separate petitions for divorce in different states. The OPM and the Merit System Protection Board (MSPB) concluded that the first divorce decree granted — a decree obtained by the petitioner's former spouse awarding the former spouse a pro rata share of the petitioner's retirement annuity — should govern the distribution of the petitioner's retirement annuity. The divorce decree specifically addressed the former spouse's entitlement to the annuity and the decree had not been amended, superseded or set aside by the later divorce decree obtained by the petitioner. The petitioner appealed the determination to the United States Court of Appeals for the Federal Circuit. The Court of Appeals (Circuit Judges Newman, Michel and Plager) agreed with the government's position that OPM and the MSPB properly determined that the earlier divorce decree governed the distribution of the petitioner's retirement annuity. The Court also held that the OPM could not properly consider the petitioner's subsequent divorce decree, because the latter decree did not specifically address entitlement to the petitioner's retirement annuity and, therefore, was not acceptable for processing under the OPM's regulations. I prepared the government's appellate briefs in the case.

The petitioner was represented by: William O. Carlisle, 2632 Dade Drive, P.O. Box 54, Running Springs, California 92382, 909-867-2400.

The intervenor was represented by: Edwin C. Schilling, III, 2767 South Parker Road, #230, Aurora, Colorado 80014, 303-755-5121.

My co-counsel was: Sharon Y. Eubanks, former Deputy Director, Civil Division, Commercial Litigation Branch, Department of Justice, Holland & Knight, 2099 Pennsylvania Avenue, NW, Suite 100, Washington, DC 20006, 202-457-7013.

9. Ponder v. United States, No. 95-00695, slip op. (Fed. Cl. November 6, 1996), *aff'd*, 117 F.3d 549 (Fed. Cir. 1997).

This case involved a challenge to the Air Force's policy on military pay for married service members sharing government-supplied base housing and a claim for back pay under the Tucker Act. At the time, the case raised new legal questions regarding how the military should compensate the growing number of married couples jointly serving in the military. Plaintiffs-appellants claimed that Mr. Ponder was entitled to receive a housing

allowance during the period that he shared government-provided base housing with his service member spouse and child. The government argued that federal law prohibited the payment of a housing allowance for service members who are assigned to government-supplied base housing and moved to dismiss the case. The Court of Federal Claims (Judge John Paul Wiese) agreed with the government's position that the plaintiffs-appellants failed to state a claim under the Tucker Act and dismissed the case. On appeal, the United States Court of Appeals for the Federal Circuit (Circuit Judges Newman, Plager and Schall) also agreed with the government's position that the plaintiffs-appellants did not assert a valid claim for back pay under the Tucker Act and affirmed the district court's decision.

I litigated the case at the trial and appellate levels on behalf of the United States and prepared the court pleadings and briefs for the case.

My co-counsel was: Anthony H. Anikeeff, former Assistant Director, Civil Division, Commercial Litigation Branch, Department of Justice, Williams & Mullen, 8300 Greensboro Drive, Suite 1100, Tysons Corner VA 22102, 703-760-5206.

Plaintiffs-appellants were represented pro se.

10. Bryant v. National Science Foundation, 105 F.3d 1414 (Fed. Cir. 1997).

This employment law case involved an appeal of a Merit Systems Protection Board ("MSPB") decision to sustain the removal of an employee from federal service for chronic tardiness. In the appeal, the United States Court of Appeals for the Federal Circuit (Circuit Judges Rich, Clevenger and Bryson) agreed with the government's position that the removal decision was appropriate and did not violate the Family and Medical Leave Act. The court of appeals sustained the MSPB's termination decision.

I prepared the briefs in the case and presented the oral argument on behalf of the United States.

My co-counsel was: Sharon Y. Eubanks, former Deputy Director, Civil Division, Commercial Litigation Branch, Department of Justice, Holland & Knight, 2099 Pennsylvania Avenue, NW, Suite 100, Washington, DC 20006, 202-457-7013.

The petitioner was represented by: Frederic W. Schwartz, Jr., 16341 I Street, NW, Washington, DC 20006, 202-463-0880.

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

During my tenure with the Committee on the Judiciary, I have worked on several significant pieces of federal legislation. For example, in 2007, I was the lead Senate counsel for the Open Government Act of 2007, the first major reform to the Freedom of Information Act in more than a decade. President George W. Bush signed this legislation into law on December 31, 2007. In 2009, I served as the lead Senate counsel for the OPEN FOIA Act of 2009, another Freedom of Information Act reform bill. President Barack Obama signed this legislation into law on October 29, 2009.

I have not performed any lobbying activities.

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

I have not taught any courses.

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

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

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

I do not have any such plans, commitments, or agreements.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I do not anticipate any potential conflicts-of-interest. If confirmed, I would review the matters before me and would recuse myself from any matters in which a personal or fiduciary matter might cause others to question my impartiality.

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

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

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Most of my legal career has been in government service. As a result, my ability to participate in pro bono activities has been limited. However, in my capacity as an Assistant United States Attorney, I advocated to eradicate drug-related nuisance properties that were harming communities in economically disadvantaged areas of the District of Columbia. I also litigated the first cases brought under the Residential Lead-Based Paint Hazard Reduction Act, which resulted in the lead abatement of several residential buildings located in economically disadvantaged neighborhoods within the District of Columbia.

Since 2008, I have volunteered at a Washington, DC food pantry which provides food to individuals and families in need.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your

jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On November 13, 2013, Senator Patrick Leahy recommended that the President appoint me to the position of Judge, United States Court of Federal Claims. Since early December 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On January 10, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On April 10, 2014, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

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

April 11, 2014
(DATE)

Lydia Kay Griggsby
(NAME)

Armi D Padilla
(NOTARY)

