

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Rebecca Ross Haywood  
Becky Haywood  
Formerly Rebecca Jo Ross  
Formerly Becky Jo Ross  
Formerly Becky Ross

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

United States Circuit Judge for the Third Circuit

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 Attorney's Office  
Western District of Pennsylvania  
700 Grant Street, Suite 4000  
Pittsburgh, Pennsylvania 15219

Residence: Wexford, Pennsylvania

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

1968; McKeesport, Pennsylvania

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.

1991 – 1994, University of Michigan Law School; J.D. (*magna cum laude*), 1994  
1986 – 1990, Princeton University; A.B. (*cum laude*), 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.

2003 – present, 1997 – 2001  
United States Attorney's Office  
Western District of Pennsylvania  
700 Grant Street, Suite 4000  
Pittsburgh, Pennsylvania 15219  
Assistant United States Attorney (2003 – present, 1997 – 2001)  
Chief, Appellate Division (2010 – present)

2001 – 2003, 1994 – 1996  
United States District Court for the Western District of Pennsylvania  
United States Post Office & Courthouse  
700 Grant Street  
Room 8370  
Pittsburgh, Pennsylvania 15219  
Law Clerk to the Honorable Alan N. Bloch

1996 – 1997, Summer 1994, Summer 1993, Summer 1992  
Jones, Day, Reavis & Pogue  
500 Grant Street  
Pittsburgh, Pennsylvania 15219  
Associate (1996 – 1997)  
Summer Associate (Summer 1994, Summer 1993, Summer 1992)

Summer 1993  
King & Spalding LLP  
1180 Peachtree Street  
Atlanta, Georgia 30309  
Summer Associate

1990 – 1991  
PNC Bank (formerly Pittsburgh National Bank)  
201 Wood Street  
Pittsburgh, Pennsylvania 15222  
Credit Analyst (Summer 1990)  
Credit Supervisor, healthcare/public sector loans (September 1990 – August 1991)

Other Affiliations (uncompensated):

2013 – present  
Princeton Alumni Association of Western Pennsylvania  
Allegheny HYP Club  
619 William Penn Place  
Pittsburgh, Pennsylvania 15219  
Board of Directors

2013 – present

Jewarts' Gymnastics  
2468 Wildwood Road  
Allison Park, Pennsylvania 15101  
Board of Directors

2008 – 2010  
X-Cel Gymnastics  
220 Executive Drive  
Cranberry Township, Pennsylvania 16066  
Board of Directors (2008 – 2010)  
Secretary (2009 – 2010)  
Vice President (2008 – 2009)

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 am not required to register 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.

The following awards were received during my employment with the United States Attorney's Office:

Sustained Superior Performance Award (April 2015)

Sustained Superior Performance Award (May 2014)

Time Off Award (April 2012)

Sustained Superior Performance Award (April 2012)

Time Off Award (January 2012)

Letter of Commendation for Appellate Division, EARS evaluation (November 2011)

Sustained Superior Performance Award (June 2011)

Sustained Superior Performance Award (March 2010)

Sustained Superior Performance Award (April 2009)

Sustained Superior Performance Award (June 2008)

Sustained Superior Performance Award (September 2006)

Special Act Award (September 2005)

I also have received other performance awards during my service with the United States Attorney's Office from 1997 through 2001 and from 2003 through 2005, but I did not retain records of the specific dates for which I received them.

Associate Editor, *University of Michigan Law Review* (1992 – 1994)

*Order of the Coif*, University of Michigan Law School (1994)

Clarence Darrow scholarship (full tuition prize awarded by faculty of the University of Michigan Law School to approximately ten to 14 students based on outstanding scholastic achievement) (1991 – 1994)

Highest Distinction Award: Criminal Procedure, University of Michigan Law School (1994)

Highest Distinction Award: Trusts & Estates, University of Michigan Law School (1993)

Best Oralist Award, Writing & Advocacy, University of Michigan Law School (1991)

Highest Distinction Award: Criminal Law, University of Michigan Law School (1991)

Certificate of Merit, African-American Studies, Princeton University (1990)

Outstanding Intern, 13th Annual INROADS/Pittsburgh Inc. Awards (1990)

Westinghouse Family Scholarship (1986)

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.

Allegheny County Bar Association (2010 – present)

    Civil Litigation Section (2014 – present)

        Bench-Bar Continuing Legal Education Program Chair (2015)

        Council (2014 – present)

    Criminal Litigation Section (2011 – present)

    Homer S. Brown Division (2012 – present)

        Council (2014 – 2015)

    Federal Court Section (2011 – present)

        Council Selection/Nominating Committee (2015 – present)

CLE Planning Committee (2011 – present)  
Constitutional Subcommittee Chair (2015 – present)  
Criminal Subcommittee (2011 – present)  
Co-Chair (2015 – present)  
Civil Subcommittee (2011 – present)  
Pro Bono Service Committee (2012 – 2015)

Local Rules Advisory Committee, Western District of Pennsylvania (2014 – present)  
Civil Rules (Proposed Non-Discovery Changes) Subcommittee (2014 – present)  
Criminal Rules Subcommittee (2014 – present)

The Honorable Amy Reynolds Hay American Inn of Court (1998 – 2003)

Third Circuit Bar Association (2012 – present)

United States Attorney's Office Executive Committee (January 2011 – present)  
Community Outreach Subcommittee (2014 – present)  
Health, Wellness & Activities Subcommittee (2014 – present)

United States Attorney's Office Point of Contact/Coordinator on the Prevention of Sexual Harassment in the Workplace (2004 – 2010)

United States Attorney's Office Training Committee (January 2011 – present)  
Chair (2013 – present)

United States Attorney's Office Weed & Seed Coordinator (2000 – 2001)

**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.

Pennsylvania, 1995

There has been no lapse in membership.

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

United States Court of Appeals for the Third Circuit, 2005  
United States District Court for the Western District of Pennsylvania, 1995

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Jewarts' Gymnastics (2010 – present)  
Board of Directors (2013 – present)

Orchard Hill Church, Wexford, Pennsylvania (2001 – present)  
Volunteer infant nursery (2008 – 2013)

Parent Faculty Association, Bradford Woods Elementary (2005 – present)  
Coordinator of Assemblies (2009 – 2012)

Pittsburgh Irish Classical Theatre  
Host Committee, Uncommon Plea (2015 – present)

Princeton Alumni Association of Western Pennsylvania (2013 – present)  
Board of Directors (September 2013 – present)  
School/Interview Committee (interviewer since 1996, without formal membership)

Reading Friends (2011 – present)

X-Cel Gymnastics (2006 – 2010)  
Board of Directors (2008 – 2010)  
Secretary (2009 – 2010)  
Vice President (2008 – 2009)

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

To the best of my knowledge, none of these organizations listed in response to question 11a currently discriminates or previously 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.

As a member of the Allegheny County Bar Association's CLE Planning Committee, I drafted and edited portions of continuing legal education materials summarizing noteworthy cases in the Third Circuit on an annual basis from 2011 to 2015. I have only retained a copy of the 2015 materials. 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.

I have not prepared any reports, memoranda, or policy statements on behalf of any bar association, committee, conference or organization of which I was a member. As a member of the Board of Directors of X-Cel Gymnastics, I and other members of the Board voted to amend the organization's by-laws.

- 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.

On May 12, 2014, I co-signed a letter sent on behalf of federal prosecutors in Pennsylvania seeking reconsideration of Formal Opinion 2014-100 issued by the PBA Legal Ethics and Professional Responsibility Committee. Copy supplied.

I have not given any other testimony, made official statements, or engaged in communications relating, in whole or in part, to matters of public policy or legal interpretation, to public bodies or public officials.

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

from which you spoke.

I have not kept a comprehensive list of the remarks and presentations that I have given. The following list is compiled from my calendars and other sources and is my best effort to recreate my prior speaking engagements.

March 14, 2016: Speaker, United States District Court for the Western District of Pennsylvania, Pittsburgh, Pennsylvania. I provided brief remarks to middle school students from Pittsburgh Public Schools who were touring the federal courthouse. I have no notes, transcript, or recording. The address for the United States District Court for the Western District of Pennsylvania is 700 Grant Street, Pittsburgh, Pennsylvania 15219.

March 8, 2016: Judge, Middle School Mock Trial Competition, La Roche College, Pittsburgh, Pennsylvania. I acted as a judge and evaluated middle school students who were participating in a mock trial competition. I have no notes, transcript, or recording. The address for La Roche College is 9000 Babcock Boulevard, Pittsburgh, Pennsylvania 15237.

December 9, 2015: Presenter, Federal Law Update, Criminal Law Update 2014, Pennsylvania Bar Institute, Pittsburgh, Pennsylvania. PowerPoint supplied.

November 10, 2015: Presenter, "Summary of Current Issues Related to *Johnson v. United States*," Allegheny County Bar Association, Federal Criminal Court Section, Pittsburgh, Pennsylvania. PowerPoint supplied.

October 20, 2015: Judge, Appellate Moot Court Competition, University of Pittsburgh Law School, Pittsburgh, Pennsylvania. I acted as an appellate judge and evaluated law school students performing mock appellate arguments. I have no notes, transcript, or recording. The address for the University of Pittsburgh Law School is the Barco Law Building, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260.

March 10, 2015: Presenter, Allegheny County Bar Association, Federal Criminal Court Section, Pittsburgh, Pennsylvania. I discussed recent decisions from the United States Supreme Court and the Court of Appeal for the Third Circuit, including *Yates v. United States*, 135 S. Ct. 1074 (2015), *Heien v. North Carolina*, 135 S. Ct. 530 (2015), and *United States v. Wright*, 777 F.3d 635 (3d Cir. 2015). I have no notes, transcript, or recording. The address for the Allegheny County Bar Association is 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219.

March 3, 2015: Presenter, Ceremony renaming the civil conference room at the United States Attorney's Office to honor the memory of the former civil chief and Chief Federal Magistrate Judge, Amy Reynolds Hay, United States Attorney's Office, Pittsburgh, Pennsylvania. Notes supplied.



January 14, 2015: Presenter, Amachi Event, United States Attorney's Office, Western District of Pennsylvania, Pittsburgh, Pennsylvania. I provided brief remarks at a meeting with students from Amachi Pittsburgh, a non-profit organization that provides support to children with incarcerated parents, speaking about my background and experiences and work at the United States Attorney's Office. I have no notes, transcript, or recording. The address for the United States Attorney's Office is 700 Grant Street, Suite 4000, Pittsburgh, Pennsylvania 15219.

December 23, 2014: Presenter, FAME Panel Discussion, Reed Smith, Pittsburgh, Pennsylvania. I participated on a panel discussion with other attorneys for local high school students interested in a legal career who are a part of FAME (Fund for Advancement of Minorities in Education), which helps minorities from the Pittsburgh region to pay for an education at one of the independent schools in the area. I discussed the type of law that I practice at the United States Attorney's Office. I have no notes, transcript, or recording. The address for Reed Smith is 225 Fifth Avenue, Pittsburgh, Pennsylvania 15222.

December 4, 2014: Presenter, Federal Law Update, Pennsylvania Bar Institute, Criminal Law Update 2014, Pittsburgh, Pennsylvania. PowerPoint supplied.

November 25, 2014: Advocate, Mock Trial, *The Republic of Rome v. Marcus Brutus*, United States District Court for the Western District of Pennsylvania, Pittsburgh, Pennsylvania. I participated in a mock trial for middle school students, acting as trial counsel for the Republic of Rome, which charged Marcus Brutus with the premeditated murder of Julius Caesar. I have no notes, transcript, or recording. The address for the United States District Court for the Western District of Pennsylvania is 700 Grant Street, Pittsburgh, Pennsylvania 15219.

May 2, 2014: Panelist, Ninth Annual Career Day, Sr. Thea Bowman Catholic Academy, Pittsburgh, Pennsylvania. I participated on a panel with other local attorneys, discussing the different types of jobs available for lawyers. I have no notes, transcript, or recording. The address for Sr. Thea Bowman Catholic Academy is 721 Rebecca Avenue, Wilkinsburg, Pennsylvania 15221.

March 27, 2014: Advocate, Mock Appellate Argument, Macbeth and Lady Macbeth: Guilty or Not Guilty?, Pittsburgh Classical Irish Theatre, Duquesne Club, Pittsburgh, Pennsylvania. I performed a mock appellate argument of the proposed conviction of Lady Macbeth following her conviction for murder before a six-judge panel of federal and state court jurists. I have no notes, transcript, or recording but press coverage is supplied. The address for the Duquesne Club is 325 Sixth Avenue, Pittsburgh, Pennsylvania 15222.

March 26, 2014: Interviewer, Speed Networking Event with the Women's Law Association, Duquesne University Law School, Pittsburgh, Pennsylvania. I

conducted mock interviews with law students from Duquesne University. I have no notes, transcript, or recording. The address for Duquesne University Women's Law Association is 600 Forbes Avenue, Duquesne University, Pittsburgh, Pennsylvania 15282.

February 13, 2014: Judge, Murray S. Love Mock Trial Competition, University of Pittsburgh Law School, Pittsburgh, Pennsylvania. I acted as a judge and evaluated law students who were participating in a mock trial competition. I have no notes, transcript, or recording. The address for the University of Pittsburgh Law School is the Barco Law Building, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260.

December 5, 2013: Presenter, Federal Law Update, Pennsylvania Bar Institute, Criminal Law Update 2013, Pittsburgh, Pennsylvania. PowerPoint supplied.

November 26, 2013: Advocate, Mock Trial, *AKO Titanic Trial*, United States District Court for the Western District of Pennsylvania, Pittsburgh, Pennsylvania. I participated in a mock trial performed for middle school students from the North Allegheny School District, as trial counsel for the estate of the plaintiff, Hans Peder Jensen. I have no notes, transcript, or recording. The address for the United States District Court for the Western District of Pennsylvania is 700 Grant Street, Pittsburgh, Pennsylvania 15219.

November 21, 2013: Presenter, Length-of-Service Ceremony, United States Attorney's Office, Western District of Pennsylvania, Pittsburgh, Pennsylvania. I introduced the recipients of ten-year pins and gave brief extemporaneous remarks. I have no notes, transcript, or recording. The address for the United States Attorney's Office is 700 Grant Street, Suite 4000, Pittsburgh, Pennsylvania 15219.

November 13, 2013: Presenter, Criminal Court Section Meeting, Allegheny County Bar Association, Criminal Court Section, Pittsburgh, Pennsylvania. I provided brief remarks and a summary of the Supreme Court's decision in *Alleyne v. United States*, 133 S. Ct. 2151 (2013). I have no notes, transcript, or recording. The address for the Allegheny County Bar Association is Allegheny City County Building, Ninth Floor, 414 Grant Street, Pittsburgh, Pennsylvania 15219.

November 8, 2013: Presenter, The Zone Program, City of Pittsburgh, School District, Pittsburgh, Pennsylvania. I provided remarks at a mentoring session with middle school students from the Zone Program, at the Chambers of the Honorable Joseph K. Williams III. I have no notes, transcript, or recording. The address for Judge Williams' chambers is Allegheny County Court of Common Pleas, 528 Allegheny County Courthouse, 436 Grant Street, Pittsburgh, Pennsylvania 15219.

September 2013: Presenter, Supreme Court Review: 2012 Criminal Term, Allegheny County Bar Association, Federal Criminal Court Section, Pittsburgh,

Pennsylvania. PowerPoint supplied.

June 18, 2013: Presenter, Diversity Initiative, Allegheny County Bar Association, Pittsburgh, Pennsylvania. I provided remarks to minority law students, providing an overview of the appellate practice at the United States Attorney's Office, Western District of Pennsylvania. I have no notes, transcript, or recording. The address for the Allegheny County Bar Association is 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219.

May 16, 2013: Presenter, Gifted Education Career Talk, North Allegheny School District, Bradford Woods Elementary, Bradford Woods, Pennsylvania. I provided brief remarks about federal law enforcement in the Western District of Pennsylvania. I have no notes, transcript, or recording. The address for Bradford Woods Elementary is Forest Road, Bradford Woods, Pennsylvania 15015.

April 25, 2013: Presenter, Take Your Child to Work Day, United States Attorney's Office, Western District of Pennsylvania, Pittsburgh, Pennsylvania. I provided brief remarks regarding debating tactics/appellate advocacy, during Take Your Child to Work Day. I have no notes, transcript, or recording. The address for the United States Attorney's Office, Western District of Pennsylvania, is 700 Grant Street, Suite 4000, Pittsburgh, Pennsylvania 15219.

October 16, 2012: Presenter, Law Day, University of Pittsburgh Law School, Pittsburgh, Pennsylvania. I provided remarks to law students regarding diversity in Pittsburgh's legal market. I have no notes, transcript, or recording. The address for the University of Pittsburgh Law School is the Barco Law Building, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260.

July 26, 2012: Presenter, Allegheny County Bar Association, Pittsburgh, Pennsylvania. I provided remarks to minority law students regarding the appellate practice of the United States Attorney's Office, Western District of Pennsylvania. I have no notes, transcript, or recording. The address for the Allegheny County Bar Association is 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219.

February 21, 2012: Presenter, Diversity in the Law Program, University of Pittsburgh Law School, Pittsburgh, Pennsylvania. I provided remarks discussing my experiences practicing law in Pittsburgh, Pennsylvania. I have no notes, transcript, or recording. The address for the University of Pittsburgh Law School is the Barco Law Building, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260.

September 16, 2011: Participant, Pro Bono Presentation, Allegheny County Bar Association, Pittsburgh, Pennsylvania. I provided remarks regarding the work and mission of the United States Attorney's Office, Western District of Pennsylvania. I have no notes, transcript, or recording. The address for the Allegheny County Bar Association is 400 Koppers Building, 436 Seventh

Avenue, Pittsburgh, Pennsylvania 15219.

July 21, 2011: Presenter, Legal Intern Event, United States District Court, Western District of Pennsylvania, Pittsburgh, Pennsylvania. I provided remarks regarding federal appellate practice to legal interns working for various judges on the United States District Court for the Western District of Pennsylvania. I have no notes, transcript, or recording. The address for the United States District Court for the Western District of Pennsylvania is 700 Grant Street, Pittsburgh, Pennsylvania 15219.

April 15, 2011: Judge, Appellate Moot Court Competition, University of Pittsburgh Law School, Pittsburgh, Pennsylvania. I acted as an appellate judge and evaluated law students performing mock appellate arguments. I have no notes, transcript, or recording. The address for the University of Pittsburgh Law School is the Barco Law Building, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260.

June 21, 2007: Panelist, "Proven Strategies for Successfully Managing the Demands of a Law Practice and Personal Life," Women in the Profession 14th Annual Conference, Pennsylvania Bar Association, Philadelphia, Pennsylvania. I provided practical tips on how to have a successful legal career and maintain work/life balance. I have no notes, transcript or recording. The address for the Pennsylvania Bar Association is 100 South Street, Post Office Box 186, Harrisburg, Pennsylvania 17108.

March 16, 2007: Panelist, Women in the Profession Panel Discussion, Duquesne University Women's Law Association, Pittsburgh, Pennsylvania. I participated in a panel discussion about how women manage their legal careers and talked about my own experiences. I have no notes, transcript or recording, but press coverage is supplied. The address for the Duquesne University Women's Law Association is 600 Forbes Avenue, Duquesne University, Pittsburgh, Pennsylvania 15282.

January 2007: Panelist, Pennsylvania Bar Institute, Philadelphia, Pennsylvania. I participated in a panel discussion of women attorneys entitled "Successfully Managing the Demands of a Law Practice and Personal Life." I have no notes, transcript, or recording. The address for the Pennsylvania Bar Institute is 100 Penn Square East, Philadelphia, Pennsylvania 19107.

Approximately 2006: Presenter, Overview of the Federal Tort Claims Act, American Inns of Court, Pittsburgh Chapter, Pittsburgh, Pennsylvania. PowerPoint supplied.

In addition to the remarks referenced above, I have made remarks at various committee meetings hosted by the Allegheny County Bar Association. During these remarks, I often provide a summary of important decisions from the Supreme Court and the Court of Appeals for the Third Circuit. I have no notes,

transcripts, or recordings. The address for the Allegheny County Bar Association is 400 Koppers Building, 436 Seventh Avenue, Pittsburgh, Pennsylvania 15219.

Over the past ten years, I also have participated in panel discussions hosted by the University of Pittsburgh Law School and Duquesne University School of Law that were tailored for women law students and lawyers regarding work-life balance. I have no notes, transcripts, or recordings. The address of the University of Pittsburgh Law School is the Barco Law Building, 3900 Forbes Avenue, Pittsburgh, Pennsylvania 15260. The address of Duquesne University School of Law is Hanley Hall, 600 Forbes Avenue Pittsburgh, Pennsylvania 15282.

I also have spoken at career days for local elementary and high schools on various occasions over the past 15 years. I typically speak about the mission of the United States Attorney's Office and more generally, about the differences between the federal and state court legal systems. I also speak about my background, my personal goals, and how I have achieved success in my profession. I do not have any notes, transcripts, or recordings. I have spoken at Taylor Allderdice High School, 2409 Shady Avenue, Pittsburgh, Pennsylvania 15217; Imani Christian Academy, 2150 East Hills Drive, Pittsburgh, Pennsylvania 15221; Marshall Middle School, 5145 Wexford Run Rd., Wexford, PA 15090; and Bradford Woods Elementary School, 41 Forest Road, Bradford Woods, Pennsylvania 15015.

- 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.

Press Release, "Federal Jury Finds Convicted Felon Illegally Possessed Pistols," United States Attorney's Office, September 8, 2014. Copy supplied.

To the best of my recollection, I have not given any interviews to any newspapers, magazines, or other publications, or to any radio or television stations.

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 never held a 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 never been a judge.

- 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 never held any 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.

I have never held any office in or rendered services to any political party or election committee. I have not held a position or played a role in any political campaign.

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
  - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1994 to 1996 and from 2001 to 2003, I served as a law clerk for the Honorable Alan N. Bloch, United States District Court Judge for the Western District of Pennsylvania.

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

I never have 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.

1996 – 1997  
Jones, Day, Reavis & Pogue  
500 Grant Street  
Pittsburgh, Pennsylvania 15219  
Associate

1997 – 2001, 2003 – present  
United States Attorney's Office  
Western District of Pennsylvania  
700 Grant Street, Suite 4000  
Pittsburgh, Pennsylvania 15219  
Assistant United States Attorney

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

I have never served as a mediator or arbitrator.

b. Describe:

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

After clerking for Judge Bloch, I joined Jones, Day, Reavis & Pogue as an associate in the litigation group. While at Jones Day, I represented corporate clients in a wide array of subject matters, including employment discrimination disputes, insurance coverage matters, and products liability cases. As an associate, I conducted legal research and drafted motions and briefs and also assisted with discovery, motions hearings, and trials in both state and federal courts.

In 1997, I became an Assistant United States Attorney in the Civil Division of the United States Attorney's Office for the Western District of Pennsylvania. In this capacity, I defended federal agencies and employees in different types of civil actions, including employment discrimination cases, tort and medical malpractice matters, and *Bivens* actions. I also



represented the Department of Housing & Urban Development in Chapter 7 and Chapter 13 bankruptcy proceedings, and the Social Security Administration in appeals filed by claimants who received unfavorable benefit decisions from administrative law judges. Moreover, I represented the federal Bureau of Prisons in habeas matters.

After returning to clerk for Judge Bloch from 2001 to 2003, I rejoined the United States Attorney's Office for the Western District of Pennsylvania in the Civil Division in 2003. I was an Assistant United States Attorney, and I continued to handle employment discrimination, tort, medical malpractice, bankruptcy, social security, habeas and *Bivens* cases on behalf of federal agencies and employees. In 2005, I transferred to the Appellate Division. In this role, I prepared appellate briefs and argued cases in a wide range of criminal and civil matters, completing approximately 15 to 30 appellate briefs and two arguments per year.

Since 2010, I have served as the Chief of the Appellate Division. In this capacity, I have been the lead appellate attorney for the United States Attorney's Office for the Western District of Pennsylvania and have been responsible for coordinating all filings in criminal and civil cases emanating from our office. I have supervised four appellate Assistant United States Attorneys and two support personnel. Moreover, I have acted as the liaison between the United States Attorney's Office and all Department of Justice components on appellate-related matters, including the Solicitor General's Office. I also have been responsible for preparing and/or reviewing all appeal recommendations filed by the United States Attorney's Office. I also have supervised oral argument preparation and monitored and communicated significant legal developments to all Assistant United States Attorneys within the office. In this capacity, I have spent a significant amount of time providing legal advice to the trial attorneys in the office, particularly to attorneys from the Criminal Division, with regard to complex evidentiary and legal matters.

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

As an Assistant United States Attorney, my clients include the United States of America in criminal matters and federal agencies and employees in civil matters. Some of the federal agencies that I represent include the United States Postal Service, the Federal Bureau of Investigation, the Department of Veterans Affairs, the United States Department of Education, and the Social Security Administration.

While I practiced at Jones Day, the clients that the firm represented were typically large corporate entities.

- 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 I was an Assistant United States Attorney in the Civil Division, the majority of my practice involved litigation, defending federal agencies and employees. I appeared almost exclusively in federal court (appearing in state court only to remove cases to federal court). I appeared before federal district court judges on a regular basis, typically at least once a week to attend various conferences and to argue motions. Currently, as Appellate Chief, I prepare and review appellate briefs and argue cases before the Court of Appeals for the Third Circuit. I also recently acted as co-counsel in two criminal cases that proceeded to trial.

While at Jones Day, I was a junior associate in the general litigation group. I appeared in court infrequently, always with other, more senior, counsel.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 99% |
| 2. state courts of record:  | 1%  |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 50% |
| 2. criminal proceedings: | 50% |

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

I tried three cases to verdict or judgment (as co-counsel): *United States v. Sempf*, W.D. Pa. Docket No. 12-123, criminal case charging conspiracy to transport stolen property in interstate commerce; *United States v. Gorny*, W.D. Pa. Docket No. 13-70, felon-in-possession criminal case; *Clarke v. West et al.*, W.D. Pa. Docket No. 98-1601, employment discrimination/retaliation claim against the United States Postal Service. In addition, I provided substantial assistance during a criminal trial in January 2014 (including witness preparation and the drafting of trial outlines/pretrial motions) in *United States v. Brown*, W.D. Pa. Docket No. 12-224, another felon-in-possession case.

- i. What percentage of these trials were:

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

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

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

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

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

1. *United States v. Sempf* (W.D. Pa. Docket No. 12–123)

Defendant Mr. Sempf was charged in a two-count superseding indictment with conspiring to transport stolen property in interstate commerce, and the interstate transportation of stolen property. Mr. Sempf had been a mail carrier with the post office but also sold goods at a booth at a flea market in Ohio. Mr. Sempf was indicted after law enforcement learned that he was encouraging people with drug addiction problems to shoplift items for him. Mr. Sempf would purchase the stolen items at a deep discount in Pennsylvania and sell them at the flea market in Ohio. The estimated value of the goods that were stolen during the scheme exceeded \$250,000. I participated in the prosecution of Mr. Sempf after the case was indicted, beginning in August 2014. I interviewed and prepared witnesses for trial. I also delivered the government's opening statement, and I conducted direct and cross examinations of witnesses. Following a five-day trial in October 2014, the jury convicted Mr. Sempf on both charges. I also drafted a response to a post-trial motion for a new trial that Mr. Sempf filed.

Court: United States District Court for the Western District of Pennsylvania  
United States District Court Judge David Stewart Cercone

Co-Counsel

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2. *United States v. Noyes*, 501 F. App'x 168 (3d Cir. 2012), *cert. denied*, 133 S. Ct. 1654 (2013)

In June 2008, the FBI received an anonymous tip that Mr. Noyes, a medical student, was attempting to use the internet to obtain a four-year-old girl and her mother to keep as sex slaves. The FBI conducted an investigation that resulted in a four-count indictment against Mr. Noyes charging him with transportation and attempted transportation of child pornography, receipt and attempted receipt of child pornography, possession and attempted possession of child pornography, and transportation of obscene matter. After significant pretrial proceedings the case proceeded to trial. On the morning of jury selection, Mr. Noyes decided to proceed *pro se*, with standby counsel, despite the district court's colloquy that informed him of the risks and challenges of self-representation. After a five-day trial, a jury found Mr. Noyes guilty on all counts, and he appealed. I represented the United States in this appeal in 2012, which focused on whether Mr. Noyes was adequately warned of the risks of self-representation before he was allowed to proceed *pro se* and whether his sentence of the statutory maximum (45 years) was reasonable. The Third Circuit affirmed.

Court: United States Court of Appeals for the Third Circuit  
Circuit Judges Anthony J. Scirica; Jane R. Roth; and Maryanne Trump Barry

Opposing Counsel

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Pittsburgh, Pennsylvania 15219  
(412) 391-5252

3. *United States v. Lee*, 612 F.3d 170 (3d Cir. 2010)

Defendant was indicted and charged with being a felon-in-possession of a rifle and a pistol, in violation of 18 U.S.C. § 922(g)(1). The charge followed a traffic

stop during which a police officer saw a pistol in Mr. Lee's lap, at which point Mr. Lee fled the scene in his car and led police on a high speed chase. Defendant eventually abandoned his vehicle and fled the scene on foot. A rifle was found lying by a fence near the location of Mr. Lee's abandoned car, but the pistol was never recovered. Mr. Lee eluded police on the night of the stop, but he was captured a few weeks later hiding in an apartment building. Prior to trial, defendant filed various motions, including motions to suppress statements and audio tapes, a motion to exclude bloodhound evidence, a motion to exclude evidence under Federal Rule of Evidence 404(b), and a motion for judgment of acquittal on jurisdictional grounds. With the exception of a limited portion of the Rule 404(b) motion, these motions were denied by the district court. Mr. Lee proceeded to trial, and a jury found him guilty of possessing the rifle but acquitted him of the pistol charge. Defendant appealed, challenging both the conviction on the rifle charge and his sentence. He alleged that: the district court should never have allowed the pistol charge to proceed to the jury, and this error resulted in prejudicial spillover of evidence that tainted his conviction for possession of the rifle; that the district court abused its discretion under the Rule 404(b) in allowing the government to present evidence at trial that: (a) Mr. Lee was wearing a bullet-proof vest at the time of his arrest, and (b) Mr. Lee had made statements following his arrest indicating a prior involvement with weapons; that the prosecutor engaged in misconduct during his closing argument and that his sentence should be vacated. In 2009 to 2010, I represented the United States on appeal and argued the case on behalf of the government, asserting that the defendant's conviction was firm but agreeing that in light of intervening Supreme Court precedent, he was entitled to resentencing. The Third Circuit agreed and affirmed the conviction but vacated for resentencing, per the parties' agreement.

Court: United States Court of Appeals for the Third Circuit  
Circuit Judges Marjorie O. Rendell; Kent A. Jordan; and Gene E.K. Pratter,  
United States District Court Judge for the Eastern District of Pennsylvania, sitting  
by designation

#### Opposing Counsel

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#### 4. *United States v. Grape*, 549 F.3d 591 (3d Cir. 2008)

This case involved an interlocutory appeal filed by a criminal defendant, Mr. Grape, from a district court order allowing him to be involuntarily medicated in order to render him competent to stand trial on child pornography charges,

pursuant to *Sell v. United States*, 539 U.S. 166 (2003). On appeal, Mr. Grape claimed that the government failed to meet its burden of proof on the first two factors of the four-factor test laid out in *Sell*: (1) whether the government had advanced sufficiently important interests to justify forcible medication, and (2) whether involuntarily medicating Grape was substantially likely to restore him to competency. In 2008, I handled this appeal on behalf of the United States, and the Third Circuit agreed that the government had presented sufficiently important interests to involuntarily medicate Mr. Grape, and that the administration of medication was substantially likely to render him competent to stand trial. Accordingly, it affirmed the district court's order.

Court: United States Court of Appeals for the Third Circuit  
Circuit Judges D. Michael Fisher; Michael D. Chagares; and Thomas M. Hardiman

Opposing Counsel

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5. *Connell v. Nicholson*, 318 F. App'x 75 (3d Cir. 2009)

This case involved an appeal in 2008 from an order granting summary judgment in favor of the Secretary of the Department of Veterans Affairs ("VA") in an employment discrimination case filed by five male employees of the VA's Medical Center in Pittsburgh, Pennsylvania. In particular, the appellants alleged that they were subjected to a hostile work environment because of the behavior of a female co-worker. They further claimed that the district court should not have granted summary judgment because there was a genuine issue of material fact as to whether they were harassed on the basis of their sex. I handled this appeal on behalf of the VA, arguing that the appellants did not provide evidence to establish several of the requirements of a case of sexual harassment. Instead, many of the actions about which appellants complained were directed at both male and female employees. Nor could any of the appellants establish that the alleged harassment was severe or pervasive enough to create an objectively hostile work environment. Accordingly, I argued that the district court properly granted the VA's motion for summary judgment. The Third Circuit agreed and affirmed.

Court: United States Court of Appeals for the Third Circuit  
Circuit Judges Marjorie O. Rendell; Thomas L. Ambro; and Kent A. Jordan

Opposing Counsel

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6. *United States v. Bell*, 282 F. App'x 184 (3d Cir. 2008)

Defendant Ms. Bell was convicted after a month-long jury trial of one count of healthcare fraud, in violation of 18 U.S.C. §§ 1347 & 2, and eight counts of making false statements related to healthcare matters, in violation of 18 U.S.C. § 1035(a)(2). Ms. Bell's conviction stemmed from her scheme to falsify records of Atrium I Nursing and Rehabilitation Center, a nursing home that she operated that specialized in the care of Alzheimer's patients. Ms. Bell made numerous false statements in order to conceal the conditions at the facility from state and federal regulators. Following her conviction, Ms. Bell filed an appeal in 2007, in which I represented the interests of the United States. In this appeal, Ms. Bell argued that there was insufficient evidence presented at trial to convict her of healthcare fraud and on certain counts for making false statements relating to healthcare matters. She also claimed that the district court erred in failing to grant her motion for a new trial based on the government's alleged failure to comply with its disclosure obligations under *Brady*. I filed a detailed brief summarizing the government's substantial evidence against Ms. Bell that had been presented during the lengthy trial, and the Third Circuit affirmed Ms. Bell's conviction in its entirety. As the Third Circuit stated in its opinion affirming the conviction, the record evidence against Ms. Bell was overwhelming. The Third Circuit also rejected Ms. Bell's claim under *Brady*, as I successfully argued that the criminal trial assistant did not withhold exculpatory evidence.

Court: United States Court of Appeals for the Third Circuit  
Circuit Judges D. Michael Fisher; Kent A. Jordan; and William H. Yohn, Jr.,  
Senior United States District Court Judge for the Eastern District of  
Pennsylvania, sitting by designation

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7. *Lyons v. Emerick, et al.* (W.D. Pa. Docket No. 03-75 (Erie)), *aff'd*, *Lyons v. Emerick*, 187 F. App'x 219 (3d Cir. 2006)

In February 2001, a young girl was abducted from her home in Erie, Pennsylvania, raped and then left outside along a highway. A trucker found and assisted the girl and reported the incident to local law enforcement officers who began an investigation. Mr. Lyons became the prime suspect. He agreed to come to a police station to talk with law enforcement officials, and FBI Agent Van Slyke participated in the interview. Agent Van Slyke also assisted in transporting Mr. Lyons to a local hospital so that blood and hair samples could be recovered as directed by a warrant. Mr. Lyons was eventually convicted of the rape and other crimes, but he filed a civil rights action in federal district court claiming that he had been the victim of excessive force and other constitutional violations, allegedly committed by Agent Van Slyke, local law enforcement officers, the nurse who obtained the blood and hair samples, and a local mechanic who Mr. Lyons claimed illegally searched his car.

Beginning in 2003, I represented Agent Van Slyke in the district court litigation, defending him in the face of plaintiff's claims that Agent Van Slyke had beaten and punched him in order to get him to comply with requests to be photographed, fingerprinted and to provide blood and hair samples. As part of my defense of Agent Van Slyke, I engaged in significant pretrial proceedings, filing numerous written motions, including motions to dismiss on the statute of limitations grounds, and a detailed motion for summary judgment, reviewing the prison mailbox rule and the doctrine of equitable tolling. The magistrate judge assigned to the case ultimately issued a report recommending that dismissal was proper because the complaint was not filed within the limitations period, and this recommendation was adopted as the opinion of the district court. Mr. Lyons then filed an appeal in 2006, which I also handled on behalf of Agent Van Slyke, successfully moving for summary affirmance of the lower court's disposition.

Court: United States District Court for the Western District of Pennsylvania  
United States District Court Judge Sean J. McLaughlin and United States  
Magistrate Judge Susan Paradise Baxter

Court: United States Court of Appeals for the Third Circuit  
Circuit Judges Julio M. Fuentes; Franklin S. Van Antwerpen; and Michael D.  
Chagares

Co-Counsel

Megan E. Farrell (filed reply brief after my transfer to Appellate Division)  
Current business contact information unavailable (formerly at U.S. Attorney's  
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Counsel for Other Defendants



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Mr. Lyons, *pro se*

8. *Calcagno v. Potter* (W.D. Pa. Docket No. 03-96 (Erie))

In 2003, Mr. Calcagno filed an employment discrimination lawsuit against his employer, the United States Postal Service, alleging that he was subjected to numerous forms of discrimination, including disability discrimination and unlawful retaliation. Mr. Calcagno was a letter carrier at the post office located in Bradford, Pennsylvania, and he claimed that he was injured on his route and needed to perform only light duty assignments. Evidence existed, however, that he had significantly exaggerated his injuries, and his supervisors asserted that he was working out at a health club for numerous hours during the work day. As a result, Mr. Calcagno was fired, but he filed a grievance and was reinstated. Thereafter, in 2003, he also filed a district court complaint alleging incidents of discrimination and retaliation. I defended the Postal Service in this litigation beginning in 2003 through 2005. The case involved significant pretrial discovery and I filed a detailed motion for summary judgment, which was granted.

Court: United States District Court for the Western District of Pennsylvania  
United States District Court Judge Maurice B. Cohill, Jr.

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9. *Mennecke v. Saint Vincent Health Ctr., et al.* (W.D. Pa. Docket No. 98-50 (Erie))

This case involved a wrongful death medical malpractice action filed in federal district court in 1998 by Ms. Mennecke, individually and in her capacity as the administratrix of the estate of her deceased husband, Mr. Mennecke. I represented the interests of the United States, which was sued under the Federal Tort Claims Act (FTCA) based on the conduct of Dr. Kiskoondial, a physician with Community Health Net who had treated Mr. Mennecke prior to his death. Dr. Kiskoondial was deemed to be a federal employee under Section 224 of the Public Health Service Act, as amended by the Federally Supported Health Centers Assistance Act of 1992 and 1995, which provided that employees of eligible health centers may be deemed to be federal employees qualified for protection under the FTCA. Mr. Mennecke (who was in his 40s) had died as a result of complications from a pulmonary embolus, and the plaintiff claimed that Dr. Kiskoondial, as well as physicians at a local hospital, had committed malpractice by failing to provide a proper diagnosis of Mr. Mennecke's symptoms. The case involved significant pretrial discovery, including numerous depositions of witnesses and experts, and the filing of a significant number of motions prior to trial in an attempt to limit the introduction of evidence. The case settled shortly before jury selection in 2000.

Court: United States District Court for the Western District of Pennsylvania  
United States District Court Judge Sean J. McLaughlin

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10. *Lewandowski v. U.S. Dep't of Hous. & Urban Dev.*, 219 B.R. 99 (Bankr. W.D. Pa. 1998)

This case involved an adversary complaint filed in the federal bankruptcy court of the Western District of Pennsylvania by Chapter 13 debtors against the United States Department of Housing and Urban Development (HUD). In the complaint, the debtors sought a determination that HUD's second mortgage on their property was wholly unsecured and therefore avoidable in its entirety under 11 U.S.C. § 506. In 1998, I drafted the response on behalf of HUD in this action, addressing the following issues: whether HUD's rights could be modified under 11 U.S.C. § 1322(b)(2) on the ground that HUD's mortgage included a security interest in property other than "real property that is [Debtors'] principal residence" and whether, under *Nobelman v. American Savings Bank*, 508 U.S. 324 (1993), HUD's mortgage lien could be avoided because it was completely unsecured in that there was not and never was any equity in the real property to support the lien. While the bankruptcy court did not agree that HUD's lien was only on real property, it did agree with my argument that the valuation of the property could not be used as a basis to strip off HUD's perfected mortgage lien. Indeed, the court noted that *Nobelman* addressed the issue of whether a Chapter 13 plan could strip off the unsecured portion of a mortgage. A question remained after *Nobelman*, however, as to whether its prohibition on stripdown applied to a wholly unsecured mortgage, with courts reaching different conclusions. In this case, the bankruptcy court accepted my argument that *Nobelman*'s prohibition against stripping down a lien applied to properly perfected security interests represented by residential mortgages, even when the claim was wholly unsecured. Accordingly, it held that HUD's mortgage lien could not be avoided based on the valuation of the claim under § 506(a), even though there was no equity to support the claim. This was an important decision insofar as HUD often stood in a wholly unsecured position.

Court: United States Bankruptcy Court for the Western District of Pennsylvania  
United States Bankruptcy Court Judge Judith K. Fitzgerald

Co-Counsel

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Opposing Counsel

Daniel Gates (deceased)

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.)

The overwhelming focus of my legal work has been as an advocate on behalf of the United States and its employees and agencies, practicing in federal court in the Western District of Pennsylvania. I have significant experience representing the interests of the federal government in civil, criminal, and appellate matters, which has provided me with an understanding of a wide array of federal statutes, and rules of evidence and procedure. Moreover, in my current role as Chief of the Appellate Division, I am consulted on a daily basis by both criminal and civil trial attorneys with legal questions regarding their cases. Although I lead the Appellate Division, when complex legal issues are involved, I participate in litigation in the district court. I am also a key participant in our office's training committee. In this capacity, I have developed and participated in the training programs provided for the benefit of the trial attorneys in our office. I also am a participant in the Allegheny Bar Association's federal criminal court section, and I provide updates to the group concerning legal developments in criminal matters from the Court of Appeals for the Third Circuit and the United States Supreme Court.

I have never performed any lobbying activities on behalf of any client or organization, and I have never been registered as a lobbyist.

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 never 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.

Upon retirement, I am eligible to receive benefits from the Federal Employee Retirement System. Otherwise, I do not expect to receive any deferred income or future benefits.

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 currently have any plan or commitment to pursue outside employment during my service with the court.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I would not participate in any case with which I had involvement in my capacity as an Assistant United States Attorney. I also would recuse in all cases in which attorneys from the United States Attorney's Office, Western District of Pennsylvania, appeared for at least one year. I would also recuse in cases where I had a financial interest or in which certain family members had an interest that would be imputed to me. Thus, I am aware of and would comply with the rule that a federal judge must recuse himself or herself in all cases where there is an actual conflict and where the judge's impartiality might reasonably be questioned.

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

I would disclose the possible basis for any conflict to the attorneys and parties involved in the litigation and would attempt to resolve the issue with the parties' agreement. If that was not possible, I would consult applicable precedent, as well as the Code of Conduct for United States Judges and the recusal statutes, including 28 U.S.C. § 455 and 28 U.S.C. § 144, to determine whether recusal was warranted.

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.

As an Assistant United States Attorney, I am generally prohibited from entering into an attorney/client relationship and must obtain written approval from an ethics officer before engaging in any outside practice of law. However, I have volunteered my time to assist others in a variety of ways. I have organized book drives and collected sports equipment for underprivileged youth both in Pittsburgh and in Detroit (through the organization ThinkDetroit). I am also a volunteer reader at Crescent Early Development Center in Homewood, Pennsylvania. As a member of my church, as well as with the Board of Directors of X-Cel Gymnastics and Jewarts' Gymnastics, I have participated in numerous service activities to benefit non-profit organizations, such as the Light of Life Mission and North Hills Community Outreach. I also was a member of the Public Service Committee of the Allegheny County Bar Association.

Moreover, while an Assistant U.S. Attorney in the Civil Division, I was actively involved with the Department of Justice's Weed & Seed program, which was created to help solve crime problems in local communities and at the same time fund various social programs to assist the communities.

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.

The Senators in Pennsylvania employ a judicial section committee for identifying

candidates to be federal judges. In August 2013, I submitted an application to be considered for the federal bench. On October 23, 2013, I interviewed before the selection committee in Pittsburgh, Pennsylvania. Subsequently, Senator Casey's staff contacted me and arranged for me to meet the Senator in his Harrisburg office in January 2014. During this meeting, I also interviewed with Senator Casey's chief of staff and his legislative director. On February 11, 2014, I was contacted by an attorney with the White House Counsel's Office regarding the possibility of my being nominated to the federal bench. Since February 12, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On February 26, 2014, I met with Senator Toomey and one of his staffers in his office in Washington D.C. On April 9, 2014 and March 23, 2015, I met with attorneys from the White House Counsel's Office and Department of Justice in Washington, D.C. On November 17, 2015, I met with Senator Toomey and two of his staffers in his office in Washington D.C. On March 15, 2016, 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.