UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Ketanji Brown Jackson (née Ketanji Onyika Brown)

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

   United States District Judge for the District of Columbia

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

   United States Sentencing Commission
   One Columbus Circle, N.E.
   Suite 2-500, South Lobby
   Washington, D.C. 20002

   Residence: Bethesda, Maryland

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

   1970; Washington, D.C.

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.

   1993 – 1996, Harvard Law School; J.D. (*cum laude*), 1996
   1988 – 1992, Harvard University; B.A. (*magna cum laude*), 1992

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.

   2010 – Present
   United States Sentencing Commission
   One Columbus Circle, N.E.

Washington, D.C. 20002
Vice Chair & Commissioner

2007 – 2010
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W., 6th Floor
Washington, D.C. 20006
Of Counsel

2005 – 2007
Office of the Federal Public Defender
625 Indiana Avenue, N.W.
Washington, D.C. 20004
Assistant Federal Public Defender

2003 – 2005
United States Sentencing Commission
One Columbus Circle, N.E.
Washington, D.C. 20002
Assistant Special Counsel

2002 – 2003
The Feinberg Group, LLP (now known as Feinberg Rozen, LLP)
455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Associate

2000 – 2002
Goodwin Procter LLP
Exchange Place
53 State Street
Boston, Massachusetts 02109
Associate

1999 – 2000
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543
Law Clerk for Associate Justice Stephen G. Breyer

1998 – 1999
Miller, Cassidy, Larroca & Lewin LLP (now defunct)
2599 M Street, N.W.
Washington, D.C. 20007
Associate

1997 – 1998
United States Court of Appeals for the First Circuit
1 Exchange Terrace
Providence, Rhode Island 02903
Law Clerk for the Honorable Bruce M. Selya

1996 – 1997
United States District Court for the District of Massachusetts
1 Courthouse Way
Boston, Massachusetts 02210
Law Clerk for the Honorable Patti B. Saris

Summer 1996
Ropes & Gray LLP
One International Place
Boston, Massachusetts 02110
Summer Associate

1996
Law Office of Nan Elder, J.D.
90 Canal Street, 5th Floor
Boston, Massachusetts 02114
Intern

Summer 1995
Miller, Cassidy, Larroca & Lewin LLP (now defunct)
2599 M Street, N.W.
Washington, D.C. 20007
Summer Associate

Summer 1994
Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022
Summer Associate

1992 – 1993
Time Magazine, Inc.
1271 Avenue of the Americas
New York, New York 10020
Staff Reporter/Researcher

Other Affiliations (uncompensated):

2011 – present
National Institute of Corrections
320 First Street, N.W.
Washington, D.C. 20534
Advisory Board Member (appointed as designee of the Chair of the Sentencing Commission)

2010 – 2011
Montrose Christian School
5100 Randolph Road
Rockville, Maryland 20852
Advisory School Board Member

2004 – 2007
Harvard Alumni Association
124 Mount Auburn Street, 6th Floor
Cambridge, Massachusetts 02138
Elected Director

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 with 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.

   Harvard Law Review (Volume 109 Supervising Editor)
   Harvard College Scholarship for Academic Achievement (1989 – 1991)
   Elizabeth Carey Agassiz Certificate for Academic Achievement (1989 – 1990)
   Glamour Magazine's Top Ten College Women Competition, Semi-finalist (1991)
   National Catholic Forensic League National Champion in Original Oratory (1988)
   National Forensics League National Finalist in Humorous Interpretation (1988)

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.

   American Bar Association
   American Law Institute

District of Columbia Bar
Courts, Lawyers and the Administration of Justice Section
Criminal Law and Individual Rights Section
Edward Bennett Williams Inn of Court
Barrister (2005 – present)
Supreme Court Institute, Georgetown University
Moot Court Jurist (2003 –2009)
United States District Court for the District of Columbia
Magistrate Judge Merit Selection Panel (2005)
Women's Bar Association of the District of Columbia
Co-Chair, Amicus Committee (2006)

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.

Massachusetts, 1996
District of Columbia, 1998

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, 2000
United States Court of Appeals for the Fourth Circuit, 2008
United States Court of Appeals for the District of Columbia Circuit, 2005
United States Court of Appeals for the First Circuit, 1998
United States District Court for the District of Columbia, 2009
United States District Court for the District of Massachusetts, 1997
United States Court of Federal Claims, 2008
District of Columbia Court of Appeals, 1998

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.

Harvard Alumni Association
Board of Directors (2004 –2007)
Harvard Black Alumni Society (2003 – Present)
Harvard Club of Washington DC (2002 – Present)
Local College Interviewer (2004 – Present)
Montrose Christian School
Advisory School Board Member (2010 – 2011)

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 currently discriminates 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.

Ketanji Brown Jackson & Kathleen Cooper Grilli, *"Carrot and Stick" Philosophy: The History of the Organizational Sentencing Guidelines and the Emergence of Effective Compliance and Ethics Programs*, THE COMPLETE COMPLIANCE AND ETHICS MANUAL (Soc'y of Corporate Compliance & Ethics), Aug. 2012, at 1.25. Copy supplied.

Section 10(b) and Rule 10b-5: The U.S. Courts of Appeals Apply Different Legal Tests for Assessing the Primary Liability of Secondary Actors, Securities Litigation, Enforcement, and White Collar Criminal Defense Newsletter (Morrison & Foerster LLP), Spring 2009, at 10-12. Copy supplied.

Letter to the Editor, *Feder's as Racist as Those He Condemns*, Bos. Herald, April 10, 1997, at 36. Copy of letter and underlying editorial supplied.

Note, *Prevention Versus Punishment: Toward a Principled Distinction in the Restraint of Released Sex Offenders*, 109 Harv. L. Rev. 1711 (1996). Copy supplied.

Recent Case, *Racketeer Influenced and Corrupt Organizations Act (RICO)—Scope of Liability After* Reves *v.* Ernst & Young, 108 Harv. L. Rev. 1405 (1995). Copy supplied.

"The Hand Of Oppression": Plea Bargaining Processes and the Coercion of Criminal Defendants (March 1992) (senior thesis on file with the Harvard College Archives). Copy supplied.

It's About Time, 4 Progressive Forensics 1, 18 (1987). 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.

During the time that I have served as a Commissioner on the United States Sentencing Commission, the Commission has issued, on an annual basis, federal sentencing guidelines manuals, sourcebooks of federal sentencing statistics, and yearly reports. The Commission has also issued, on a periodic basis, reports on federal sentencing statistics. It is important to note that while members of the Commission contribute to these reports, they are representative of the Commission as a whole and not of any single Commissioner.

I have searched my files and electronic databases in an effort to locate all reports, memoranda, and policy statements responsive to this question. I have located the materials listed below, but it is possible that there are a few that I have been unable to identify.

United States Sentencing Commission, Overview of Federal Criminal Cases, Fiscal Year 2010 (July 2012). Available at http://www.ussc.gov/Research/Research_Publications/2012/FY10_Overview_Federal_Criminal_Cases.pdf.

United States Sentencing Commission, FY 2011 Annual Report and Sourcebook of Federal Sentencing Statistics. Available at http://www.ussc.gov/Publications/Annual_Reports_and_Statistical_Sourcebooks/index.cfm.

United States Sentencing Commission, Guidelines Manual (Nov. 2011). Available at http://www.ussc.gov/Guidelines/2011_Guidelines/index.cfm.

United States Sentencing Commission, Report to Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System (Oct. 2011). Available at http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Mandatory_Minimum_Penalties/20111031_RtC_Mandatory_Minimum.cfm.

National Institute of Corrections, Report to the Nation FY 2010 (June 2011). Available at http://static.nicic.gov/Library/024837.pdf.

United States Sentencing Commission, FY 2010 Annual Report and Sourcebook of Federal Sentencing Statistics. Available at http://www.ussc.gov/Data_and_Statistics/Archives.cfm.

United States Sentencing Commission, Overview of Federal Criminal Cases, Fiscal Year 2009 (Dec. 2010). Available at http://www.ussc.gov/Research/Research_Publications/2010/20101230_FY09_Overview_Federal_Criminal_Cases.pdf.

United States Sentencing Commission, Guidelines Manual (Nov. 2010). Available at http://www.ussc.gov/Guidelines/2010_Guidelines/index.cfm.

United States Sentencing Commission, Computation of "Recency" Criminal History Points Under USSG § 4A1.1(e) (Aug. 2010). Available at http://www.ussc.gov/Research/Research_Publications/2010/20100818_Recency_Report.pdf.

United States Sentencing Commission, Federal Offenders Sentenced to Supervised Release (July 2010). Available at http://www.ussc.gov/Research/Research_Publications/Supervised_Release/20100722_Supervised_Release.pdf.

United States Sentencing Commission, Results of Survey of United States District Judges, January 2010 through March 2010 (June 2010). Available at http://www.ussc.gov/Research/Research_Projects/Surveys/20100608_Judge_Survey.pdf.

United States Sentencing Commission, Demographic Differences in Federal Sentencing Practices: An Update of the *Booker Report's* Multivariate Regression Analysis (Mar. 2010). Available at http://www.ussc.gov/Research/Research_Publications/2010/20100311_Multivariate_Regression_Analysis_Report.pdf.

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.

The Commission conducts public meetings and holds public hearings as a part of its annual amendment cycle. Congress also periodically requests information from the Commission, and the Commission provides letters or written statements in response. In addition, the Chair of the Commission periodically testifies on behalf of the Commission before various Congressional committees, and the Commission sometimes files *amicus* briefs in court. It is important to note that while members of the Commission contribute to the briefs, letters and other statements of the Commission, they are representative of the Commission as a whole and not of any single Commissioner.

I have searched my files and electronic databases in an effort to locate all testimony, official statements, or other communication responsive to this question. I have located the materials listed below, but it is possible that there are a few that I have been unable to identify.

United States Sentencing Commission, Public Meeting (Aug. 17, 2012). Notice of meeting available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20120817/Notice.pdf.

United States Sentencing Commission, Public Meeting (Apr. 13, 2012). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20120413/Meeting_Minutes.pdf.

United States Sentencing Commission, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines (March 14, 2012). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20120314/Meeting_Transcript.pdf.

United States Sentencing Commission, Public Hearing on Federal Sentencing Options after *Booker* (Feb. 16, 2012). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20120215-16/Hearing_Transcript_20120216.pdf.

United States Sentencing Commission, Public Hearing on Federal Child Pornography Crimes (Feb. 15, 2012). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20120215-16/Hearing_Transcript_20120215.pdf.

United States Sentencing Commission, Public Meeting (Jan. 10, 2012). Minutes available at

http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20120110/Meeting_Minutes.pdf.

United States Sentencing Commission, Report to Congress Regarding the Comprehensive Iran Sanctions Accountability and Divestment Act of 2010 (Dec. 14, 2011). Report available at http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Submissions/20111214_Iran_Sanctions_Transmission.pdf.

Prepared Statement of Patti B. Saris, Chair of the USSC, before the House Committee on the Judiciary Subcommittee of Crime, Terrorism, and Homeland Security (Oct. 12, 2011). Testimony available at http://www.ussc.gov/Legislative_and_Public_Affairs/Congressional_Testimony_and_Reports/Testimony/20111012_Saris_Testimony.pdf.

United States Sentencing Commission, Public Meeting (Sept. 15, 2011). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110915/Meeting_Minutes.pdf.

United States Sentencing Commission, Public Meeting (June 30, 2011). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110630/Meeting_Minutes.pdf. Video available at http://www.c-spanvideo.org/program/300289-1.

United States Sentencing Commission, Public Hearing on the Possible Retroactivity of the New Guideline Amendments Implementing the Fair Sentencing Act of 2010 (June 1, 2011). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110601/Hearing_Transcript.pdf.

United States Sentencing Commission, Public Meeting (Apr. 6, 2011). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110406/Meeting_Minutes.pdf.

United States Sentencing Commission, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines (Mar. 17, 2011). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110317/Hearing_Transcript.pdf.

United States Sentencing Commission, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines (Feb. 16, 2011). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110216/Hearing_Transcript.pdf.

United States Sentencing Commission, Public Meeting (Jan. 11, 2011). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20110111/Meeting_Minutes.pdf.

United States Sentencing Commission, Public Meeting (Oct. 15, 2010). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20101015/20101015_Minutes.pdf.

United States Sentencing Commission, Public Meeting (Sept. 16, 2010). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20100916/20100916_Minutes.pdf.

United States Sentencing Commission, Public Meeting (Sept. 1, 2010). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20100901/20100901_Minutes.pdf.

United States Sentencing Commission, Public Hearing on the Issue of Statutory Mandatory Minimum Penalties in Federal Sentencing (May 27, 2010). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20100527/Hearing_Transcript.pdf.

United States Sentencing Commission, Public Meeting (Apr. 13, 2010). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20100413/20100413_Mnutes.pdf.

United States Sentencing Commission, Public Meeting (Apr. 7, 2010). Minutes available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20100407/20100407_Minutes.pdf.

United States Sentencing Commission, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines (Mar. 17, 2010). Transcript available at http://www.ussc.gov/Legislative_and_Public_Affairs/Public_Hearings_and_Meetings/20100317/Hearing_Transcript.pdf.

United States Sentencing Commission, Brief for the Commission as amicus curiae filed in the Supreme Court of the United States in the case of *Percy v. Dillon*, No. 09-6338 (Mar. 2010). Brief supplied.

On October 7, 2009, I testified before the United States Senate Judiciary Committee as a nominee to be a Member of the United States Sentencing Commission. Testimony and responses to questions for the record 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.

July 26, 2012: Panelist, National Association of Black Narcotic Agents, 35th Annual Training Conference (Washington, D.C.). I participated in a panel discussion about the death of basketball player Len Bias and its impact on national criminal justice and sentencing policy related to drug offenses. Notes supplied.

June 13-15, 2012: Panelist and moderator, U.S. Sentencing Commission Annual National Seminar on the Federal Sentencing Guidelines (New Orleans, LA). I participated in a plenary panel of Commission members that provided attendees with data and information about the recent guideline amendments. I also moderated a breakout session in which panelists discussed current sentencing-related issues and the future of federal sentencing. Notes supplied.

May 24, 2012: Panelist, Federal Bar Association, Tampa Bay Chapter, 21st Annual National Seminar on the Federal Sentencing Guidelines (St. Petersburg, FL). I participated in a panel discussion about presentence reports and departures and variances from the federal sentencing guidelines. Outline supplied.

April 30, 2012: Guest Speaker, Health Care Compliance Association, Compliance Institute (Las Vegas, NV). I gave a speech about the state of the federal sentencing guidelines applicable to organizations before the members and attendees of the HCCA Compliance conference. Video available at http://youtu.be/XFQ9DvKqH20.

April 17, 2012: Panelist, NYU Center on the Administration of Criminal Law (New York, NY). I participated in a panel discussion about sentencing and reentry for the Center's conference on "New Frontiers in Race and Criminal Justice." Video available at http://www.youtube.com/watch?v=QSxZd10HovU.

March 12, 2012: Guest Lecturer, George Washington University Law School, Professors Aitan Goelman and Adam Hoffinger's Role of the Federal Prosecutor

Class (Washington, D.C.). I provided background information about federal sentencing practice and procedure, the operation of the Federal Sentencing Guidelines, and the institutional dynamics that govern federal sentencing policy. I used the same notes supplied in relation to the similar lecture on March 14, 2011.

February 28, 2012: Guest presenter, DC Class Field Trip sponsored by Professor Lisa McElroy of the Earl Mack School of Law at Drexel University (Washington, D.C.). I met with approximately 15 students in Professor McElroy's Supreme Court seminar to discuss my career and work-family balance issues. I have no notes, transcript, or recording. The address of the School of Law is 3141 Chestnut Street, Philadelphia, PA 19104.

October 28, 2011: Panelist, American Bar Association, Fourth Annual Sentencing & Reentry Institute and Criminal Justice Legal Educators Colloquium (Washington, D.C.). I participated in a panel that provided legislative and case law updates about the state of federal sentencing. I provided data and information regarding recent amendments to the Guidelines Manual (including the guideline amendments made pursuant to the Fair Sentencing Act) and the proposed priorities of the Commission. Notes supplied.

October 24, 2011: Speaker, Health Ethics Trust's 2011 Healthcare Best Compliance Practices Forum (Washington, D.C.). I gave a speech to compliance officers in the health care industry about the U.S. Sentencing Commission, its role in developing the federal sentencing guidelines applicable to organizations, and the ways in which the guidelines have led to the development of beneficial compliance and ethics standards in industries such as healthcare. Notes supplied.

September 28, 2011: Presenter, U.S. Sentencing Commission Training Program for the probation officers and U.S. District Judges of the Northern District of Illinois (Chicago, IL). I provided data, training, and information about the guideline amendments made pursuant to the Fair Sentencing Act and the procedures related to retroactive application of those amendments. I met informally with Commission staff and the district's chief probation officers to answer questions about the anticipated impact of the guideline changes. I gave a more formal lunchtime presentation to the judges of the U.S. District Court. Notes supplied.

June 15, 2011: Panelist, Sixth Circuit Judicial Conference (Acme, MI). I participated in a panel titled "Sentencing in the Sixth Circuit." I provided the judges with information about the 2011 guideline amendments, including the guideline amendments made pursuant to the Fair Sentencing Act, and the Commission's then-pending consideration of retroactivity. I also participated in general policy discussions about federal sentencing and provided Commission data about the rates of within-guideline sentences and departures and variances in the Circuit. Notes supplied.

June 14, 2011: Panelist, Ninth Circuit Federal Defenders Retreat (Big Fork, MT). I was on a panel titled "Update on Key Issues Before the United States Sentencing Commission and Criminal Rules Committee." I provided information about the 2011 guideline amendments, including the guideline amendments made pursuant to the Fair Sentencing Act, and the Commission's then-pending consideration of retroactivity. I also participated in general policy discussions about the future of federal sentencing and provided Commission data about the rates of within-guideline sentences and departures and variances in the Circuit. Notes supplied.

May 27, 2011: Commencement Speaker, Montrose Christian School (Rockville, MD). I delivered a commencement address to the members of the Class of 2011 encouraging them to reflect on their past, seek those who have supported them, and take the long view of their life and career as they move into the future. Speech supplied.

May 23, 2011: Guest Speaker, Morrison and Foerster LLP (Washington, D.C.). As an alumni of the firm, I gave informal remarks and professional recommendations to a small group of minority attorneys during the lunchtime segment of the firm's 2011 DC Attorneys of Color Workshop. Notes supplied.

May 18-20, 2011: Panelist and moderator, U.S. Sentencing Commission Annual National Seminar on the Federal Sentencing Guidelines (San Diego, CA). I participated in a plenary panel of Commission members that provided attendees with data and information about the recent guideline amendments. I also moderated a breakout session in which panelists discussed current sentencing-related issues and the future of federal sentencing. Notes supplied.

May 6, 2011: Panelist, Federal Bar Association, Tampa Bay Chapter Annual National Seminar on the Federal Sentencing Guidelines (Orlando, FL). I participated in a panel that provided legislative and case law updates on federal sentencing. I provided data and information regarding recent amendments to the Guidelines Manual, upcoming reports, and proposed priorities of the Commission. Notes supplied.

March 14, 2011: Guest Lecturer, George Washington University Law School, Professors Aitan Goelman and Adam Hoffinger's Role of the Federal Prosecutor Class (Washington, D.C.). I provided background information about federal sentencing practice and procedure, the operation of the Federal Sentencing Guidelines, and the institutional dynamics that govern federal sentencing policy. Notes supplied.

March 1, 2011: Guest presenter, DC Class Field Trip sponsored by Professor Lisa McElroy of the Earl Mack School of Law at Drexel University (Washington, D.C.). I met with approximately 15 students in Professor McElroy's Supreme Court seminar to discuss my career and work-family balance issues. I have no

notes, transcript, or recording. The address of the School of Law is 3141 Chestnut Street, Philadelphia, PA 19104.

February 11, 2011: Speaker, U.S. Sentencing Commission Training Program for federal judges, prosecutors, defense attorneys, and probation officers (Macon, GA). I gave introductory remarks at the beginning of the guidelines training program. I also answered questions and assisted Commission staff in training participants on how to use the Guidelines Manual. Notes supplied.

November 20, 2010: Panelist, Women's Bar Association of DC, Diversity Committee "Bootcamp: Real World Training for Future Success" (Washington, D.C.). I participated in a panel on professional advancement. I discussed work-family balance issues and provided advice about career development and professional ethics. I have no notes, transcript, or recording. The Women's Bar Association is located at 2020 Pennsylvania Avenue, N.W., Suite 446, Washington, D.C. 20006.

November 5, 2010: Panelist, American Bar Association Criminal Justice Section, Sentencing and Reentry Institute (Washington, D.C.). I participated in a breakout panel that provided legislative and case law updates on federal sentencing. I also participated in a plenary panel of Commission members that updated the audience about Commission activities. I provided data and information regarding recent amendments to the Guidelines Manual, Commission reports, and proposed priorities of the Commission. Notes supplied.

October 20, 2010: Speaker, U.S. Sentencing Commission Training Program for federal judges, prosecutors, defense attorneys, and probation officers (St. Thomas, VI). I gave introductory remarks at the beginning of the guidelines training program. I also answered questions and assisted Commission staff in training participants on how to use the Guidelines Manual. Notes and brochure supplied.

September 22, 2010: Speaker, U.S. Sentencing Commission Training Program for the law clerks and Staff Attorneys of the United States Court of Appeals for the Fourth Circuit (Richmond, VA). I gave introductory remarks at the beginning of the guidelines training program. I also answered questions and assisted Commission staff in training participants on how to use the Guidelines Manual. Notes supplied.

August 4, 2010: Panelist, Southeastern Association of Law Schools (SEALS) Annual Meeting and Conference (Palm Beach, FL). I gave a presentation about federal government programs related to prisoner reentry and alternatives to incarceration as part of an academic conference panel entitled "Rehabilitation or Restoration in Criminal Punishment: Dead End or Realistic Imperative?" Notes and PowerPoint slides supplied.

June 17, 2010: Panelist, U.S. Sentencing Commission, Annual National Seminar on the Federal Sentencing Guidelines (New Orleans, LA). I was part of a plenary "year in review" panel featuring the Commissioners of the U.S. Sentencing Commission. I have no notes, transcript, or recording. The U.S. Sentencing Commission is located at One Columbus Avenue, N.E., Suite 2-500, South Lobby, Washington, D.C. 20002.

May 14, 2010: Panelist, Federal Bar Association, Tampa Bay Chapter, Annual National Seminar on the Federal Sentencing Guidelines (St. Petersburg, FL). I participated in a panel that provided legislative and case law updates on federal sentencing. I provided data and information regarding recent amendments to the Guidelines Manual, upcoming reports, and proposed priorities of the Commission. Notes supplied.

November 10, 2009: Co-Presenter, Parent Encouragement Project (Kensington, MD). I planned and participated in a 15-minute presentation on diffusing parenting power struggles as the final assignment for a PEP leadership course. PowerPoint slides and notes supplied.

April 2, 2009: Guest Lecturer, George Washington University Law School, Professor Roger Fairfax's Adjudicatory Criminal Procedure Class (Washington, D.C.). I provided an overview of the content and structure of the Sentencing Guidelines and the Supreme Court's recent jurisprudence on sentencing, from *Booker* to *Kimbrough*. Notes supplied.

March 19, 2009: Faculty, Minority Corporate Counsel Association, CLE Expo (Chicago, IL). I gave a PowerPoint presentation about the inner workings of the Supreme Court to a breakout session of in-house counsel. I also participated in a related panel discussion regarding recent and pending Supreme Court cases of particular interest to business. PowerPoint presentation supplied.

January 9, 2008: Guest Speaker, American University, Professor Carolyn Cox Cohan's course on Women, The Law, & Litigating For Social Change (Washington, D.C.). I discussed my education and career path and work-family balance. I also provided insight into the Supreme Court and the role/work of law clerks. Notes supplied.

December 5, 2007: Panelist, American Constitution Society event at Jones Day (Washington, D.C.). I participated in a panel discussion regarding the representation of Guantanamo detainees and amici in cases before the Supreme Court. I have no notes, transcript, or recording. The American Constitution Society is located at 1333 H Street, N.W., 11th Floor, Washington, D.C. 20005.

November 6-10, 2006: Presenter, Federal Defender Orientation Program (Santa Fe, NM). I co-taught a program session on the Armed Career Criminal Act and other recidivist sentencing enhancements. Outline supplied.

November 26, 2001: Guest Lecturer, Suffolk University Law School (Boston, MA). "Supreme Court As Gatekeeper: Screening Petitions for Original Writs of Habeas Corpus In The Wake of The AEDPA." I delivered an academic talk to the law school faculty regarding second and successive habeas petitions under AEDPA and the Supreme Court's original habeas authority. Notes supplied.

October 11-12, 1987: Original Orator, Sixth Annual William Faulkner Invitational High School Forensics Tournament (Oxford, MI). I delivered "*It's About Time*" in the first of many high school forensics tournaments at a local and national level as a senior member of the Miami Palmetto Senior High School speech and debate team. Speech supplied in response to Question 12a.

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.

On April 30, 2012, I was interviewed during a live radio RACMonitor program broadcast from the Health Care Compliance Association's Compliance Institute in Las Vegas and answered prepared questions regarding the U.S. Sentencing Commission's role in developing the federal sentencing guidelines for organizations. Notes supplied. Podcast available at http://www.racmonitor.com/podcasts-mm/HCCA2ndshow.mp3 (from 34:05 to 44:04).

On November 19, 2008, I gave a telephone interview to Mark Sherman of the Associated Press regarding *Al-Marri v. Pucciarelli*. To my knowledge, there was no resulting article, and I do not have a transcript.

Elinor J. Brecher, *Dedicated Debate Legend Was an 'Unforgettable Hero,'* Miami Herald (Aug. 7, 2008). Copy supplied.

Kevin Merida & Michael A. Fletcher, *Justice Thomas's Life: A Tangle of Poverty, Privilege and Race*, Wash. Post (Apr. 22, 2007). Copy supplied.

On December 11, 2000, I was interviewed by CNN host Leon Harris after the U.S. Supreme Court stayed the Florida state supreme court's order requiring a statewide manual recount of the ballots cast in Florida during the Presidential election. DVD supplied.

Harvard Students End Sit-In Protest, Demand More Afro-American Faculty, Bos. Globe (Nov. 17, 1990). Copy supplied.

Jonathan Karp, *Palmetto Students Examine Their Values*, Miami Herald (Apr. 17, 1988). Copy supplied.

Teresa Smith, *Secretary is Grilled on Policies*, Miami Herald (Oct. 4, 1987). 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:	___%
civil proceedings:	___%
criminal proceedings:	___%

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 served as 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.

In September 2005, I was appointed to the Commission on Juvenile Justice in Montgomery County, Maryland by then-Montgomery County Executive Douglas Duncan and approved by the Montgomery County Council. I withdrew from the Commission shortly after my appointment due to a health issue involving a family member and never served.

On July 23, 2009, President Barack Obama nominated me to be a Commissioner on the United States Sentencing Commission. On February 12, 2010, following

my confirmation by the United States Senate, President Obama appointed me to be a Vice Chair of the Commission.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

In 2008, I was an election poll monitor for both the primary and general elections on behalf of Lawyers for Change, Obama for America Presidential 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;

I served as a law clerk to the following three judges:

Hon. Patti B. Saris
United States District Court for the District of Massachusetts
1996 – 1997

Hon. Bruce M. Selya
United States Court of Appeals for the First Circuit
1997 – 1998

Associate Justice Stephen G. Breyer
Supreme Court of the United States
1999 – 2000

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

I have never practice law 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.

1998 – 1999
Miller, Cassidy, Larroca & Lewin, LLP (now defunct)
2599 M Street, N.W.
Washington, D.C. 20007
Associate

2000 – 2002
Goodwin Procter, LLP
Exchange Place
53 State Street
Boston, Massachusetts 02109
Associate

2002 – 2003
The Feinberg Group, LLP (now known as Feinberg Rozen, LLP)
455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Associate

2003 – 2005
United States Sentencing Commission
One Columbus Circle, N.E.
Washington, D.C. 20002
Assistant Special Counsel

2005 – 2007
Office of the Federal Public Defender
625 Indiana Avenue, N.W.
Washington, D.C. 20004
Assistant Federal Public Defender

2007 – 2010
Morrison & Foerster, LLP
2000 Pennsylvania Avenue, N.W., 6th Floor
Washington, D.C. 20006
Of Counsel

2010 – Present
United States Sentencing Commission
One Columbus Avenue, N.E.
Washington, D.C. 20002
Vice Chair & Commissioner

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.

b. Describe:

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

The nature of my law practice has varied widely over the years. From 1998 to 1999, I worked as a litigation associate at Miller, Cassidy, Larroca & Lewin LLP, a trial litigation boutique firm in Washington D.C. My work there involved a variety of civil subject matters, including commercial breach of contract actions, bankruptcy litigation, just compensation, and defense of corporate employment discrimination and retaliation claims.

In 2000, after my Supreme Court clerkship, I moved to Boston, Massachusetts and returned to private practice, joining Goodwin Procter LLP's litigation department. While at Goodwin, I worked on a variety of trial-stage litigation matters, drafting pleadings and handling discovery in cases involving federal securities fraud allegations, personal injury claims, breach of contract actions, and alleged violations of the Anti-Kickback statute. I also did pro bono work that involved assisting an organization in investigating and challenging high stakes testing in education, and drafting an amicus brief in a free speech case in the First Circuit.

In 2002, I returned to Washington D.C., and joined The Feinberg Group, a small arbitration and mediation practice, as an associate. While at the Feinberg Group, I assisted in the negotiated (non-litigation) resolution of mass tort claims. I attended arbitration proceedings and advised client corporations regarding trust payment structures for resolving mass-tort liability, such as asbestos claims.

From 2003 to 2007, I focused primarily on criminal law and criminal justice related issues. As an Assistant Special Counsel to the United States Sentencing Commission from 2003 to 2005, I drafted proposed amendments to the Sentencing Guidelines Manual, analyzed federal law and sentencing policies in regard to certain crimes, and worked on the development of various guideline-sentencing proposals prior to, and in anticipation of, *Booker*. Then, from 2005 to 2007, I served as an Assistant Federal Public Defender in the District of Columbia, during which I represented indigent criminal appellants in the United States Court of Appeals for the District of Columbia Circuit. I filed briefs and motions in the court of appeals, argued cases, and monitored criminal law developments nationwide.

In 2007, I joined Morrison & Foerster LLP in the District of Columbia and worked as an appellate litigator with a practice that can generally be characterized as a national appellate practice involving a wide range of legal issues. I drafted and filed briefs and petitions in the Supreme Court and in other appellate courts around the country. The cases that I worked on involved such matters as statutory interpretation, federal preemption, personal injury claims, federal wiretapping and fraud prosecutions, and civil contempt sanctions imposed by an administrative body. I also worked on pro bono matters involving complex legal issues, including an asylum application and briefs regarding the Fourth Amendment, federal habeas, and the right to an attorney in civil cases under state constitutional law.

Since joining the Sentencing Commission in 2010, my practice can generally be characterized as criminal justice policy. As a Commissioner of the federal agency that develops sentencing policy for the federal courts, I evaluate, draft, and enact proposed changes to the federal sentencing guidelines. I also participate in administrative hearings and meetings to assess the operation of the federal sentencing system.

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

During my years in private practice at Miller, Cassidy, Larroca & Lewin, from 1998 to 1999, and Goodwin Procter, from 2000 to 2002, my clients were typically U.S. corporations, corporate executives, and non-profit organizations. I specialized in civil litigation, including trial-stage practice and procedure such as pleadings, motions practice, and discovery. My cases involved a variety of subject matters, including securities fraud, mortgage fraud, product liability, breach of contract, property law, the Fifth Amendment's takings clause, and Title VII.

When I was at The Feinberg Group from 2002 to 2003, my typical clients were large corporations facing mass tort liability. I specialized in mediation and arbitration procedures and in the evaluation of trust structures for the settlement of current and potential (future) tort claims.

As an Assistant Federal Public Defender from 2005 to 2007, I represented indigent individuals who had been convicted of federal crimes. I specialized in criminal law and procedure, the Fourth and Fifth Amendments, and federal appellate practice.

While at Morrison & Foerster from 2007 to 2010, I represented corporations, non-profit organizations, and a few individuals, all of whom were making legal arguments in state and federal courts of appeals. Typically, my clients were corporations or organizations that filed briefs

on the merits of a case as parties to an appeal or *amicus* briefs in support of a party in a case. I had the opportunity to work on both civil and criminal appeals, and appeals in courts throughout the country, including the Supreme Court of the United States.

In my work as a Commissioner on the United States Sentencing Commission since 2010, I represent the federal criminal justice system as a whole. The same is true of my former work as a Commission staffer from 2003 to 2005. I do not have clients, but I regularly consult with federal judges, members of Congress, prosecutors, defense counsel, and other criminal justice stakeholders nationwide about the structure and operation of the federal sentencing system. I specialize in criminal law and in the procedures of a federal district court judge during sentencing proceedings. I have also developed expertise in administrative procedure and the specific regulations (the federal sentencing guidelines) that federal district court judges use at sentencing.

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

At Miller, Cassidy, Larroca & Lewin, from 1998 to 1999, and Goodwin Procter, from 2000 to 2002, my practice was entirely civil litigation, but I did not appear in court. I appeared in court on a few occasions while at Morrison & Foerster from 2007 to 2010, including to argue a motion for summary judgment in a case in the United States Court of Federal Claims in 2009, to argue an appeal in the District of Columbia Court of Appeals in 2008, and to argue an appeal in the United States Court of Appeals for the District of Columbia Circuit in 2007.

As an Assistant Federal Public Defender, my practice was entirely criminal litigation in federal court. I appeared in court approximately ten times from 2005 to 2007, arguing appeals in the United States Court of Appeals for the District of Columbia Circuit.

At The Feinberg Group from 2002 to 2003, I assisted with mediations and arbitrations but did not appear in court. Likewise, as a Commissioner on the United States Sentencing Commission, since 2010, I do not appear in court, nor did I appear in court in my work as a Commission staffer from 2003 to 2005.

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

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 40%
   2. criminal proceedings: 60%

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

I have not been primarily responsible for trying cases and have not handled any matters that were tried to verdict while I worked on them. From 1998 to 1999 and from 2000 to 2002, I was associate counsel in approximately 15 cases being litigated in state and federal courts. My responsibilities included pre-trial preparation (e.g., managing discovery, taking depositions, and drafting pre-trial pleadings and dispositive motions), and I also assisted with drafting motions in limine, proposed jury instructions, and proposed findings of fact and conclusions of law for cases that were scheduled to be tried. I was chief counsel in approximately 15 criminal appeals in the United States Court of Appeals for the District of Columbia Circuit from 2005 to 2007. From 2007 to 2010, I was chief or associate counsel in approximately 25 cases on appeal, representing clients in the filing of merits or *amicus* briefs and/or giving oral arguments.

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

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

I have not argued before the Supreme Court, but I have appeared as counsel in the following cases:

Bloate v. United States, 130 S. Ct. 1345 (2010) (amicus brief on behalf of the National Association of Criminal Defense Lawyers in support of petitioner, 2009 WL 1864008).

Arizona v. Gant, 556 U.S. 332 (2009) (amicus brief on behalf of the National Association of Federal Defenders in support of respondent, 2008 WL 2958118).

Al-Marri v. Spagone, No. 08-368 (amicus brief on behalf of The Constitution Project, The Rutherford Institute, and the Cato Institute in support of petitioner on the merits, 2009 WL 230960; and amicus brief on behalf of The Constitution Project and The Rutherford Institute in support of petition for certiorari, 2008 WL 4735243).

Boumediene v. Bush and *Al-Odah v. United States*, 553 U.S. 723 (2008) (amicus brief on behalf of former federal judges in support of petitioners, 2007 WL 2441585).

Quanta Computer, Inc. et al. v. LG Electronics, Inc., 553 U.S. 617 (2008) (amicus brief on behalf of Gen Probe, Inc. in support of petitioners, 2007 WL 3407025).

United States v. Bussell, No. 07-1262 (Apr. 3, 2008) (petition for certiorari, 2008 WL 960667; and reply brief, 2008 WL 2472925).

Hall Street Associates LLC v. Mattel Inc., 552 U.S. 576 (2008) (respondent's merits brief, 2007 WL 2731409; supplemental brief, 2007 WL 4244685; and reply brief, 2007 WL 4254419).

Clark County, Nevada v. Vacation Village, Inc., No. 07-373 (Nov. 19, 2007) (amicus brief on behalf of five air transportation-industry associations in support of petition for certiorari, 2007 WL 4142597).

Kosh v. United States, No. 06-6128 (Aug. 23, 2006) (petition for certiorari). Copy supplied.

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. *Washington Gas Light Co. v. Public Service Commission of D.C.*, 982 A.2d 691 (D.C. 2009) (Farrell, Glickman, Kramer, JJ.)

I successfully represented Washington Gas Light Company with respect to a petition to the District of Columbia Court of Appeals seeking review of a $350,000 civil forfeiture sanction that the Public Service Commission of the District of Columbia had imposed during the discovery phase of a rate proceeding as punishment for Washington Gas's alleged refusal to disclose documents as ordered by the Commission. I wrote the brief for petitioner and the reply brief, as well as two

supplemental briefs after oral argument. I also argued the case before a panel of judges on the District of Columbia Court of Appeals. The court concluded that the exhaustion requirements of the District of Columbia Code did not prevent its exercise of jurisdiction, and it reversed the Public Service Commission's forfeiture order on the ground that the agency lacked the statutory authority to adjudicate and impose the forfeiture penalty.

Co-counsel
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Washington Gas Light Company
Office of the General Counsel
101 Constitution Avenue, N.W.
Washington, D.C. 20080
(202) 624-6112

Sherri N. Blount (formerly of Morrison & Foerster)
Fitch, Even, Tabin & Flannery LLP
One Lafayette Centre, Suite 750 South
1120 20th Street, N.W.
Washington, D.C. 20036
(202) 419-7000

Opposing counsel
Christopher Lipscombe
D.C. Public Service Commission
1333 H Street, N.W., #200W
Washington, D.C. 20005
(202) 626-9185

2. *Ladd v. United States*, No. 1:07-cv-271 (Fed. Cl., Oct. 14, 2009) (Hodges, J.)

I represented non-profit Rails-to-Trails Conservancy at a hearing on cross motions for summary judgment in a physical takings case in which the plaintiff landowners sought a legal declaration of ownership with respect to an abandoned railroad corridor. After being granted leave to participate, I prepared detailed exhibits and demonstratives and argued the motion for summary judgment on behalf of Rails-to-Trails as an amicus in support of the federal government. The court granted the government's motion for summary judgment, and denied the plaintiffs' cross motion, ruling that the railroad may negotiate with trail operators to transfer the corridor for public use pursuant to federal "railbanking" statutes without effecting a physical taking of plaintiff's reversionary rights in the property.

Co-counsel
Andrea Ferster
Rails-to-Trails Conservancy

2121 Ward Court, N.W., 5th Floor
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(202) 974-5142

James David Gette
United States Department of Justice, Environment and Natural Resources Division
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044
(202) 514-2701

Opposing counsel
Mark F. ("Thor") Hearn, II
Arent Fox LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 828-3447

3. *United States v. Littlejohn*, 489 F.3d 1335 (D.C. Cir. 2007) (Sentelle, Tatel, Brown, JJ.)

I successfully represented an individual defendant convicted of unlawful possession of a firearm in violation of 18 U.S.C. § 922(g) in an appeal in the United States Court of Appeals for the District of Columbia Circuit. I argued, *inter alia*, that the evidence presented at trial was legally insufficient to support the conviction and that the trial court had conducted an improper and prejudicial jury *voir dire*. I wrote the brief for appellant and the reply brief and argued the case before a panel of judges on the D.C. Circuit. The judgment was vacated as a result of the district court's improper use of compound questions during *voir dire* and the case was remanded for a new trial.

Opposing counsel
Sarah T. Chasson
United States Attorney's Office for the District of Columbia
555 Fourth Street, N.W., Room 8104
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(202) 252-6829

4. *United States v. Ponds*, 454 F.3d 313 (D.C. Cir. 2006) (Rogers, Tatel, Brown, JJ.)

I successfully represented a former attorney convicted of tax evasion in an appeal that argued that the government's use of documents that it had compelled from the defendant pursuant to a subpoena and a grant of act-of-production immunity was improper under *United States v. Hubbell*, 530 U.S. 27 (2000). I wrote the brief for appellant and the reply brief, and I argued the case before a panel of judges on the United States Court of Appeals for the District of Columbia Circuit. The court vacated the judgment of conviction on the ground that my client's document

production was sufficiently testimonial to implicate his Fifth Amendment rights, and remanded the case to the district court for a determination of the extent of the government's impermissible use of the immunized material.

Opposing counsel
John P. Mannarino
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5. *Khiali-Gul v. Bush*, No. 1:05-cv-877 (D.D.C., 2005) (Robertson, J.)

From 2005 to 2007, I represented a detainee seeking habeas review of his classification as an "enemy combatant" and his resulting detention at the United States Naval Station in Guantanamo Bay, Cuba. I drafted the petition for a writ of habeas corpus and filed it on behalf of the detainee. I also drafted and filed a series of substantive and procedural motions related to the matter, including a motion for a protective order, an opposition to the government's motion seeking permission to review privileged materials seized from detainees, and a motion for reconsideration of the court's order dismissing the case for lack of subject matter jurisdiction. I applied for and was granted Secret security clearance and reviewed classified documents related to this representation at a secure facility. The case was ultimately consolidated with other similar habeas actions and transferred to a different district court judge for coordination and management.

Co-counsel
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Washington, D.C. 20004
(202) 208-7500

Opposing counsel
Terry Marcus Henry
United States Department of Justice, Civil Division
P.O. Box 883
20 Massachusetts Avenue, N.W.
Washington, D.C. 20044
(202) 514-2000

6. *Council of the District of Columbia v. Washington Development Group*, No. 1998 CA 009875 (D.C. Super. Ct., 1998) (Mize, J.)

I co-defended a District of Columbia property developer and his development company in an action brought by the City Council of the District of Columbia to

enjoin the planned build-out of an historic building that the Council had leased as part of a real-estate development deal. I drafted pleadings, including the defendants' opposition to the plaintiff's motion for a preliminary injunction, and prepared related affidavits. I managed discovery, including witness statements and deposition testimony, and deposed a D.C. Councilmember during the discovery period. The parties ultimately settled and the case was dismissed with prejudice.

Co-counsel
Stephen Braga (former Miller, Cassidy, Larroca & Lewin partner)
Ropes & Gray
One Metro Center
700 12th Street, N.W., Suite 900
Washington, D.C. 20005
(202) 508-4655

Opposing counsel
Eva Petko Esber
Williams and Connolly
725 12th Street, N.W.
Washington, DC 20005
(202) 434-5106

7. *Rattley-Lewis v. National Public Radio*, No. 1997 CA 006678 (D.C. Super. Ct., 1998) (Gardner, J.)

I was on a litigation team that defended National Public Radio in an action brought in the Superior Court of the District of Columbia by a former senior-level executive of the company who claimed discriminatory and retaliatory treatment in violation of the District of Columbia Human Rights Act. I assisted with managing fact and expert discovery. I also drafted the memorandum of law and supporting affidavits that were filed in support of defendant's motion for summary judgment. The case ultimately settled during trial.

Co-Counsel
Joe Caldwell and Bradford Berry (both formerly of Miller, Cassidy, Larroca & Lewin)
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8. *United States v. McCants*, 434 F.3d 557 (D.C. Cir. 2006) (Randolph, Griffith, Edwards, JJ.)

I successfully represented an individual fraud defendant in an appeal in the United States Court of Appeals for the District of Columbia Circuit that challenged the district court's failure to make findings on contested factual issues at sentencing. I authored the brief for appellant and the reply brief and argued the case before a panel of judges on the D.C. Circuit. The judgment was reversed on the grounds that the district court's sentencing judgment failed to adhere to the requirements of the Federal Rules of Criminal Procedure and the case was remanded for resentencing.

Opposing counsel
Lisa H. Schertler (former AUSA)
Schertler & Onorato, LLP
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Washington, D.C. 20004
(202) 252-6829

9. *Hall Street Associates LLC v. Mattel Inc.*, 552 U.S. 576 (2008) (Souter, J., wrote the opinion for the Court)

From 2007 to 2008, I was part of a litigation team that represented respondent Mattel in a Supreme Court case involving the section of the Federal Arbitration Act that grants expedited judicial review to confirm, vacate, or modify an arbitration award. I was responsible for reviewing the factual record related to the subject matter of the underlying arbitration, and I drafted parts of both the primary brief for respondent and two supplemental briefs on specified issues as ordered by the Court. I also assisted in the preparation of oral argument counsel. The Court ultimately agreed with Mattel's argument that the Act's grounds for vacatur and modification of arbitration awards are exclusive for parties seeking expedited review under the FAA, but remanded the case for a determination regarding whether the parties did, in fact, intend for the arbitration proceeding at issue to be governed by the FAA.

Co-counsel
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10. *Salvini v. Ski Lifts, Inc.*, 147 Wash. App. 1005 (Oct. 20, 2008) (Lau, Appelwick, Cox, JJ.)

I assisted in the representation of a defendant ski-area operator in its appeal of a $14 million personal injury judgment won by a plaintiff who was injured while ski jumping in the operator's terrain park. I drafted parts of the brief for appellant and the reply brief, which argued, *inter alia*, that the trial court had improperly admitted prejudicial evidence of prior accidents and had erred in instructing the jury regarding the operator's duty, inherent risk, and adequate warnings. The judgment was affirmed.

Co-counsel
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Opposing counsel
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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 most significant legal activity that I have pursued, outside of the matters listed above, is my work at the United States Sentencing Commission, both as an Assistant Special Counsel on the staff from 2003 to 2005, and more recently as Vice Chair and Commissioner since 2010.

As an Assistant Special Counsel, my primary role was to draft specific legislative proposals for amending the Sentencing Guidelines Manual and to prepare drafts of the reports and statements that the Commission published in the Federal Register. I met regularly with other Commission staff members as a member of various policy development teams that evaluated potential guideline amendments related to crimes involving hazardous materials, unsolicited commercial e-mail, and controlled substances. I attended the Commission's public meetings and assisted in the preparation of materials for the Commissioners. I also evaluated case law developments and crafted a series of alternative guideline-sentencing proposals prior to, and in anticipation of, the Supreme Court's decision in *Booker v. United States*, 543 U.S. 220 (2005).

As a current Vice Chair and Commissioner, I work with Commission staff to evaluate, draft, and enact proposed changes to the federal sentencing guidelines that federal district court judges use to impose sentences on defendants in federal court. I prepare and deliver speeches and presentations about the federal sentencing system for criminal justice conferences and sentencing-related meetings, and I receive feedback from U.S. district judges, federal probation officers, and prosecutors and defense counsel regarding operation of the guidelines as applied. I also question witnesses at Commission hearings based on my review of submitted testimony, and I analyze data regarding operation of the guidelines system, including judicial guideline compliance and variance rates.

I have not performed lobbying activity on behalf of any client or organization, and I am not and have never been a registered 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 taught a Federal Sentencing Seminar at the George Washington University Law School in both Spring 2011 and Spring 2012. This course examines various aspects of federal sentencing policy and procedure. Syllabi supplied.

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 no anticipated receipts or expected future benefits or compensation of any kind.

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 plan to continue teaching the Federal Sentencing Seminar at the George Washington University Law School. Also, contingent upon the needs of the Commission, I may fulfill my term as a Commissioner of the United States Sentencing Commission, which ends October 31, 2013.

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.

No family members or other persons, parties, categories of litigation or financial arrangements are likely to present potential conflicts of interest for me.

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

I do not anticipate any conflicts of interest. If confirmed, I would handle any matters involving actual or potential conflicts of interest by applying the Code of Conduct for United States Judges and any other relevant ethical canons or rules.

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.

From 2005 to 2007, I served as an Assistant Federal Public Defender, and as such, 100% of my time was devoted to the disadvantaged. In addition, approximately 15 to 20% of the time that I spent at each of the general litigation firms that I was affiliated with involved *pro bono* litigation work or services. As an example, I represented the American Bar Association in the filing of an amicus brief in a state supreme court case involving an indigent parent's right to counsel in child custody proceedings. Moreover, I successfully assisted in the preparation of an asylum petition for a pregnant juvenile who was a victim of sexual assault and illegal human trafficking, represented a civil rights organization in its evaluation of the effects and implications of high-stakes testing on the educational opportunities of students in low-income communities, and represented an indigent criminal defendant in filing appeal-related motions in the United States Court of Appeals for the Fourth Circuit.

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 January 27, 2012, I submitted an application to Congresswoman Eleanor Holmes Norton's Federal Law Enforcement Nominating Commission. I interviewed with the Commission on February 21, 2012. As I understand it, the Commission forwarded my name, along with two others, to Delegate Norton for

her consideration. I met with Delegate Norton on April 9, 2012. Since May 16, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 2, 2012, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On September 20, 2012, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

I, Ketanji Brown Jackson, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

September 24, 2012
(DATE)

(NAME)

(NOTARY)

JEFFERY N. LUTHI
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires April 30, 2013