

QUESTIONNAIRE FOR JUDICIAL APPLICANTS

PUBLIC

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

John Fitzgerald Kness

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

United States District Judge for the Northern District of Illinois

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.

College of DuPage
Community College District No. 502
425 Fawell Boulevard
Glen Ellyn, Illinois 60637

Residence: Elmhurst, Illinois 60126

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

1969; Chicago, Illinois

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.

2001 – 2003, Northwestern University School of Law; J.D. (*cum laude*), 2003

2000 – 2001, Loyola University Chicago School of Law; no degree (transferred)

1998, Chicago Police Academy, Metropolitan Recruit Class 98-101B

1987 – 1991, Northwestern University, B.A., 1991

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.

2016 – present
College of DuPage
Community College District No. 502
425 Fawell Boulevard
Glen Ellyn, Illinois 60637
General Counsel

2009 – 2016
U.S. Department of Justice
Office of the United States Attorney for the Northern District of Illinois
219 South Dearborn Street, Suite 500
Chicago, Illinois 60604
Assistant United States Attorney

2007 – 2009
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601
Associate Attorney

2006 – 2007
Tabet DiVito & Rothstein LLC
The Rookery Building
209 South LaSalle Street, 7th Floor
Chicago, Illinois 60604
Associate Attorney

2005 – 2006
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601
Associate Attorney

2004 – 2005
Hon. William H. Pryor Jr.
United States Court of Appeals for the Eleventh Circuit
Hugo Black United States Courthouse
1729 5th Avenue North
Birmingham, Alabama 35203
Law Clerk

2003 – 2004; Summer 2003
Jenner & Block LLP
353 North Clark Street
Chicago, IL 60654
Associate Attorney (2003 – 2004)
Summer Associate (Summer 2002)

1998 – 2000
Village of Oak Park, Illinois
123 Madison Street
Oak Park, Illinois 60302
Patrol Officer

1991 – 1998
Independent Contractor
Concert and Studio Recording Musician

Other affiliations (uncompensated)

2016 – present
Spirito! Singers
900 Jorie Boulevard, Suite 102
Oak Brook, Illinois 60523
Member, Board of Directors

2016 – 2017
Elmhurst Symphony Orchestra
P.O. Box 345
Elmhurst, Illinois 60126
Member, Board of Directors

2007 – 2009
Ameriface
Post Office Box 751112
Las Vegas, Nevada 89136
Member, Board of Directors

2007 – present
St. Peter's United Church of Christ
125 West Church Street
Elmhurst, Illinois 60126
Member, Church Council (intermittent) (uncompensated)

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 never served in the military. I registered for selective service upon turning eighteen.

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.

J.D. conferred *cum laude*, Northwestern University School of Law, 2003

Highest Academic Marks, Chicago Police Academy (Metro Class), 1998

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.

DuPage County Bar Association (2016 – present)

Chicago Bar Association (2003 – 2009)

Member, Judicial Evaluation Committee (2007 – 2009)

Illinois State Bar Association ((2003 – 2016) (intermittent))

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.

Illinois, 2003

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.

United States Court of Appeals for the Third Circuit, 2008 (inactive)

United States Court of Appeals for the Seventh Circuit, 2005

United States Court of Appeals for the Eleventh Circuit, 2005

United States District Court for the Northern District of Illinois, 2004

United States Tax Court, 2007

According to information provided by the Third Circuit's Office of the Clerk, my membership in the Third Circuit is listed as inactive. I have not renewed my membership because I have not had any cases in that court in the past few years. There have been no other 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 (or since graduation from college if you did not attend 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.

Ameriface, Board of Directors (2007 – 2009)

Chicago Federation of Musicians (1991 – 2009)

Elmhurst Symphony Orchestra, Board of Directors (2016 – 2017)

Federalist Society for Law and Public Policy Studies (2004 – present)
(intermittent)

National Rifle Association (1993 – 2017) (intermittent)

Spirito! Singers, Board of Directors (2016 – present)

St. Peter's United Church of Christ (2007 – present)

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion, national origin, ethnicity, or sexual orientation either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above 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.

“The Long History of Loyalty Oaths,” Los Angeles Times, April 2, 2008. Copy supplied.

With Linda T. Coberly, “Supreme Court Holds that Federal Law Pre-Empts State Law Securities Class Actions,” *Winston & Strawn Briefing*, March 2006. Copy supplied.

“Compelling Production of Documents in the Possession of a Non-Party Corporate Affiliate,” *American Bar Association/Young Lawyers Division Litigation Committee*, Winter 2004. 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.

As a member of the Chicago Bar Association, I participated in the Association’s Judicial Evaluation Committee from 2007 – 2009. In connection with that service, panels of the Committee on which I sat issued recommendations concerning persons seeking or being considered for nomination, election, appointment to, or retention in judicial office in the Circuit Court of Cook County, Illinois. I did not retain any notes or other materials pertaining to the confidential work of the Committee, nor do I recall the details of any specific reviews in which I participated.

- 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.

As the General Counsel for Community College District No. 502, known commonly as College of DuPage, I have regularly attended meetings of the College’s Board of Trustees since November 10, 2016. These meetings have generally occurred at least once per month, with additional meetings held as needed. During closed sessions of these meetings, I have regularly been asked to provide legal opinions to the Board of Trustees concerning confidential legal matters pertaining to the College. Those closed proceedings were not open to the

public, in accordance with provisions of the Illinois Open Meetings Act. I have also regularly attended the open session of meetings of the College's Board of Trustees at which I made occasional comments and for which minutes were prepared. Video recordings of these meetings are available at the following link: https://cod.edu/multimedia/bot/archive/archive_log.html. Meeting agenda packets, which generally contain minutes of the previous month's meeting, are available at the following link: https://cod.edu/about/board_of_trustees/index.aspx

- d. Supply 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.

February 6, 2019: Reader, African-American Read-In, College of DuPage, Glen Ellyn, Illinois. Notes and PowerPoint supplied.

January 2019: Presenter, College of DuPage In-Service Training, Glen Ellyn, Illinois. PowerPoint supplied.

December 2018: Panelist, 2018 College of DuPage Pitch Contest, Glen Ellyn, Illinois. As one of several judges, I served on a panel that awarded prizes to student entrepreneurs and made suggestions to the students of how to improve their presentations. I have no notes, transcript, or recording. The address of the College of DuPage is 425 Fawell Boulevard Glen Ellyn, Illinois 60637. Press coverage supplied.

November 2018: Reader, 2018 Veteran's Day Read-In, College of DuPage, Glen Ellyn, Illinois. Notes supplied.

October 10, 2018: Speaker, College of DuPage Paralegal Club, College of DuPage, Glen Ellyn, Illinois. At the Paralegal Club's regular meeting, I spoke to paralegal students about my role as the College's General Counsel and the effective use of paralegals in the provision of legal services. I have no notes, transcript, or recording. The address of the event was College of DuPage, 425 Fawell Boulevard Glen Ellyn, Illinois 60637.

September 21, 2018: Speaker, 200th Anniversary of the Illinois Judicial Branch, College of DuPage, Glen Ellyn, Illinois. Recording available at <https://www.youtube.com/watch?v=uFm5v7rmtzs>.

February 7, 2018: Reader, 2018 African-American Read-In, College of DuPage, Glen Ellyn, Illinois. Recording available at <https://dc.cod.edu/aari/2018/schedule/11/>.

November 2017: Reader, 2017 Veteran's Day Read-In, College of DuPage, Glen Ellyn, Illinois. Notes supplied.

September 2015: Panelist, "Investigating and Prosecuting Terror-Financing Crimes," U.S. Department of Justice presentation to the Royal Thai Police, Bangkok, Thailand. I presented a case study concerning a prosecution of individuals associated with the Holy Land Foundation. I have no notes, transcript, or recording. The address of the U.S. Department of Justice is 950 Pennsylvania Avenue NW, Washington, DC 20530.

- 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 copies of the clips or transcripts of these interviews where they are available to you.

Video, "Chicago Jailbreak," American Greed, September 15, 2016. Copy supplied.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
 - i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]
civil proceedings:	_____%
criminal proceedings:	_____% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal**: If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

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

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

None.

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 2004 to 2005, I served as a judicial law clerk to the Hon. William H. Pryor Jr. of the United States Court of Appeals for the Eleventh Circuit.

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

I have not practiced 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;

2003 – 2004
Jenner & Block LLP
353 North Clark Street
Chicago, Illinois 60654
Associate Attorney

2006 – 2007
Tabet DiVito & Rothstein LLC
209 South LaSalle Street, 7th Floor
Chicago, Illinois 60604
Associate Attorney

2005 – 2006; 2007 – 2009
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601
Associate Attorney

2009 – 2016
United States Department of Justice
Office of the United States Attorney for the Northern District of Illinois
219 South Dearborn Street, Suite 500
Chicago, Illinois 60604
Assistant United States Attorney

2016 – present
College of DuPage
Community College District No. 502
425 Fawell Boulevard
Glen Ellyn, Illinois 60637
General Counsel

- 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.

No.

b. Describe:

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

From 2003 to 2004, and again from 2005 to 2009, I worked as a litigator in private practice, handling both civil and criminal matters. My responsibilities increased over time and included occasional court appearances, as well as participation in discovery responses and drafting of legal pleadings. Moreover, for approximately 7 months in 2008, I was seconded to a client as an additional in-house counsel, where my responsibilities included contract review, consultations with business units, and the negotiation and closing of the purchase of a business located in New Zealand.

From 2009 to 2016, I served as a federal prosecutor in the U.S. Attorney's Office for the Northern District of Illinois. I was the lead attorney in dozens of criminal prosecutions and investigations, including cases relating to the offenses of terrorism, mail and wire fraud, child exploitation, controlled substance offenses, tax fraud, immigration offenses, violent crimes, weapons offenses, public benefit fraud, and health care fraud. I was also the principal attorney for the government in over a dozen criminal appeals and post-conviction proceedings.

From 2016 to the present, I have served as the General Counsel at the largest community college in Illinois, and the second-largest institution of higher learning in Illinois. In that capacity, my portfolio includes a wide range of legal issues, including such topics as contract drafting, review, and interpretation, internal investigations, labor and employment, procurement, board governance and open-government matters (including FOIA and Open Meetings Act issues), litigation, student matters, discrimination allegations, education regulations and accreditation, and general counseling, among many others.

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

From 2003 to 2004 and again from 2005 to 2009, I represented primarily large institutional clients in private practice. My practice ranged across a broad spectrum of legal issues.

From 2009 to 2016, I represented the United States as a federal prosecutor. I had a predominantly criminal trial-level and appellate practice.

From 2016 to present, I have represented the College of DuPage as its General Counsel. I represent the College in widely varied matters, and I also select and oversee the work of outside legal services providers.

- 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.

From 2003 to 2004 and 2005 to 2009, my private practice was almost exclusively in litigation. I appeared in court occasionally to argue motions, discuss the status of cases, support other lawyers on the team, and on two occasions, to argue before the United States Court of Appeals.

From 2009 to 2016, my practice was exclusively in litigation on behalf of the United States. I appeared in court very frequently to present and argue motions, discuss the status of cases, present sentencing arguments, conduct evidentiary hearings and trials, and argue orally before the Court of Appeals.

From 2016 to present, my practice has shifted toward oversight of litigation. I typically do not appear in court, but I retain oversight of litigation conducted on behalf of the College by outside law firms. I participate in devising strategy, preparing pleadings, interviewing witnesses, and addressing discovery matters.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 85% |
| 2. state courts of record: | 10% |
| 3. other courts: | 3% |
| 4. administrative agencies: | 2% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 45% |
| 2. criminal proceedings: | 55% |

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 tried eight criminal cases to verdict, judgment, or final decision. I was co-counsel in each of these trials.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 85% |
| 2. non-jury: | 15% |

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

I was supporting counsel (not counsel of record) for amici in two cases:

Amici Curiae Brief for the States of Florida et al., *Riley v. Kennedy*, 553 U.S. 406 (2008). Copy supplied.

Amici Curiae Brief for the Alliance for School Choice et al., *Anderson v. Town of Durham*, 549 U.S. 1051 (2006). 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 names, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *United States v. Hasan Edmonds*, 15 CR 149 (N.D. Ill.) (Lee, J.) (March 2015 to October 2017).

I represented the United States in this criminal prosecution arising from the defendant's provision of material support to a terrorist organization, namely, ISIS. Defendant, a member of the Illinois National Guard, pleaded guilty to a scheme in which he plotted for his cousin to attack a National Guard post in Joliet, Illinois, and for himself to travel to Syria to fight on behalf of ISIS. Following a sentencing hearing in which I participated as the lead attorney for the government, the court sentenced defendant to 360 months of imprisonment.

Co-Counsel:

Barry Jonas
Assistant United States Attorney
Office of the United States Attorney
for the Northern District of Illinois
219 S. Dearborn Street
Suite 500
Chicago, Illinois 60604
(312) 886-8027

Counsel for Defendant:

Paul Flynn
Federal Defender Program
55 East Monroe Street, Suite 2800
Chicago, Illinois 60603
(312) 621-8300

2. *Nogoy v. Hospira, Inc.*, Docket No. 05 L 5915 (Circuit Court of Cook County, Illinois); *Hospira, Inc. v. The BOC Group, Inc.*, Docket No. 05 L 681, Circuit Court of Lake County, Illinois) (pending in 2005 and 2006) (Hall, J.).

These civil cases related to personal and business injuries suffered following an explosion at a pharmaceutical plant building leased by third-party Abbott Laboratories, which is the entity I helped to represent. In summary, the allegations

were that an industrial freeze-dryer was defectively designed and maintained, resulting in the explosion that critically injured a security guard. The cases were settled with no admissions of liability. As an associate attorney, I participated extensively in briefing contested issues, court hearings, expert witness report preparation, depositions, and trial preparation.

Co-Counsel:

Christopher D. Liguori
Tabet DiVito & Rothstein LLC
The Rookery Building
209 South LaSalle Street, 7th Floor
Chicago, Illinois 60604
(312) 762-9458

Opposing counsel:

Martin G. Durkin
Holland & Knight, LLP
131 South Dearborn Street, Suite 3000
Chicago, Illinois 60603
(312) 578-6574

3. *O'Keeffe's v. Technical Glass Products, et al.*, 07-CV-3535 (N.D. Cal.) (Fogel, J.) (July 2007 to July 2009).

I represented third-party defendant Underwriters Laboratories ("UL") in this civil case presenting various intellectual property and business tort claims. UL moved to dismiss the complaint against it for lack of subject matter jurisdiction, improper venue, and failure to state a claim upon which relief may be granted. The Court dismissed UL with prejudice from the action. It declined to exercise supplemental jurisdiction over the claims against UL because none was so related to the federal patent and trademark claims at issue as to form part of the same case or controversy, and it agreed with UL that a forum-selection clause rendered the Northern District of California an improper venue for the plaintiff's claims.

Co-Counsel:

Kimball R. Anderson
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601
(312) 558-5858

Opposing counsel:

Daniel T. Bernhard
Freeland Cooper & Foreman LLP
150 Spear Street, Suite 1800
San Francisco, California 94105
(415) 541-0200

4. *United States v. Edgar Hernandez*, 10 CR 143 (N.D. Ill.) (Der-Yeghiayan, J.) (Feb. 2010 to May 2016).

I represented the United States in this prosecution related to the defendant's alleged manufacturing and possession of images of child pornography. Following the defendant's flight to Mexico after his criminal conduct was discovered in December 2009, I was the lead attorney in an extradition proceeding on behalf of the United States. Defendant agreed to proceed by summary extradition and, on April 30, 2014, pleaded guilty to one count of manufacturing child pornography and one count of possession of child pornography, based upon the filming of his sexual abuse of the seven-year-old victim. On September 11, 2014, Judge Samuel Der-Yeghiayan sentenced the defendant to 480 months of imprisonment. Following an uncontested appeal relating to the manner of the court's imposition of supervised release terms (an appeal that was based upon a then-recent Seventh Circuit decision that affected many sentencing hearings), the defendant was resentenced to 474 months of imprisonment. Defendant again appealed to the Seventh Circuit, but following a motion by his counsel to withdraw, the Court of Appeals dismissed the appeal. No further appellate proceedings were held.

Opposing counsel:

Paul Camarena
North & Sedgwick L.L.C.
500 South Clinton, Suite 132
Chicago, Illinois 60607
(312) 493-7494

5. *United States v. John C. Vastis*, No. 14 CR 486 (Tharp, J.) (Aug. 2014 to Oct. 2016).

I represented the United States in this prosecution related to the defendant's online inducement of a minor child to make pornographic images of himself. Homeland Security Investigations identified the defendant in the course of another investigation, and following execution of a search warrant, the defendant was charged with manufacturing pornography. The defendant pleaded guilty to the charge of accessing with intent to view child pornography, but I departed the United States Attorney's Office before his sentencing. The Court later sentenced the defendant to 156 months of imprisonment.

Opposing counsel:

Thomas Anthony Durkin
Durkin & Roberts
2446 North Clark Street
Chicago, Illinois 60614
(312) 913-9300

6. *Marc Thompson v. United States*, No. 09 CV 7685 (N.D. Ill.) (Conlon, J.) (Dec. 2009 to Jan. 2012).

In a motion brought under 28 U.S.C. § 2255, plaintiff Marc Thompson alleged that he was wrongly convicted of multiple counts of wire and mail fraud and arson due to the allegedly ineffective assistance rendered by his trial counsel. Thompson had been convicted and sentenced to 190 years of imprisonment for killing his mother in a deliberately set residential fire. During the post-conviction proceeding, Thompson alleged that his trial counsel should have presented expert testimony challenging the cause of the fire. Following extensive briefing and argument, Judge Conlon disagreed and denied Thompson's motion. After full briefing in which I acted as the principal lawyer for the government, and in which Thompson's counsel mounted a vigorous challenge, the Seventh Circuit affirmed Judge Conlon's ruling in an unpublished order (appeal No. 10-2712).

Opposing counsel:

William Theis
Federal Defender Program
55 East Monroe Street, Suite 2800
Chicago, Illinois 60603
(312) 621-8316

7. *Saidi Kafo v. United States*, 467 F.3d 1063 (7th Cir. 2006).

I was appointed under the Criminal Justice Act to represent Saidi Kafo in an appeal from the denial of his post-conviction motion under § 2255, in which he alleged that his trial counsel failed to file a direct criminal appeal despite Kafo's direction to do so. I was the principal drafter of the brief on appeal, and I presented oral argument seeking reversal of the district court's judgment on the ground that my client was entitled to an evidentiary hearing. The Court of Appeals (Ripple, Kanne, and Williams, JJ.) agreed and vacated the district court's judgment. I then litigated the resulting evidentiary hearing, which resulted in the district court's denial of the motion. I did not participate in any further stages of this case.

Co-Counsel:

Caesar Tabet
Tabet DiVito & Rothstein LLC
209 S La Salle Street, Suite 700
Chicago, Illinois 60604

(312) 762-9450

Opposing counsel:

Andrew Porter
[Then employed at the U.S. Attorney's Office]
Drinker Biddle & Reath LLP
191 North Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698
(312) 569-1364

8. *Robertson v. Klem*, 580 F.3d 159 (3d Cir. 2009).

I represented the petitioner in this habeas petition. The petitioner, who conspired to commit a double murder, contended that he had been wrongly convicted of two conspiracies instead of one conspiracy that had two victims. I was the principal drafter of the brief on appeal and presented oral argument on behalf of the petitioner. The Court of Appeals for the Third Circuit (Scirica, C.J., and Sloviter and Fisher, JJ) reversed the district court's denial of his petition for relief, concluding that the Pennsylvania courts' finding of two conspiracies was an unreasonable application of clearly established Supreme Court precedent. Because I began service with the Department of Justice in July 2009, I did not participate in any further stages of this case.

Co-counsel:

Linda T. Coberly
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601
(312) 558-5600

Thomas L. Kirsch II
[Then at Winston & Strawn LLP]
United States Attorney for the Northern District of Indiana
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320
(219) 937-5500

Opposing counsel:

Jack Heneks
Fayette County District Attorney's Office
61 East Main Street
Uniontown, Pennsylvania 15401
(724) 430-1245

9. *United States v. Mark McGill*, 09 CR 770 (N.D. Ill.) (Gottschall, J.) (Sep. 2009 to April 2016).

I represented the United States in this prosecution related to the defendant's possession and distribution of images of child pornography. Following a week-long trial in which I was co-counsel, a jury found the defendant guilty of both counts of the indictment. Judge Joan B. Gottschall sentenced the defendant to 135 months of imprisonment. On direct appeal, the Seventh Circuit reversed the distribution count and held that the district court should have given an entrapment instruction to the jury. The Office of the United States Attorney elected not to retry the distribution count, and the defendant was resentenced to 65 months of imprisonment in November 2014. The defendant has since pleaded guilty conditionally in the Northern District of Illinois in connection with another charge of possession of child pornography (case no. 17 CR 149 (Kendall, J.)) and is awaiting sentencing.

Co-Counsel:

Tiffany McCormick
Assistant United States Attorney
Office of the United States Attorney
for the Southern District of Indiana
10 West Market Street
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(317) 226-6333

Opposing counsel:

Heather Winslow
53 West Jackson Boulevard, Suite 831
Chicago, Illinois 60604
(312) 322-0017

Paul Augustus Wagner
53 West Jackson Boulevard, Suite 1560
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10. *United States v. Kenneth Conley*, 11 CR 459 (N.D. Ill.) (Der-Yeghiayan, J.) (July 2011 to November 2013).

I served as the lead attorney for the United States in this prosecution related to a bank robbery in May 2011. The defendant pleaded guilty to bank robbery on the morning his jury trial was to begin, but while awaiting sentencing, the defendant escaped custody at the Metropolitan Correctional Center in Chicago by climbing down 17 stories from an opening that he and his cellmate created in the jail wall. Following the defendant's recapture, Judge Der-Yeghiayan sentenced the defendant to 240 months

of imprisonment. The Seventh Circuit affirmed the sentence in an unpublished order (appeal No. 13-2263).

Opposing counsel:

Gary Jay Ravitz
Ravitz & Palles, P.C.
203 North LaSalle Street, Suite 2100
Chicago, Illinois 60601
(312) 558-1689

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.)

In addition to the matters described above, while I was seconded by Winston & Strawn to a firm client as an additional in-house counsel, I was the principal internal lawyer on the client's acquisition in 2008 of a company based in New Zealand. More recently, as General Counsel at College of DuPage, I provide a wide variety of legal services to the College that do not include litigation. For example, I frequently review draft contract language, state and federal law relating to higher education, and "sunshine" laws applicable to public bodies. I also provide significant counseling to various constituents, as well as supervising litigation conducted by outside legal vendors.

19. **Teaching:** If you have taught any courses, please state the title of each course, 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 copies.

None.

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

None.

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

I have no plans, commitments, or agreements to pursue outside employment. I do intend to continue serving on the Spirito! Singers board of directors, to the extent consistent with my judicial duties.

22. **Sources of Income**: List sources and amounts of all income received during the last calendar year 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.

When my nomination is submitted to the Senate and I file my mandated Financial Disclosure Report, I will supplement this Questionnaire with a copy.

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

Please see attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest if you are selected for this position. Explain how you would address any such conflict if it were to arise.

If confirmed, I would recuse in any litigation where I have ever played a role. I would also recuse myself from any cases arising in the Northern District of Illinois to which the United States was a party if those cases were filed while I served as an Assistant United States Attorney in the Northern District of Illinois and, for a period of time, would recuse from all cases involving my current employer. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action, including recusal where necessary, with the advice of the parties and their counsel and after consulting any applicable canons of judicial ethics.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Since beginning government service with the U.S. Attorney’s Office, and continuing into my time at the College of DuPage, the nature of my employment has precluded my performing of pro bono legal services. During my time in private practice, however, I maintained an active pro bono practice. For example, as summarized in Question 17 above, I represented the defendant/movant in a federal postconviction proceeding in the United States Court of Appeals for the Seventh Circuit. *See Kafo v. United States*, 467 F.3d 1063 (7th Cir. 2006). I successfully obtained reversal of the district court’s denial of my client’s request for an evidentiary hearing on his assertion of ineffective assistance of counsel. In total, I estimate that I spent approximately 50-100 hours working on the appeal and resulting evidentiary hearing.

In addition, as summarized in Question 17 above, I represented a criminal defendant in an appeal of the denial of a petition for a writ of habeas corpus. My client, who conspired to commit a double murder, contended that he had been wrongly convicted of two conspiracies instead of one conspiracy with two victims. I was the principal author of the brief on appeal and presented oral argument, ultimately prevailing before the Third Circuit. *See Robertson v. Klem*, 580 F.3d 159 (3d Cir. 2009). That court agreed that the Pennsylvania courts’ finding of two conspiracies was an unreasonable application of clearly established Supreme Court precedent and remanded with instructions to grant a writ as to one of the conspiracy convictions. In its published opinion, the court stated, “We note that the attorneys representing Robertson on this appeal have done so on a *pro bono* basis and we thank them for their services, which have been in the highest tradition of the bar.” *Id.* at 168 n.6. I estimate that I spent approximately 75-125 hours working on this matter.

While employed at Winston & Strawn in 2006, I served as second-chair counsel to Linda T. Coberly on *Hadley v. IDOC*, 864 N.E.2d 162 (Ill. 2007), in which the Supreme Court of Illinois ruled in favor of the firm’s pro bono client in a prisoner class action seeking to enjoin a requirement of the Illinois Department of Corrections that prisoners pay a co-payment for certain medical services. My duties on this matter consisted of performing legal research and assisting with drafting a petition for leave to appeal to the Supreme Court of Illinois. I estimate that I spent approximately 50-75 hours working on this matter.

While employed at Winston & Strawn in 2008-2009, I represented a state criminal defendant on a charge of burglary brought in the Circuit Court of Cook County, Illinois. *See People v. Albert McGee*, 08-CR-00162. The prosecution arose from the defendant’s alleged burglary of an abandoned public building. After careful consideration, the defendant elected to plead guilty to the charge of burglary and was sentenced to six years of imprisonment in the Illinois Department of Corrections. My duties on this matter

consisted of performing legal research, consulting with my client, conferring with the prosecutor, and appearing at court hearings. I estimate that I spent approximately 35-50 hours working on this matter.

In a non-legal capacity, and since approximately mid-2016, I have been a pro bono member of the Board of Directors of Spirito! Singers, a choral organization comprised of two distinct choirs for young women centered in the western suburbs of Chicago. As reflected on the Spirito! Singers website, the purpose of the organization is to help young women develop character, discipline, and civic responsibility in an environment of high-level choral music education, performance, and community service.

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.

In early June 2018, a member of the White House Counsel's Office asked me if I wished to be considered for a vacancy on the District Court for the Northern District of Illinois. I responded in the affirmative. I submitted a copy of my resume to the White House on or about June 7, 2018. I interviewed with members of the White House Counsel's Office and Department of Justice Office of Legal Policy personnel on June 11, 2018. The White House Counsel's Office informed me that I would be recommended to the President for nomination to the United States District Court for the Northern District of Illinois, subject to agreement from the Illinois senators and completion of the required background investigation. I was interviewed in person by substantially all members of Senator Durbin and Senator Duckworth's judicial screening committee on August 2, 2018. On October 23, 2018, I participated in a videoconference interview conducted by Senator Tammy Duckworth and her staff. On that same day, I also sat for an in-person interview conducted by Senator Richard J. Durbin and a member of his staff. Since that time, I have been in contact with members of the White House Counsel's Office and the Department of Justice regarding my potential nomination.

- 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.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		173	158	Notes payable to banks-secured (auto)		23	700
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		293	395	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		1	500
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		507	675
Real estate owned – see schedule		719	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		23	500	Student loans (Pennsylvania Higher Education Assistance Agency)		37	032
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan G Fund		13	424				
Thrift Savings Plan S Fund		16	131				
Thrift Savings Plan C Fund		47	148	Total Liabilities		569	907
Violins and other musical instruments		75	000	Net Worth		790	849
Total Assets	1	360	756	Total liabilities and net worth	1	360	756
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Vanguard Star Fund	\$150,392
IShares MSCI EAFE	\$13,511
IShares Russell 2000 ETF	\$10,285
Vanguard Total Stock Fund	\$72,372
Gateway Fund CL A	\$6,109
Fidelity Freedom Index 2035 Fund	\$40,726
Total Listed Securities	<u>\$ 293,395</u>

Real Estate Owned

Personal Residence	<u>\$719,000</u>
Total Real Estate Owned	<u>\$719,000</u>

Real Estate Mortgages Payable

Personal Residence – Mortgage	<u>\$507,675</u>
Total Real Estate Mortgages Payable	<u>\$507,675</u>

AFFIDAVIT

I, John F. Kness, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

May 22, 2019
(DATE)

John F. Kness
(NAME)

Angela Barrett
(NOTARY)

