

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Kathryn Celia Davis
Kathryn Celia Mason

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

Judge, United States Court of Federal Claims

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

Office: United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20530

Residence: Bethesda, Maryland

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

1978; Miami, Florida

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.

2002 – 2005, Temple University Beasley School of Law; J.D. (*cum laude*), 2005

1997 – 2001, Boston University; B.S., 2001

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.

2018 – present

The George Washington University Law School
2000 H Street, N.W.
Washington, D.C. 20052
Professorial Lecturer in Law

2008 – present
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20530
Senior Counsel (2014 – present)
Trial Attorney (2008 – 2014)

2007 – 2008
Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, Pennsylvania 19428
Associate Attorney

2005 – 2007; Summer 2004
McKissock & Hoffman, PC
1818 Market Street, 13th Floor
Philadelphia, Pennsylvania 19103
Associate Attorney (2005 – 2007)
Summer Associate (Summer 2004)

2003 – 2004
Court of Common Pleas, Criminal Trial Division
First Judicial District of Pennsylvania
City Hall, Broad Street & Market Street
Philadelphia, Pennsylvania 19107
Law Clerk to the Honorable Rayford A. Means

2001 – 2002
Jones Day
250 Vesey Street
New York, New York 10281
Project Assistant

Summer 2001
McCarthy's Bar & Grill
903 Boylston Street
Boston, Massachusetts 02115
Waitress

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I was not required to register for the selective service.

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

The Attorney General's Distinguished Service Award (2014)

Special Commendation, U.S. Department of Justice, Civil Division (2014)

Temple University Beasley School of Law

J.D. degree awarded *cum laude* (2005)

Wapner Newman & Wigrizer, P.C. Award for excellence in civil trial advocacy (2005)

Dean's Honor List (spring 2003, 2003 – 2004, 2004 – 2005)

Best Paper: Federal Criminal Law (2005)

Best Paper: Professional Responsibility (2004)

Outstanding Oral Advocacy Award (2003, 2004)

Barrister Award for achievement in trial advocacy (2003, 2004)

Boston University

Dean's List (spring 2000, 2000 – 2001)

Amon G. Carter Star-Telegram Employees' Fund scholarship (1997 – 2001)

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 (2007 – 2008, 2013 – 2014)

Pennsylvania Bar Association (2006, 2007, 2008)

Philadelphia Bar Association (2006 – 2008)

10. **Bar and Court Admission:**

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

District of Columbia (2009)
Commonwealth of Pennsylvania (2005)

There have been no lapses in membership. In 2014, I voluntarily changed my administrative status in Pennsylvania to inactive.

- 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 District Court for the Eastern District of Pennsylvania (2005)
United States Tax Court (2014)

During my career at the United States Department of Justice, I have appeared before the following courts on behalf of the United States government under rules allowing special admission of government attorneys:

United States District Court for the Central District of California
United States District Court for the Eastern District of California
United States District Court for the Northern District of California
United States District Court for the District of Columbia
United States District Court for the Southern District of Florida
United States District Court for the District of Maryland
United States District Court for the Eastern District of New York
United States District Court for the Middle District of Pennsylvania
United States District Court for the Middle District of Tennessee
United States District Court for the Western District of Texas
United States District Court for the Western District of Washington

To the best of my knowledge, there have been no lapses in my membership to any of these courts.

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.

Capitol Hill Club (2012 – 2015). The Capitol Hill Club membership was in my husband's name. The club issued a membership card to me as a spouse.

William B. Bryant American Inn of Court (2012 – present)

- 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 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.

William J. Mundy & Kathryn C. Mason, *New Personal Care Home Regulation, in Nursing Home Negligence Litigation*, Pennsylvania Bar Institute (2006). Copy supplied.

William J. Mundy & Kathryn C. Mason, *Remedies Other than Damages, in Advanced Issues In Civil Procedure*, Pennsylvania Bar Institute (2006). Copy supplied.

Kathryn C. Mason, Note, *Life or Limb: The Supreme Court's Apathy toward Capital Offenders Sentenced to Life Imprisonment by Operation of Law*, 14 Temp. Pol. & Civ. Rts. L. Rev. 307 (Fall 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.

None.

- 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.

None.

- 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.

As a member of the William B. Bryant American Inn of Court, I have participated in presentations provided to other members during Inn meetings held in Washington, D.C. These presentations were put on by teams of Inn members and provided skills-based instructional information relevant to practicing litigators.

November 13, 2018: Presenter, "Selecting a Jury in the Age of Social Media," William B. Bryant American Inn of Court, Washington, D.C. The presentation was on legal and ethical issues raised by attorneys using social media information about potential jurors during jury selection and by jurors using social media during trial. To the best of my recollection, in this presentation, I read a role in a skit. I have no notes, transcript, or recording. The address for the William B. Bryant American Inn of Court is C/O Roderick L. Thomas, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, D.C. 20006.

February 13, 2018: Presenter, "How to Rehabilitate or Save Your Case When Your Client is Very Poorly Perceived in the Court of Public Opinion," William B. Bryant American Inn of Court, Washington, D.C. To the best of my recollection, in this presentation, I read a role in a skit. I have no notes, transcript, or recording. The address for the William B. Bryant American Inn of Court is C/O Roderick L. Thomas, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, D.C. 20006.

February 7, 2017: Presenter, "Family Law," William B. Bryant American Inn of Court, Washington, D.C. I read a role in a skit from a script written by another Inn member. Script supplied.

October 13, 2015: Presenter, "Authentication of Social Media," William B. Bryant American Inn of Court, Washington, D.C. The presentation was on authenticating social media evidence at trial. In this presentation, I gave a brief summary of the competing authentication standards followed in different jurisdictions. I have no notes, transcript, or recording. The address for the

William B. Bryant American Inn of Court is C/O Roderick L. Thomas, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, D.C. 20006.

October 14, 2014: Presenter, "Social Media Discovery," William B. Bryant American Inn of Court, Washington, D.C. The presentation was on legal issues raised by discovery seeking information on social media, including the duty to preserve evidence and ethical concerns related to contacting witnesses or parties through social media. I have no notes, transcript, or recording. The address for the William B. Bryant American Inn of Court is C/O Roderick L. Thomas, Esq., Wiley Rein LLP, 1776 K Street, N.W., Washington, D.C. 20006.

March 11, 2014: Presenter, "Jailhouse Confessions," William B. Bryant American Inn of Court, Washington, D.C. I presented a mock oral argument. Outline supplied.

December 11, 2012: Presenter, "Witness Intimidation," William B. Bryant American Inn of Court, Washington, D.C. I read a role in a skit from a script written by another Inn member. Script supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

In approximately 2010, I was asked a question on camera at Reagan National Airport by a foreign television news organization regarding my opinion on the increase in airport security. I do not know if that footage aired, and I do not recall the name of the news outlet.

Kristen Bradley, *Streets Swell With Waves of Students*, Boston Herald, Sept. 2, 2000. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

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

criminal proceedings: ____% [total 100%]

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

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant

or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

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

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

I have not held or sought public office for either an elected or appointed position.

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

I have not been a member or officer, or provided services, to any political party or election committee. I have not played a role in any political campaign.

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

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

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

I have not served as a judicial law clerk since graduation from law school.

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

I have not practiced alone.

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

of your affiliation with each.

2005 – 2007

McKissock & Hoffman, PC
1818 Market Street, 13th Floor
Philadelphia, Pennsylvania 19103
Associate Attorney

2007 – 2008

Burns White LLC
100 Four Falls, Suite 515
1001 Conshohocken State Road
West Conshohocken, Pennsylvania 19428
Associate Attorney

2008 – present

United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20530
Senior Counsel (2014 – present)
Trial Attorney (2008 – 2014)

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings since graduation from law school.

b. Describe:

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

From 2005 to 2008, I was an associate attorney at McKissock & Hoffman, PC and Burns White LLC. My practice focused on defensive civil litigation, primarily in state courts at the trial level. In that capacity, I liaised directly with clients, developed case strategies, and advised clients of litigation risks. I conducted fact and expert discovery, including significant experience taking and defending depositions. I drafted and argued motions in state court. I negotiated settlements and participated in mediations, and assisted in preparing cases for trial.

Since 2008, as a trial attorney and senior counsel at the Federal Programs Branch, I have represented the United States Government in federal

district courts throughout the country in suits attacking the legality of federal government policies and decisions. In that capacity, I draft briefs and present oral argument on various motions, including dispositive motions. I have engaged in discovery, including taking and defending depositions and e-discovery. I negotiate settlements and represent client agencies at mediations. I have participated in trial proceedings.

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

In private practice, I primarily defended corporate healthcare clients in professional liability actions. I represented these clients either directly or at the request of their insurers.

As a Department of Justice attorney, my clients have included federal agencies and federal officials. I have not specialized in any particular area of the law. The cases I have litigated at the Federal Programs Branch, however, typically include constitutional and administrative law claims, and frequently raise jurisdictional and other threshold questions.

- 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.

My entire legal career has been focused on civil litigation. As an associate attorney in private practice, I appeared in court regularly. Since joining the Federal Programs Branch, I have appeared in court regularly, and from 2008 through 2010 appeared in court frequently in connection with my work on the Guantanamo Bay habeas litigation.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 80%
- 2. state courts of record: 20%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

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

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

I have been counsel of record in six Guantanamo Bay habeas corpus cases that

were tried to a final judgment. In one case, I served as lead counsel on a team with two other Department of Justice attorneys. In the remaining five cases, I served as co-counsel, typically on teams including two to three other Department of Justice attorneys.

i. What percentage of these trials were:

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

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

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

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

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

1. *Al Madhwani v. Obama*, No. 04-cv-1194 (D.D.C.) (Hogan, J.)

This Guantanamo Bay habeas case was brought by a petitioner whom the Government alleged was lawfully detained pursuant to the Authorization for Use of Military Force as part of al-Qaida. The court held a four-day merits hearing in October 2009 and issued an order denying the petition for a writ of habeas corpus in January 2010. I participated as co-counsel at trial. I also assisted in preparing Respondents' case for trial, including Respondents' pre-hearing statement of the case, motion in limine regarding expert witness testimony, and motion to quash a trial subpoena. I likewise helped draft Respondents' oppositions to Petitioner's post-trial reconsideration and Rule 60(b) motions.

I served as co-counsel on this case from approximately August 2009 through at least December 2010.

The following citations pertain to this case during my involvement in the litigation: 653 F. Supp. 2d 18 (D.D.C. 2009); 2009 WL 3430115 (D.D.C. Oct. 21, 2009); 696 F. Supp. 2d 1 (D.D.C. 2010); 642 F.3d 1071 (D.C. Cir. 2011); 567 U.S. 907 (2012).

Counsel for Petitioner

Darold Killmer
Mari Newman
Killmer, Lane & Newman, LLP
1543 Champa Street
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Patricia Bronte
303 West Madison Street
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Co-Counsel for Respondents

David Avila (formerly of the U.S. Department of Justice)
DPA Employment Law
14622 Ventura Boulevard, Suite 2063
Sherman Oaks, California 91403

T. March Bell (formerly of the U.S. Department of Justice)
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201
(800) 368-1019

2. *Al-Qahtani v. Bush*, No. 05-cv-1971 (D.D.C.) (Collyer, J.)

Since approximately February 2009, I have served as lead counsel on behalf of Respondents in this Guantanamo Bay habeas case brought by Mohammed Al-Qahtani, whom the Government alleges is lawfully detainable pursuant to the Authorization for Use of Military Force as part of al-Qaida. Over the course of this long-running case the parties have engaged in litigation on various matters, including extensive litigation regarding the Government's disclosure obligations and Petitioner's requests for discovery. Most recently, the parties litigated Petitioner's motion to compel an examination by a mixed medical commission under Army Regulation 190-8. During my representation, I have been the principal author of the Respondents' filings and have argued on behalf of Respondents at hearings and conferences on numerous occasions.

The following citation pertains to this case during my involvement in the litigation:
604 F. Supp. 2d 101 (D.D.C. 2009).

Counsel for Petitioner

Shayana Kadidal
Center for Constitutional Rights
666 Broadway
7th Floor
New York, New York 10012
(212) 614-6438

Ramzi Kassem
City University of New York School of Law
2 Court Square
New York, New York 11367
(718) 340-4558

Co-Counsel for Respondents

Daniel Barish
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-2000

3. *District of Columbia v. Dep't of Labor*, No. 13-cv-0730 (D.D.C.) (Berman Jackson, J.); *CCDC Office LLC v. U.S. Dep't of Labor*, No. 13-cv-0737 (D.D.C.) (Berman Jackson, J.)

This consolidated matter involved a challenge to the decision of the U.S. Department of Labor's Wage and Hour Division to apply the prevailing wage requirements of the Davis-Bacon Act to the construction of CityCenterDC in downtown Washington, D.C. The District of Columbia and the developer of the CityCenterDC project brought suit, and a labor union and two individuals employed in the construction of the project intervened as defendants. Plaintiffs alleged substantive Administrative Procedure Act claims and a violation of the Spending Clause. The matter was decided on cross-motions for summary judgment. I drafted Defendants' summary judgment briefing and argued Defendants' case at the motions hearing. The court granted final judgment for Plaintiffs.

I worked on this matter from approximately May 2013 to March 2014.

The following citations pertain to this case: 34 F. Supp. 3d 172 (D.D.C. 2014); 819 F.3d 444 (D.C. Cir. 2016).

Counsel for Plaintiff in *District of Columbia*

Wayne Beyer (formerly of the Office of the Attorney General for the District of Columbia)

I do not have current contact information.

Carl Schifferle
Office of the Attorney General for the District of Columbia
441 Fourth Street, N.W.
Sixth Floor-South
Washington, D.C. 20001
(202) 727-3400

Counsel for Plaintiff in CCDC Office LLC

Maurice Baskin
Littler Mendelson, P.C.
815 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20006
(202) 842-3400

Counsel for Intervenor-Defendants

Terry Yellig
Sherman, Dunn, Cohen, Leifer & Yellig, P.C.
900 Seventh Street, N.W.
Suite 1000
Washington, D.C. 20001
(202) 785-9300

4. *Esmail v. Obama*, No. 05-cv-1254 (D.D.C.) (Kennedy, J.)

This Guantanamo Bay habeas case was brought by a petitioner whom the Government alleged was lawfully detained pursuant to the Authorization for Use of Military Force as part of al-Qaida. The court held a three-day merits hearing in March 2010 and issued an order denying the petition for a writ of habeas corpus in April 2010. I participated as co-counsel at trial. I also assisted in preparing Respondents' case for trial, including Respondents' motion for judgment on the record, as well as in responding to Petitioner's post-trial request for reconsideration.

I served as co-counsel on this case from approximately August 2009 through at least May 2010.

The following citations pertain to this case during my involvement in the litigation: 709 F. Supp. 2d 25 (D.D.C. 2010); 2010 WL 882905 (D.D.C. Mar. 7, 2010); 2010 WL 2521431 (D.D.C. Jun. 14, 2010); 639 F.3d 1075 (D.C. Cir. 2011).

Counsel for Petitioner

Alan Pemberton

Brian Foster
Covington & Burling LLP
One CityCenter
850 Tenth Street, N.W.
Washington, D.C. 20001
(202) 662-6000

Anna Cross (formerly of Covington & Burling LLP)
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-2000

Co-Counsel for Respondents

Robert Prince
Linda Alberty
Ronald Wiltsie
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-2000

5. *Latif v. Obama*, No. 04-cv-1254 (D.D.C.) (Kennedy, J.); *Latif v. Obama*, No. 11-cv-2294 (Roberts, J.).

From approximately March 2010 to March 2014, I served as lead counsel for Respondents in this habeas case brought by a former Guantanamo Bay detainee. Respondents alleged that Petitioner was lawfully detained pursuant to the Authorization for Use of Military Force as part of the Taliban or al-Qaida. I prepared Respondents' case for trial, including supplementing the evidentiary record and drafting Respondents' motion for judgment on the record. I first-chaired a two-day merits hearing in June 2010, in which I delivered the closing statement and presented evidence on several of the issues in dispute. Although the district court granted the petition for a writ of habeas corpus, the D.C. Circuit subsequently vacated that decision and remanded for further proceedings. The petition was voluntarily dismissed in March 2014.

The following citations pertain to this case during my involvement in the litigation: 2010 WL 3270761 (D.D.C. Aug. 16, 2010); 666 F.3d 746 (D.C. Cir. 2011); 677 F.3d 1175 (D.C. Cir. 2011); 2011 WL 5508892 (D.C. Cir. Nov. 9, 2011); 567 U.S. 913 (2012); 565 U.S. 1192 (2012).

Counsel for Petitioner

S. William Livingston
James McCall Smith
Covington & Burling LLP

One CityCenter
850 Tenth Street, N.W.
Washington, D.C. 20001
(202) 662-6000

Co-Counsel for Respondents

Ann Nash
Ronald Wiltsie
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 514-2000

6. *Mingazov v. Obama*, No. 05-cv-2479 (D.D.C.) (Kennedy, J.) (Hogan, J.)

This Guantanamo Bay habeas case was brought by a petitioner whom the Government alleged was lawfully detained pursuant to the Authorization for Use of Military Force as part of Taliban, al-Qaida, or associated forces. The court held a four-day merits hearing in April 2010 and issued an order granting the petition for a writ of habeas corpus in May 2010. I participated as co-counsel at trial. I also assisted in preparing Respondents' case for trial, including Respondents' motion for judgment on the record. I likewise helped draft Respondents' post-trial Rule 60(b) motion, which was filed during the appeal. Based on the new evidence presented, the D.C. Circuit remanded for resolution of Respondents' motion. On remand, I drafted Respondents' supplemental brief in support of their request for relief from judgment. Prior to a ruling, however, Petitioner was transferred to the control of a foreign government, and the petition was dismissed as moot.

I worked on this case from approximately August 2009 to December 2017.

The following citation pertains to this case: 2010 WL 2398883 (D.D.C. May 13, 2010).

Counsel for Petitioner

Douglas Spaulding (formerly of Reed Smith LLP)
Retired

Gary Thompson
Thompson Hammerman Davis LLP
1015 15th Street, N.W.
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Washington, D.C. 20005
(202) 256-9910

Allison LeFrak (formerly of Reed Smith LLP)

Federal Trade Commission
600 Pennsylvania Avenue, N.W.
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(202) 326-2222

Co-Counsel for Respondents

Paul Dean
Luke Jones
Michael Koenig
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7. *NAACP v. Trump*, No. 17-cv-1907 (D.D.C.) (Bates, J.); *Trustees of Princeton University v. United States*, No. 17-cv-2325 (D.D.C.) (Bates, J.)

Plaintiffs in this consolidated case challenged the then-Acting Secretary of Homeland Security's decision to rescind the policy known as Deferred Action for Childhood Arrivals (DACA). The complaints raised substantive and procedural challenges under the Administrative Procedure Act, as well as equal protection and due process claims. I served as lead counsel for these two cases on a team of attorneys handling related litigation in multiple districts across the country. I briefed and argued Defendants' dispositive motion. After the court remanded to the agency, I briefed Defendants' renewed motion based on the further explanation provided by the then-Secretary of Homeland Security. The court ultimately vacated DACA's rescission; however, I successfully obtained a partial stay of the order pending appeal. In June 2019, the Supreme Court granted Defendants' petition for a writ of certiorari before judgment.

I worked on this case from approximately November 2017 to August 2018.

The following citations pertain to this case: 298 F. Supp. 3d 209 (D.D.C. 2018); 315 F. Supp. 3d 457 (D.D.C. 2018); 321 F. Supp. 3d 143 (D.D.C. 2018); 139 S. Ct. 2779 (2019).

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8. *Protect Democracy Project v. U.S. Dep't of Justice*, No. 17-cv-0842 (D.D.C.)
(Cooper, J.)

I represented Defendants in this Freedom of Information Act (FOIA) case, which sought the release of, inter alia, a classified memorandum regarding the legal basis for a then-contemplated U.S. airstrike on a Syrian airfield in 2017. The case raised significant issues affecting the ability of Executive Branch officials to obtain confidential legal advice pertaining to national security matters. I briefed and argued Defendants' opposition to Plaintiff's preliminary injunction motion. The court granted Plaintiff's request for an order requiring expedited processing of its FOIA request, but denied Plaintiff's request for production of responsive records by a date certain. I also successfully obtained judgment for Defendants on the majority of the withholdings in dispute, including the legal memorandum.

I worked on this matter from approximately June 2017 to August 2018.

The following citations pertain to this case: 320 F. Supp. 3d 162 (D.D.C. 2018); 263 F. Supp. 3d 293 (D.D.C. 2017).

Counsel for Plaintiff

Allison Murphy (formerly of The Protect Democracy Project, Inc.)
I do not have current contact information.

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9. *U.S. House of Representatives v. Mnuchin*, No. 19-cv-0969 (D.D.C.) (McFadden, J.)

In this case, the U.S. House of Representatives sought to enjoin and declare unlawful federal agency actions to construct barriers at the southern border following the President's February 15, 2019 declaration of a national emergency. From February to June 2019, I represented Defendants in this case on a team of attorneys handling related litigation in multiple districts across the country. I contributed substantially to Defendants' brief in opposition to the House's preliminary injunction motion, including drafting the standing section of that brief. The court denied the House's request for preliminary relief on the grounds that it lacked standing to sue the Executive in these circumstances. At the House's request, judgment was entered in Defendants' favor, and the matter is currently on appeal.

The following citation pertains to this case: 379 F. Supp. 3d 8 (D.D.C. 2019).

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10. *Uthman v. Obama*, No. 05-cv-1254 (D.D.C.) (Kennedy, J.)

I served as co-counsel in this Guantanamo Bay habeas case, which was brought by a petitioner whom the Government alleged was lawfully detained pursuant to the Authorization for Use of Military Force as part of al-Qaida. The court held a five-day merits hearing in January to February 2010 and issued an order granting the petition for a writ of habeas corpus in February 2010. I participated as co-counsel at trial. I also assisted in preparing Respondents' case for trial, including Respondents' motion for judgment on the record. I likewise helped draft Respondents' post-trial motion for reconsideration.

I worked on this case from approximately August 2009 through at least March 2010.

The following citations pertain to this case during my involvement in the litigation:
708 F. Supp. 2d 9 (D.D.C. 2010); 637 F.3d 400 (D.C. Cir. 2011); 2011 WL 1642462
(D.D.C. Apr. 29, 2011); 565 U.S. 808 (2011); 567 U.S. 905 (2012).

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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.)

I have pursued my most significant legal activities in public service as a career attorney at the Federal Programs Branch. During my 11-year tenure at the Department of Justice, I have engaged in all phases of civil litigation as lead counsel or co-counsel with substantial responsibility for developing and advocating the Government's legal positions in written motions practice and numerous in-court appearances. My work has often

involved complex issues of constitutional and administrative law in suits that have national impact, including numerous national security cases. In certain matters, I have worked on teams of Department of Justice attorneys, or liaised with United States Attorney's Offices, to handle related litigation in multiple districts across the country, including cases that arose from the 2013 partial government shutdown. I have also worked closely with various federal agencies and federal officials in conducting litigation involving challenged agency actions and in providing advice regarding potential litigation risks of proposed agency actions.

In addition to representing large federal agencies in my current position and corporate clients in my prior practice, I have represented individuals in pro bono cases and represented small businesses as an associate attorney. I also have worked as both a volunteer and instructor with law school students, high school students, and Department of Justice attorneys who are interested in civil trial advocacy.

I have not performed lobbying activities.

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

I am currently teaching Legal Research and Writing (LRW) for International LL.M. Students (I) at the George Washington University Law School for the fall 2019 semester, and taught the same course in fall 2018. I taught Advanced Legal Research and Writing (LRW) for International LL.M. Students (II) at the George Washington University Law School in spring 2019. Copies of the syllabi are 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 arrangements for deferred income or future benefits from previous business relationships, professional services, firm memberships, former employers, clients or customers.

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 am currently teaching Legal Research and Writing (LRW) for International LL.M. Students (I) at the George Washington University Law School for the fall 2019 semester. I have no other plans, commitments, or agreements to pursue outside employment at this

time.

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).

When my nomination is transmitted to the Senate and I file my federal financial disclosure report, I will supply a copy to this Committee.

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.

My husband, Patrick Davis, is a Deputy Associate Attorney General in the U.S. Department of Justice. His current duties and responsibilities include, inter alia, overseeing a portion of the Environment and Natural Resources Division, which handles some cases in the Court of Federal Claims. If confirmed, my husband will change his portfolio to exclude overseeing any cases that are or will come before the Court of Federal Claims. Additionally, I would recuse myself from any pending matters that my husband oversaw consistent with the Canons of the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all other laws, rules, and court practices governing such situations. It is possible that cases before the Court of Federal Claims will involve claims arising from related agency actions that were challenged in district court cases that I handled at the Federal Programs Branch. I will recuse myself from any Court of Federal Claims litigation stemming from the same underlying agency action at issue in any district court litigation in which I have ever played a role.

- 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 conscientiously analyze and resolve any actual or potential conflicts of interest, including the appearance of a conflict of interest, consistent with the Canons of the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all other laws, rules, and court practices governing such situations.

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.

I have provided pro bono legal services in cases referred by the D.C. Bar Pro Bono Advocacy & Justice Clinic. From summer 2018 to summer 2019, I counseled a client regarding family law issues. I am currently representing a client in a landlord-tenant action pending in the D.C. Superior Court.

I also have volunteered at American University Washington School of Law as a judge for mock trial competitions in 2016, 2017, and 2019.

I volunteered in 2019 to mentor high school students who participated in the D.C. Circuit Historical Society's Mock Court Program.

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 February 2018, a member of the White House Counsel's Office who was responsible for judicial nominations contacted me to inquire if I was interested in being considered for a seat on the Court of Federal Claims. I interviewed for the position with attorneys from the White House Counsel's Office on February 16, 2018. In June 2019, I again was contacted by the White House Counsel's Office about my interest in a judgeship on the Court of Federal Claims. Attorneys from the White House Counsel's Office and the Office of Legal Policy at the U.S. Department of Justice interviewed me on June 24, 2019. Since August 2, 2019, I have been in regular contact with attorneys from the White House Counsel's Office and the Office of Legal Policy regarding my possible 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.