

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Knut Sveinbjorn Johnson

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

United States District Court Judge for the Southern District of California

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.

Law Office of Knut S. Johnson
550 West C Street, Suite 790
San Diego, California 92101

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

1957; 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.

1983 – 1986, University of San Diego School of Law; J.D. (*cum laude*), 1986

1980 – 1983, Tulane University, Graduate School; no degree

1976 – 1980, Tulane University; B.S. (honors in Earth Sciences), 1980

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
University of San Diego School of Law
5998 Alcalá Park

San Diego, California 92110
Adjunct Professor

1996 – present
Law Office of Knut S. Johnson
550 West C Street, Suite 790
San Diego, California 92101
Owner

1995 – 1997, 1999
California Western School of Law
225 Cedar Street
San Diego, California 92101
Adjunct Professor

1994 – 1996
McKenna & Cuneo (merged with McKenna, Long & Aldredge, now Dentons)
4655 Executive Drive, Suite 700
San Diego, California 92121
Associate Attorney

1990 – 1992, 1994
University of San Diego School of Law
5998 Alcala Park
San Diego, California 92110
Adjunct Professor

1988 – 1994
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101
Trial Attorney (1988 – 1990)
Senior Trial Attorney (1990 – 1994)

1986 – 1988
Jenkins & Perry (now Musick, Peeler & Garrett)
225 Broadway, Suite 1900
San Diego, California 92101
Associate Attorney

Summer 1985
Parkinson, Wolf, Lazar & Leo
1900 Avenue of the Stars, 18th Floor
Los Angeles, California 90067
Summer Associate

1980 – 1983
Gulf Oil Exploration & Production Company
Post Office Box 61790
New Orleans, Louisiana 70161
Geologist (1980 – 1982)
Senior Geologist (1982 – 1983)

1975 – 1978 (summers)
Albuquerque Tennis Complex
1601 Cesar Chavez Avenue South West
Albuquerque, New Mexico 87106
Assistant Tennis Pro

Other Affiliations (Uncompensated)

2016 – present
San Diego County Bar Foundation, Indigent Criminal Defense Fund
401 West A Street, Suite 1100
San Diego, California 92101
Advisory Committee Member

2008 – present
University of San Diego School of Law, Law Alumni Board
5998 Alcala Park
San Diego, California 92110
Member (2008 – present)
Immediate Past President (2017 – 2019)
President (2015 – 2017)
President Elect (2014 – 2015)

2007 – 2019
Na Koa Kai Canoe Club
Post Office Box 721437
San Diego, California 92172
Board of Directors

2002 – 2004
Unitarian Universalist Fellowship of San Dieguito
1036 Solana Drive
Post Office Box 201
Solana Beach, California 92075
Board of Directors (2002 – 2004)

7. **Military Service and Draft Status:** Identify any service in the United States 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. As a male born in 1957, I was not required to register for selective service, and I have not registered.

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.

Top 10 Attorneys, San Diego Super Lawyers, 2019

University of San Diego School of Law, Distinguished Alumni Award, 2018

America's Top 100 Attorneys Lifetime Achievement Selection, 2018

Albert Nelson Marquis Lifetime Achievement Award, 2017

Lawyer of the Year, White Collar Criminal Defense, San Diego, Best Lawyers in America, 2016

E. Stanley Conant Award, Defenders Organizations of San Diego, 2013

Marquis Who's Who in the World, 2012 – present

Fellow, American Bar Foundation, 2012 – present

Top 10 Attorneys, San Diego Super Lawyers, 2011

Top 10 Attorneys, San Diego Super Lawyers, 2010

San Diego's Top 25 Lawyers, San Diego Metro, 2010

Top 50 Attorneys, San Diego Super Lawyers, 2009 – 2012; 2017 – 2019

San Diego County Top Attorneys, 2009

Southern California Super Lawyers, 2007 – present

E. Stanley Conant Award, Defenders Organizations of San Diego, 2005

The Best Lawyers in America, 2005 – present

State Bar of California, California Board of Specialization, Certified Specialist in Criminal Law, 2002

Certificate of Commendation, United States Marine Corps, 2001

Martindale Hubble AV rating, 2000 – present

Bar Register of Preeminent Lawyers, 2002 – present

Degree from the University of San Diego School of Law conferred *cum laude*, 1986

Outstanding Criminal Clinic Intern Award, University of San Diego School of Law, 1986

National Mock Trial Team, University of San Diego School of Law, 1986

Academic Achievement Scholarship, University of San Diego School of Law, 1985

Best Brief, First Year Moot Court Competition, University of San Diego School of Law, 1984

Degree from Tulane University conferred with honors, 1980

W.A. Tarr Award, Outstanding Earth Science Graduate, Tulane University, 1980

Sigma Gamma Epsilon (National Honor Society for Earth Science), Tulane Chapter
Member, 1978 – 1980
President, 1979 – 1980

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 (1995 – 2006; 2009 – present)
Chair, Criminal Justice Section, Solo & Small Firm Committee (2000 – 2006)
Member, Criminal Justice Section, Defense Function Committee (1996 – 2001)

American Bar Foundation, Fellow (2012 – present)

California Attorneys for Criminal Justice (2010 – 2016)

California Public Defenders Association (2007 – 2012)

Criminal Justice Act Panel, Southern District of California, Representative to the Court (2006 – 2017)

Half-Norwegian (on the Mother's Side) American Bar Association (approximately 2004 – present)

Irish American Bar Association (2018 – present)

National Association of Criminal Defense Lawyers (1999 – 2006)

Practitioners Advisory Group to the United States Sentencing Commission (2015 – present)

Chair (2018 – present)
Vice Chair (2016 – 2018)
Ninth Circuit Representative (2015 – 2016)

San Diego County Bar Association (approx. 1987 – present)

San Diego Criminal Defense Bar Association (1996 – present)

President (2001 – 2002)

Board of Directors (1996 – 2001)

San Diego Criminal Defense Lawyers Club (1991 – present)

San Diego ESI Forum, Steering Committee (2017 – present)

San Diego Lawyers Club (2009 – present)

United States District Court for the Southern District of California

Criminal Justice Act Advisory Committee (2017 – 2019)

Chair (2014 – 2017)

Member, U.S. Magistrate Judge Selection Committee (2013, 2016)

Member, Local Rules Committee (2005)

Lawyer Representative to the Ninth Circuit (2003 – 2005)

Alternate Lawyer Representative to the Ninth Circuit (2002)

William B. Enright Inn of Court (2012—2014)

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.

California, 1986

New Mexico, 1991

There have been no lapses in membership. I became inactive with the New Mexico Bar because I decided not to practice in New Mexico shortly after passing the New Mexico Bar Exam and I have maintained inactive status since.

- 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. I am not aware of any other lapses in membership.

Supreme Court of the United States, 1990

United States Court of Appeals for the Second Circuit, 2016

United States Court of Appeals for the Ninth Circuit, 1988

United States District Court for the Central District of California, 1999

United States District Court for the Eastern District of California, 2008

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

United States District Court for the Southern District of California, 1986
United States District Court for the District of Colorado, 1999
United States District Court for the Western District of New York, 2015
United States District Court for the Western District of Tennessee, 2005

With one exception, there have been no lapses in membership. On November 1, 2015, I was administratively removed from the attorney roll of the United States District Court for the District of Colorado for failing to pay the renewal fee. I did not pay the renewal fee because I no longer had a case in that district. Any member of the bar of that district who failed to pay the 2013 renewal fee was administratively removed from the district court's attorney roll. According to the district court's website, removal from the attorney roll for failure to pay the renewal fee is not a reportable disciplinary action.

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.

None.

- 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.

Not applicable.

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.

With Emerson Wheat, *White Collar Crime and Intent* (2014). Copy supplied.

With Emerson Wheat, *Unfair Publicity* (2014). Copy supplied.

With Emerson Wheat, *Perjury, False Statements and Obstruction of Justice* (2014). Copy supplied.

With Emerson Wheat, *Parallel Civil and Criminal Cases* (2014). Copy supplied.

With Emerson Wheat, *Environmental Crimes* (2014). Copy supplied.

With Emerson Wheat, *Defenses to White Collar Crimes* (2014). Copy supplied.

With Emerson Wheat, *Conspiracies and Vicarious Liability in White Collar Cases* (2014). Copy supplied.

With Emerson Wheat, *Collateral Issues* (2014). Copy supplied.

Overview Chapter 208, Speedy Trial, Title 18, Crimes and Criminal Procedure Part II, National Institute for Trial Advocacy (2004). Copy supplied.

With Laura Berend, *Guilt or Innocence in the Court of Public Opinion*, San Diego Union-Tribune, Apr. 18, 2002. Copy supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (March 2002). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (February 2002). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (January 2002). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (November 2001). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (September 2001). Copy Supplied.

The Best Articles Published by the ABA, GP Solo, Vol. 18, No. 6, Sept. 2001. Copy supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (July 2001). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (June 2001). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (May 2001). Copy Supplied.

President's Column, Criminal Defense Newsletter, San Diego Criminal Defense Bar Association and Criminal Defense Lawyers Club (Apr. 2001). Copy Supplied.

Defending a Federal Criminal Case, Federal Juvenile Crimes Chapter, Federal Defenders of San Diego, Inc., (2001). Copy supplied.

Defending a Federal Criminal Case, Federal Juvenile Crimes Chapter, Federal Defenders of San Diego, Inc., (1998). Copy supplied.

Responding to Subpoenas: Constitutional and Practical Issues, The Champion, Vol. 21, No. 1 (Jan./Feb. 1997). Copy supplied.

Defending a Federal Criminal Case, Federal Juvenile Crimes Chapter, Federal Defenders of San Diego, Inc., (1995). Copy supplied.

With Karl Rupp, *Defending a Federal Criminal Case*, Federal Firearms Chapter, Federal Defenders of San Diego, Inc. (1995). Copy supplied.

With Karl Rupp, *Defending a Federal Criminal Case*, Federal Firearms Chapter, Federal Defenders of San Diego, Inc. (1994). After searching my files, local libraries, the federal court library, and asking for assistance from the publisher, I cannot locate a copy.

Defending a Federal Criminal Case, Federal Juvenile Crimes Chapter, Federal Defenders of San Diego, Inc., (1992). Copy supplied.

Juvenile Delinquents and Federal Law, The Champion, Vol. 15, No. 4 (May 1991). Copy supplied.

Defending a Federal Criminal Case, Federal Juvenile Crimes Chapter, Federal Defenders of San Diego, Inc. (1990). Copy supplied.

Defending a Federal Criminal Case, Parole Chapter, Federal Defenders of San Diego, Inc. (1989). After searching my files, local libraries, the federal court library, and asking for assistance from the publisher, I cannot locate a copy.

Neolithic Aspects of a Modern Barrier Island Complex, Elmer's Island, Louisiana, unpublished Honors thesis, Tulane University (May 1, 1980). 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.

Practitioners Advisory Group to the United States Sentencing Commission,
Comment Letter on Commission's Proposed Amendment, February 21, 2019.
Copy supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
Comment Letter on Commission's Proposed Priorities, August 10, 2018. Copy
supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
*Comment Letter on Commission's Proposed Amendment to the Sentencing
Guidelines*, March 6, 2018. Copy supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
Response to Request for Comment on Holdover Proposals, October 10, 2017.
Copy supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
Response to Request for Comment on Proposed Priorities, July 31, 2017. Copy
supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
*Comment Letter on Commission's Proposed Amendment to the Sentencing
Guidelines*, February 20, 2017. Copy supplied.

Practitioners Advisory Group to the United States Sentencing Commission, *Letter
on Proposed Priorities*, July 25, 2016. Copy supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
Comment on Proposed Amendment to the Sentencing Guidelines March 18, 2016.
Copy supplied.

Practitioners Advisory Group to the United States Sentencing Commission,
Comment on Proposed "Crimes of Violence" Amendment, November 5, 2015.
Copy supplied.

As a Lawyer Representative to the Ninth Circuit for the Southern District of
California, I helped prepare a memorandum regarding the local rules in about
2003. I do not have a copy of that memorandum. The current chairperson is
Janet Dean Gertz, Barnes & Thornburg LLP, 655 West Broadway, Suite 900, San

Diego, California 92101.

- 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.

Synthetic Drugs, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines before the United States Sentencing Commission, March 14, 2018 (testimony given as Vice Chair, Practitioner's Advisory Group). Videos of testimony, transcribed testimony, and prepared testimony supplied.

Immigration: View from the Field, Public Hearing on Proposed Amendments to the Federal Sentencing Guidelines before the United States Sentencing Commission, March 16, 2016 (testimony given as Ninth Circuit Representative, Practitioner's Advisory Group). Videos of testimony and transcribed testimony supplied.

Public Comment on Proposed Rule Change to the Federal Rules of Appellate Procedure, Administrative Office of the U.S. Courts, January 26, 2004. Copy supplied.

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

October 17, 2019: Moderator, "Social Media – Preserve, Collect, Review, Produce – and the Ethics of Doing so in Civil and Criminal Cases," San Diego ESI Forum, San Diego, California. PowerPoint and flyer supplied.

June 27, 2019: Moderator, "Emerging Technology and Its Effects on the Law," San Diego ESI Forum, San Diego, California. PowerPoint and flyer supplied.

January 9, 2019: Speaker, "Ethics Update," San Diego Criminal Defense Lawyers Club, San Diego, California. PowerPoint supplied.

November 16, 2018: Acceptance Speech, University of San Diego School of Law, Distinguished Alumni Award, San Diego, California. Notes supplied.

October 18, 2018: Moderator, "Science Fiction or Necessary Tools: Artificial Intelligence in eDiscovery and Legal Research," San Diego ESI Forum, San Diego, California. PowerPoint and brochure supplied.

July 3, 2018: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript and video clip supplied.

April 19, 2018: Panelist, "Ethical Obligations Related to Travel with Laptops, Tablets and Mobile Devices," San Diego ESI Forum, San Diego, California. PowerPoint supplied.

July 3, 2017: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript and video clip supplied.

May 20, 2017: Commencement Speaker, University of San Diego School of Law, San Diego, California. Notes and video supplied.

August 15, 2016: Speaker, Oath of Professionalism & Dessert Reception for Incoming Law Students, University of San Diego School of Law, San Diego, California. I welcomed new law students and talked about my law school experience. I have no notes, transcript, or recording. The address for the University of San Diego School of Law is 5998 Alcala Park, San Diego, California 92110.

July 1, 2016: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript and video clip supplied.

January 13, 2016: Speaker, "Top Ten or So Random Ethical Issues 2016," San Diego Criminal Defense Lawyers Club, San Diego, California. PowerPoint supplied.

December 1, 2015, Remarks, Recently Admitted Members of the Bar, Reception by University of San Diego School of Law, San Diego, California. Notes supplied.

October 10, 2015, Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

October 9, 2015, Remarks, Presentation of Bernard Witkin, Esq. Award for Excellence in the Practice of Law to Judy Clark, San Diego Law Library Foundation, San Diego, California. Notes supplied.

July 3, 2015: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript and video clip supplied.

December 4, 2014: Remarks, Recently Admitted Members of the Bar, Reception by University of San Diego School of Law, San Diego, California. Notes supplied.

July 3, 2014: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript and video clip supplied.

May 26, 2014: Remarks, Recently Admitted Members of the Bar, Reception by University of San Diego School of Law. Notes supplied.

April 2014: Acceptance speech, E. Stanley Conant Award, Federal Defenders of San Diego, Inc. and Appellate Defenders, Inc., San Diego, California. I thanked all those who helped me in my practice as well as the defense bar in general. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101. The address for Appellate Defenders, Inc. is 555 West Beech Street, Suite 300, San Diego, California 92101.

November 7, 2013: Panelist, "Choose Your Career in the Law – Attorney/Judge Panel," University of San Diego School of Law, San Diego, California. Announcement supplied. I answered questions about my career. I have no notes, transcript, or recording. The address for the University of San Diego School of Law is 5998 Alcalá Park, San Diego, California 92110.

October 13, 2013, Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

July 3, 2013: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript, video, and notes supplied.

February 21, 2013: Panelist, "Investigations Gone Wrong - When Upstream Ethical Lapses Can Create Downstream Problems," William B. Enright Inn of

Court, San Diego, California. The presentation handout, large group preparation notes, and criminal case panelist notes supplied.

December 5, 2012: Moderator, "Navigate Your Course; Preparing Clients for Custody," San Diego Criminal Defense Bar Association, San Diego, California. This presentation was for defendants on bail preparing to go into custody and their families. I introduced the speakers, who had been inmates. I have no notes, transcript, or recording. The address for the San Diego Criminal Defense Bar Association is 934 23rd Street, San Diego, California 92102.

September 7 – October 13, 2012: Instructor, "Building Trial Skills," University of San Diego School of Law, San Diego, California. I addressed various trial tasks, including opening, closing, cross, and objections. I have no notes, transcript, or recording. The address for the University of San Diego School of Law is 5998 Alcala Park, San Diego, California 92110.

October 9, 2012: Panelist, William B. Enright Inn of Court, San Diego, California. I believe we addressed ethics. I have no notes, transcript, or recording. The Enright Inn of Court has no physical address, but the President of the Inn is Craig R. McClellan, Esq., The McClellan Law Firm, 1144 State St, San Diego, California 92101

September 8, 2012: Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

July 3, 2012: Remarks, Annual Reading of the Declaration of Independence by San Diego criminal defense attorneys, San Diego, California. Transcript, video, and notes supplied.

January 28, 2012: Presenter, "Sentencing in a New Age," University of San Diego School of Law, San Diego, California. PowerPoint and brochure supplied.

September 24, 2011: Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. Agenda supplied. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

October 7, 2010: Panelist, "Careers in Criminal Law Panel," University of San Diego School of Law, San Diego, California. Announcement supplied. I answered questions about my career. I have no notes, transcript, or recording.

The address for the University of San Diego School of Law is 5998 Alcala Park, San Diego, California 92110.

October 2, 2010: Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

October 17, 2009: Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

September 13, 2008: Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

January 29, 2008: Speaker, "Federal Death Penalty," San Diego Criminal Defense Bar Association, San Diego, California. PowerPoint supplied.

September 29, 2007: Speaker, "Criminal Justice Act," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed the need for accurate billing and new procedures for Criminal Justice Act lawyers. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

January 27, 2007: Speaker, "Emails/Electronic Discovery," University of San Diego School of Law, San Diego, California. PowerPoint and notes supplied.

June 28, 2006: Presenter, "Developing Theories and Themes and How to Use Them Effectively in Opening Statements and Closing Arguments," Winning Strategies Seminar, Administrative Office of the United States Courts, San Diego, California. PowerPoint provided.

April 2006: Acceptance Speech, E. Stanley Conant Award, Federal Defenders of San Diego, Inc. and Appellate Defenders, Inc., San Diego, California. I thanked all the people who have helped me throughout my career and the defense bar in general. I have no notes, transcript, or recording. The address for Federal

Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101. The address for Appellate Defenders, Inc. is 555 West Beech Street, Suite 300, San Diego, California 92101.

June 15, 2002: Presenter, "Closing Arguments," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. Notes supplied.

March 3, 2002: Presenter, "Federal Appeals," to the Post-Conviction Remedies Class at the University of San Diego School of Law, San Diego, California. I addressed the basics of federal criminal appeals process. I have no notes, transcript, or recording. The address for the University of San Diego School of Law is 5998 Alcala Park, San Diego, California 92110.

September 6 – 7, 2001: Moderator, Advanced Trial Skills Workshop, small group workshops, Federal Judicial Center, Washington, D.C. I discussed developing themes and theories at trial. I have no notes, transcript, or recording. The address for the Federal Judicial Center is One Columbus Circle, N.E., Washington, D.C. 20544.

March 1, 2001: Presenter, "Federal Appeals," to a Post-Conviction Remedies Class at the University of San Diego School of Law, San Diego, California. I addressed the basics of federal criminal appeals process. I have no notes, transcript, or recording. The address for the University of San Diego School of Law is 5998 Alcala Park, San Diego, California 92110.

February 28, 2001: Presenter, Appeals Process, University of San Diego, San Diego, California. Notes supplied.

Approximately 2000: I addressed National Institute of Trial Advocacy seminars several times. I addressed basic trial skills. I have no notes, transcript, or recording. The address for National Institute of Trial Advocacy is 1685 38th Street, Suite 200, Boulder, Colorado 80301.

December 6, 2000: Speaker: "Is Justice Too Expensive?," Thomas Jefferson School of Law, San Diego, California. I addressed the cost of indigent defense. I have no notes, transcript, or recording. The address for Thomas Jefferson School of Law is 701 B Street, Suite 110, San Diego, California 92101.

June 19, 1999: Presenter: "Using Themes and Theories," Federal Defenders of San Diego, Inc. Annual Criminal Justice Act Seminar, San Diego, California. I discussed developing themes and theories using cross-examination. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

November 6, 1998: Speaker, "Appellate Issues," to the staff of Federal Defenders of San Diego, Inc., San Diego, California. Notes supplied.

June 11, 1998: Presenter, Federal Defenders of San Diego, Inc., Annual Criminal Justice Act Seminar, San Diego, California. I addressed basic trial skills. I have no notes, transcript, or recording. The address for Federal Defenders of San Diego, Inc. is 225 Broadway, Suite 900, San Diego, California 92101.

- 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.

University of San Diego School of Law, *Distinguished Alumni Award Video*, Nov. 20, 2018. Video supplied.

Melissa Mecija, *Conviction Review Unit examines hundreds of serious and violent felonies*, ABC10, Nov. 7, 2018. Copy and video supplied.

Jeff Powers, *Exclusive: Azano Juror "Bonnie Dumanis is not an honest person"*, IVN, Oct. 31, 2018. Copy supplied.

Melissa Mecija, *Man convicted of Barrio Logan murder to be released due to changes in DNA standards*, ABC10, Oct. 29, 2018. Copy and video clip supplied.

Greg Moran, *Citing changes in DNA evidence analysis, DA agrees to new trial for man serving life term*, San Diego Union-Tribune, July 2, 2018. Copy supplied (reprinted in multiple outlets).

Zoe Tillman (@Zoe Tillman), Twitter, (June 1, 2018, 8:48 a.m.), <https://twitter.com/ZoeTillman/status/1002577634390347776?s=19>. Transcript and video clip supplied.

Ali Dukakis, *Mueller's grand jury questions Roger Stone's social media advisor*, ABC News, June 1, 2018. Copy supplied (reprinted in multiple outlets).

Jeff McDonald, *Federal agents raid portable toilet company one week after executive was sent to prison*, San Diego Union-Tribune, May 30, 2018. Copy supplied (reprinted in multiple outlets).

Sara Murray, *Roger Stone's finances examined by special counsel*, CNN, May 24, 2018. Copy supplied.

Kate Sullivan, *Roger Stone says he is 'prepared' for possibility of special counsel indictment*, CNN, May 21, 2018. Copy supplied (reprinted in multiple outlets).

Shimon Prokupecz and Clare Foran, *Robert Mueller subpoenas Roger Stone's former social media advisor*, CNN, May 16, 2018. Copy supplied.

Mark Hosenball, *Mueller issues grand jury subpoenas to Trump adviser's social media consultant*, Reuters, May 16, 2018. Copy supplied (reprinted in multiple outlets).

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Lori Hearn, *2 S.D. magistrates comply with new sentencing rules*, San Diego Union, Aug. 25, 1988. Copy supplied. Reprinted in multiple outlets.

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

I have never held 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:
- 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 any public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office, nor have I ever sought elective office.

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

I have not held any office or rendered services to a political party or election committee. Nor have I held a position or played a role in a political campaign, other than the following:

To the best of my recollection, I was on the Finance Committee for the campaign of Robert S. Brewer, Jr. for San Diego County District Attorney (2013). I attended at least one meeting and helped at a fund raiser. Mr. Brewer is now the United States Attorney for the Southern District of California.

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 never served as a judicial law clerk.

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

I have been a solo practitioner since 1996. During that time, I have always shared space with lawyers with similar practices.

From 1996 to 1998 I shared space with Charles Sevilla, Esq. at 1010 Second Avenue, Suite 1601, San Diego, California 92101.

Since 1997 I have shared space with Ezekiel E. Cortez, Esq. at the following addresses:

1010 Second Avenue, Suite 1405, San Diego, California 92101
(1998 – 2000)

1010 Second Avenue, Suite 1850, San Diego, California 92101
(2000 – 2014)

550 West C Street, Suite 790 San Diego, California 92010 (2014 – present)

- 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.

1980 – 1983

Gulf Oil Exploration and Production Company
South and East Offshore Division
212 Loyola Avenue
New Orleans, Louisiana 70112
Senior Geologist

1986 – 1988

Jenkins & Perry (now Musick, Peeler & Garrett)
225 Broadway, Suite 1800
San Diego, California 02101
Associate Attorney

1998 – 1994

Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101
Trial Attorney (1998 – 1990)
Senior Trial Attorney (1990 – 1994)

1994 – 1996

McKenna & Cuneo
(merged with McKenna, Long & Aldredge, now Dentons)
750 B Street, Suite 3300
San Diego, California 92101
Associate Attorney

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

I have never served as a mediator.

b. Describe:

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

In 1986, I was an associate at Jenkins & Perry (now Musick, Peler & Garrett), 225 Broadway, Suite 1800, San Diego, California 92101.

Jenkins & Perry was a boutique real estate law firm. I tried one civil bench trial and litigated several motions for summary judgment.

In 1988, I became a trial attorney at Federal Defenders of San Diego, Inc. ("FDSDI"), 225 Broadway, Suite 900, San Diego, California 92101. At FDSDI I represented indigent defendants charged with federal crimes. I tried numerous cases, handled dozens of appeals and petitions for certiorari to the United States Supreme Court, supervised attorneys, trained attorneys, and handled administrative tasks. I also frequently appeared at the "New Complaints" and "Notice to Appear" calendars, where I handled hundreds of guilty pleas, arraignments, bail reviews, and sentencing hearings before United States Magistrate Judges.

In 1994, I joined McKenna & Cuneo (merged with McKenna, Long & Aldredge, now Dentons), 750 B Street, Suite 3300, San Diego, California 92101. At McKenna I represented corporate entities and individuals for whom I litigated criminal and civil cases in state and federal court.

In 1996, I went into practice on my own, and my practice has been focused on criminal litigation in state and federal court. I have also handled a small number of federal civil cases and forfeiture cases. The State Bar of California, Board of Legal Specialization certified me as a criminal law specialist after I passed the federal criminal law examination.

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

From 1986 to 1988 while at Jenkins & Perry I represented small business owners involved in real estate and business litigation.

From 1988 to 1994 while at Federal Defenders of San Diego, Inc., I defended indigent clients in criminal cases. Those clients ranged from impoverished immigrants to small business owners unable to afford private counsel to defend complex fraud cases.

Between 1994 and 1996 while at McKenna Cuneo I typically represented business owners who were being prosecuted or investigated by the government. Toward the end of that period I began accepting the appointment of indigent criminal defendants in federal court.

From 1996 to the present I have represented a wide range of people and business in state and federal court and have defended them against a wide range of criminal charges. During this period, the State Bar of California, Board of Legal Specialization certified me as a criminal law specialist after I passed the federal criminal law examination. My clients have been both indigent and retained. I have also litigated a small number of civil cases, including civil rights, civil RICO, and personal injury cases.

- 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.
- i. Indicate the percentage of your practice in:
 - 1. federal courts: 90%
 - 2. state courts of record: 10%
 - 3. other courts: 0%
 - 4. administrative agencies: <1%
 - ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: 1%
 - 2. criminal proceedings: 99%
- 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 approximately 70 felony criminal trials as sole counsel and about two with co-counsel. For about four other trials, an associate attorney assisted me. I have tried two felony bench trials, one civil bench trial, and I have never been associate counsel at a trial.

What percentage of these trials were:

- 1. jury: 98%
- 2. non-jury: 2%

- 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.

Taylor v. United States, 136 S. Ct. 2521 (2016). Copy supplied.

Adzhemyan v. United States, 2015 U.S. LEXIS 6080 (2015). Copy supplied.

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United States v. Rangel-Rodriguez, 1999 U.S. LEXIS (1999). After searching my files, Lexis, and other online sources, I cannot locate a copy of this petition.

I have never filed any other type of brief in or argued before the Supreme Court of the United States.

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

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

1. *United States v. Chance et al*, No. 02-cr-938-GLK (C.D. Cal.)

In 2002 the district court appointed me to represent the defendant as co-counsel in a federal death penalty case in Los Angeles, along with Learned Capital Counsel John Cotsirilos. The RICO indictment in this case charged numerous prison gang members with multiple violent crimes and the government announced this was the largest death penalty case in United States history, with 21 death-eligible defendants. The discovery included hundreds of thousands of pages relating to RICO acts going back dozens of years. According to the discovery and the government's allegations, the defendant was a prison gang leader and the government sought the death penalty against him. The defendant's trial was set with several co- defendants after three years of litigation. We began trial on November 3, 2006. After jury selection, the government dismissed all charges against the defendant.

Dates of Involvement: 2002 – 2006

Judge: Hon. R. Gary Klausner

Counsel for government:

Assistant United States Attorney Mark Aveis
Assistant United States Attorney J. Mark Childs
Office of the United States Attorney
312 North Spring Street
Los Angeles, California 90012
(213) 894-2434

(213) 894-2400

Co-Counsel (Learned Capital Counsel):
John Cotsirilos
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Counsel for Co-Defendants:
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Larry M. Bakman
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Los Angeles, California 90067
(310) 553-5512

2. *People v. Cunningham* (Cal. App. 4th, Habeas No. D029414, Appeal No. D021524; upon remand, No. SCD 98277 and 128186)

The superior court appointed me to defend the defendant after the court of appeals reversed his murder conviction. This case arose from the shooting death of Officer

Jerry Hartless on January 8, 1988. During post-conviction proceedings, the superior court found extensive and persuasive prosecutorial misconduct. The Fourth District Court of Appeals adopted the trial judge's findings and remanded the case for a new trial. Thereafter, the superior court appointed me to represent the defendant. After being appointed by the superior court, I litigated numerous issues, including recusal of the district attorney. We then negotiated a voluntary manslaughter plea with a time-served sentence in 2000. The governor of California approved the plea bargain.

Dates of Involvement: 1999 – 2000

Judge: Hon. William H. Kennedy (deceased)

Opposing Counsel:

Deputy Attorney General Lora Fox Martin
Office of the Attorney General
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San Diego, California 92108
(619) 358-1012

Deputy District Attorney Dennis Dean Bauer
(former Deputy District Attorney)
21782 Sweetgrass Cir.
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Counsel for Co-Defendants:

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Post Office Box 3049
Corrales, New Mexico 87048
(505) 934-2869

Allen R. Bloom
3029 Kingsley Street
San Diego, California 92106
(619) 235-0508

3. *United States v. Medley*, No. 05-cr-1749-LAB (S.D. Cal.)

The government indicted the defendant for the murder of her husband. The district court appointed me, and I represented her at trial in 2008 and argued self-defense.

Our investigation showed the victim was kind and gentle, even when he had been drinking alcohol, except toward his wife. Throughout the course of their relationship he beat, threatened, and severely injured her while he was intoxicated. In the hours before his death, he became intoxicated and belligerent. Armed with a large wrench, he trapped the defendant in a corner, and she begged him to leave. He dropped the weapon and left but soon returned and confronted her. She then stabbed him to death. The trial judge dismissed the case after the prosecution's case, finding the defendant was entitled to defend herself as a matter of fact and law.

Dates of Involvement: 2008 – 2009

Judge: Hon. Larry A. Burns

Government counsel:
Stephen Miller
(former Assistant United States Attorney)
Post Office Box 3022
La Jolla, California 92038
(619) 894-0573

4. *United States v. Fernandez*, 12-cr-00236-GPC (S.C. Cal.)

I represented the defendant at trial and on appeal against complex RICO charges. The trial that lasted 25 trial days and included several co-defendants, an informant who admitted to multiple murders, gang allegations, and numerous other complicating factors. During trial I litigated numerous issues, including co-conspirator hearsay; sufficiency of the evidence; government misconduct; exclusion of evidence; interstate commerce; and, instructional issues. The government was unable to convict the defendant of the most serious charges and we later litigated interesting and complex issues on appeal, such as hearsay and confrontation clause issues, the use of inflammatory evidence, and improper closing argument.

Dates of Involvement: 2012 – 2017

Judge: Hon. Irma E. Gonzalez (retired)

Government Counsel:
Assistant United States Attorney Fred A. Sheppard
Assistant United States Attorney Tara K. McGrath
Office of the United States Attorney
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880 Front Street, Suite 6275
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(619) 557-5610

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Gregory D Obenauer
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San Diego, California 92101
(619) 230-1523

Michael Edmund Burke
Law Office of Michael E Burke
105 West F Street, Fourth Floor
San Diego, California 92101
(619) 234-2503

5. *People v. Fulcher*, SCD 204965

The district attorney charged the defendant with murder and the Superior Court appointed me to represent him at trial. The first trial resulted in a 7-5 vote to acquit after 14 trial days (just under three weeks). After the second trial, the jury convicted the defendant of murder and the trial court sentenced him to 40 years to life. The trials included complex DNA issues, computer forensic issues, third party culpability issues, and many factual and legal difficulties. Other attorneys were appointed to the appeal. In 2016, after the defendant's conviction was affirmed on appeal, I learned the San Diego Police Department changed the way it interpreted mixed-DNA samples. I began representing him *pro bono* to determine whether the changes might affect his case. That year, the district attorney agreed to have the evidence in the defendant's case reanalyzed. After the reanalysis, I obtained records of the prior trials from the court of appeals, reanalyzed the case, and convinced the district attorney to agree to grant a writ of habeas corpus. In 2018 the district attorney and I agreed to a time-served deal.

Dates of Involvement: 2006 – 2009, 2016 – 2018

Judges: Hon. John Einhorn (first trial) (retired), Hon. Frank Brown (second trial) (retired), Hon. Kenneth K. So (habeas corpus)

Opposing Counsel:

Deputy District Attorney Brent Neck
Office of the District Attorney
333 H Street, Suite 4000
Chula Vista, California 9196330 West Broadway, Suite 800
San Diego, California 92101
(619) 685-6681

Deputy District Attorney Hector Jimenez
Office of the District Attorney
330 West Broadway, Suite 800
San Diego, California 92101
(619) 531-4272

6. *United States v. Azano*, No. 14-cr-00388-MMA (S.D. Cal.)

The government indicted the defendant (a foreign national) for contributing to several San Diego political candidates and for possessing a firearm. At the initial appearance, the government announced this case was “one of the largest, if not the largest, campaign finance fraud conspiracy in San Diego’s history, if not the history of the United States.” I spent two years litigating important and complex constitutional issues, such as whether the federal government has jurisdiction over local elections, wiretap issues, due process vagueness, and other related issues. Before trial began, I withdrew as counsel when the client brought in another attorney whose tactics and conduct was unethical. At trial (defended by the other lawyer), the jury convicted the client of the campaign finance counts but hung on the firearm count. The client dismissed the other attorney and I agreed to try the firearms count and to bring post-trial motions for the campaign finance counts. The post-trial motions were the most complex post-trial motions I have ever litigated. I later tried the firearm count. The trial court denied the post-trial motions in the campaign case and a second jury convicted the defendant in the firearm case. The district court sentenced him to 36 months in custody.

Dates of Involvement: 2014 – 2016, 2016 – 2019

Judge: Hon. Michael A. Anello

Government Counsel:

Andrew G. Schopler
(former Assistant United States Attorney)
U.S. District Court Magistrate Judge
U.S. District Court of Southern California

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Nancy Rosenfeld
444 West C Street, Suite 210

San Diego, California 92101
(619) 234-3616

7. *United States v. Paez*, No. 97-cr-1960-K (S.D. Cal.)

The district court appointed me to defend the defendant against drug trafficking charges following his extradition from Mexico, the first extradition of a high-ranking member of the Arellano-Felix Drug Trafficking Organization. The indictment charged the most serious narcotics offenses available. Plea negotiations were complicated by the time I had to invest to develop a relationship of trust with the client, understand the complex factual and legal issues, and investigate the case. This case ended with a guilty plea and a 30-year prison sentence after the highest levels of the Department of Justice approved the deal. We later obtained a sentence reduction to time-served, effectively a sentence of fifteen years.

Dates of Involvement: 2001 – 2010

Judge: Hon. Judith N. Keep (deceased)

Government Counsel:
Judge Laura Elizabeth Duffy
(former Assistant United States Attorney)
San Diego Superior Court, East County
250 East Main Street
El Cajon, California 92020
(619) 456-4006

8. *United States v. Ospina*, No. 95-cr-00378-BTM (S.D. Cal.)

In 1995 the government indicted the defendant, a Columbian national, for money laundering. The defendant never learned of his indictment until he was arrested in Trinidad and Tobago in 2007. The government extradited him for trial, and the district court appointed me to represent him. The district court dismissed the case after finding the delay in bringing the defendant to trial violated his Sixth Amendment right to a speedy trial. The government appealed, and the Ninth Circuit affirmed.

Dates of Involvement: 2008 – 2009

Judge: Hon. Barry Ted Moskowitz

Government Counsel:
Edward C. Weiner
(former Assistant United States Attorney)
3840 Quarter Mile Drive
San Diego, California 92130
(619) 988-5182

9. *United States v. Bernal-Obeso*, No. 91-cr-567-N (S.D. Cal.)

I represented the defendant in a drug trafficking case. Just before trial, the government produced a memo explaining the informant had killed two people in a bar fight, but no charges had been filed. After investigating and finding the informant's record, I moved to continue the trial to determine who had lied about the informant's convictions. The district court denied my motion and we began trial the next day. The jury convicted the defendant and the district court sentenced him to a lengthy prison term. The Ninth Circuit reversed and remanded the case for an evidentiary hearing on the issue of who had lied about the informant's record. That opinion, *United States v. Bernal-Obeso*, 989 F.2d 331 (9th Cir. 1993), has been cited by many federal and state courts for the proposition that government informants are potentially unreliable. On remand, after the end of the evidentiary hearing, the defendant entered a stipulation with the prosecution, allowing the district court to convict the defendant of being an accessory after the fact. The district court sentenced him to time-served.

Dates of Involvement: 1991 – 1993

Judge: Hon. Leland C. Nielsen (deceased)

Government Counsel:

John Rice
(former Assistant United States Attorney)
Higgs Fletcher & Mack LLP
401 West A Street, Suite 2600
San Diego, California 92101
(619) 236-1551

Patrick O'Toole
(former Assistant United States Attorney)
4505 Mercurio Street
San Diego, California 92130
(619) 847-8153

10. *People v. Naddi*, CR76494

The District Attorney charged the defendant with five counts of murder with related enhancements. After several trials and reversals, in 1999 the Superior Court appointed me to represent the defendant at his fifth trial. Trial began 14 years after the crimes. This case involved a difficult client, highly charged facts, and complex legal issues. This case tested my skills as a counselor, advocate, and defense lawyer. The jury found the defendant sane, convicted him of the crimes, and the court sentenced him to life without the possibility of parole.

Dates of Involvement: 1999

Judge: Hon. Frederick L Link

Opposing Counsel:
Deputy District Attorney Brent Neck
Office of the District Attorney
330 West Broadway, Suite 800
San Diego, California 92101
(619) 685-6681

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 never acted or registered as a lobbyist.

I have been active in local, state, and federal bar associations throughout my career. I served as Chair of the American Bar Association's Solo and Small Firm Committee, as a Lawyer Representative to the Ninth Circuit for the Southern District of California, and on the Local Rules Committee for the Southern District of California.

The United States Sentencing Commission (Commission) selected me as the Chair to the Practitioners Advisory Group (PAG) to the Commission. Previously, I was the Ninth Circuit Representative to the PAG and then Vice-Chair to the PAG. The PAG is a standing advisory group to the Commission under 28 U.S.C. § 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure. According to the Commission's website:

The purpose of the PAG is to (1) assist the Commission in carrying out its statutory responsibilities under 28 U.S.C. § 994(o); (2) provide to the Commission its views on the Commission's activities and work, including proposed priorities and amendments; (3) disseminate to defense attorneys, and to other professionals in the defense community, information regarding federal sentencing issues; and (4) perform other related functions as the Commission requests.

As the Ninth Circuit Representative to the Commission, I helped draft, revise, and edit PAG submissions to the Commission, including comments on proposed amendments to the guidelines, comments on Commission priorities, and PAG proposals. I also testified before the PAG regarding changes to the immigration guidelines. As the Vice-Chair, I participated in meetings with Commission staff regarding guidelines amendments, priorities, and PAG proposals. I also helped organize PAG members into smaller groups to research and edit PAG documents, communicated with PAG members regarding the same, and testified regarding proposed amendments to synthetic drug amendments, first

offenders, and alternatives to incarceration. Finally, as Chair I have continued to supervise and direct PAG members as we draft, revise, and edit submissions to the Commission. I also consult regularly with Commission staff regarding PAG submissions and related topics.

The U.S. District Court of the Southern District of California selected me as the Criminal Justice Act Attorney District Representative, a position I held for over ten years. In that role I served as a liaison between the court and member of the Criminal Justice Act panel of attorneys. The district court also selected me to serve as Chair of the Criminal Justice Advisory Committee to the Southern District of California. In that role I chaired a committee that helped select lawyers for the Criminal justice Act panel of attorneys in addition to assisting the district court in matters of importance to the court. Finally, the district court appointed me to the United States Magistrate Judge Selection Committee. In that role, I helped vet and interview applicants to magistrate judge positions, and I helped evaluate and report on magistrate judges seeking reappointment.

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.

Criminal Procedure II, University of San Diego School of Law, Adjunct Professor 2016 – present. This class covers basic constitutional criminal procedure from arrest, through trial or plea bargain, and on to appeal and collateral attack. Syllabus provided.

Trial Practice, California Western School of Law, Small Section Instructor 1995 – 1997; 1999. I taught small groups, in which we took students through basic trial skills such as jury selection, opening statements, direct-examination, cross-examination, etc. For these classes, the students would demonstrate the trial skill and I would then critique their performance. Although we used a syllabus, I do not have a copy and the school was unable to provide one after we requested one. In general, this class began with opening statements, continued with each trial skill, and ended with a mock trial that I judged.

Lawyering Skills, University of San Diego School of Law, Adjunct Professor approximately 1990 – 1992; 1994. This was a basic trial skills class for second-year law students. I taught small groups, in which we took students through basic trial skills such as jury selection, opening statements, direct-examination, cross-examination, etc. The students would demonstrate the trial skill and I would critique their performance. Although we used a syllabus, I do not have a copy and the school was unable to provide one after we requested one. In general, this class began with opening statements, continued with each trial skill, and ended with a mock trial that I judged

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 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.

If confirmed, I hope that I will be able to continue to teach a law school class once a year. I have no commitments or agreements to do so, and no other plans for outside activities.

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

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the supplied 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.

If confirmed, I will recuse in any litigation where I have played a role. I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of conflict, on a case-by-case basis and determine appropriate action, including recusal, where necessary.

- 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 follow the established practices, policies, and procedures established by the Court. 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.

In March 2019 I represented a United States Marine Corps Master Sergeant *pro bono* in connection with federal criminal charges. I resolved the case with a deferred prosecution agreement after spending about 15 hours on the matter.

Between 2015 and 2018 I represented an inmate serving a sentence of 40 years to life *pro bono*. I had previously been appointed to represent him at trial against murder charges that resulted in a 7-5 jury vote to acquit after the first trial and a conviction after a second trial with new DNA. Due to changes in DNA analysis, I worked about 100 hours *pro bono* and convinced the District Attorney to have the DNA evidence reanalyzed. After the reanalysis, the District Attorney agreed to a writ of habeas corpus and the reversal of the conviction.

Between 2001 and 2002, I represented members of a United States Marine Corps battalion that deployed to Afghanistan as part of Operation Enduring Freedom. I was struck by the low wages the enlisted members of the military receive even with hazardous duty pay. That small extra pay would not be enough to hire a lawyer to take care of many legal matters; still, they were preparing to risk their lives for me. As part of my volunteer work for the battalion, I moved to dismiss pending traffic tickets for battalion members throughout Southern California while they were overseas. The Marine Corps awarded me a Certificate of Commendation for that *pro bono* work. I spent over 40 hours on this matter.

In 1998, I represented *pro bono* the leader of American Friends Service Committee who had come into conflict with the United States government over protests at the border. In that instance I was able to settle a situation that involved high emotions and danger of bad publicity to the government and the individual if the situation had become public. I spent about 25 hours on this matter.

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.

After learning about several openings in the Southern District of California, I

submitted applications to committees in the Southern District of California for both California Senators. On June 13, 2018 I interviewed with Senator Feinstein's local committee, and on September 7, 2018 I interviewed with Senator Harris's local committee. I interviewed with White House Counsel's Office and Department of Justice attorneys on February 15, 2019. On March 11, 2019, someone from the White House Counsel's Office asked me to begin completing paperwork necessary for the vetting process. I have periodically kept in contact with the White House Counsel's Office and the Department of Justice since that date.

- 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.