

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

David Seymour Leibowitz

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

United States District Judge for the Southern District of Florida

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.

Braman Management Association  
2060 Biscayne Boulevard, Second Floor  
Miami, Florida 33137

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

1971; 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.

1997 – 2000, University of Pennsylvania Law School; J.D., 2000

1993 – 1998, London School of Economics; Ph.D., 1998

1989 – 1993, University of Pennsylvania; B.A., 1993

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.

2012 – present  
Braman Management Association  
2060 Biscayne Boulevard, Second Floor

Miami, Florida 33137  
Assistant Secretary and Assistant General Counsel (2023 – present)  
Secretary and General Counsel (2015 – 2023)  
Assistant General Counsel (2012 – 2015)

2003 – 2009; 2010 – 2012  
United States Attorney's Office for the Southern District of New York  
One St. Andrew's Plaza  
New York, New York 10007  
Securities and Commodities Fraud Task Force (2010 – 2012)  
Terrorism and National Security Unit (2007 – 2009)  
Violent Crimes Unit (2005 – 2007)  
Narcotics Unit (2004 – 2005)  
General Crimes Unit (2003 – 2004)  
Assistant United States Attorney, Criminal Division (2003 – 2009; 2010 – 2012)

2001 – 2003  
Middlesex District Attorney  
40 Thorndike Street, Second Floor  
Cambridge, Massachusetts 02141  
Special Investigations Unit (2002 – 2003)  
Appeals and Training Bureau (2001 – 2002)  
Assistant District Attorney (2001 – 2003)

2000 – 2001  
Associate Justice Robert G. Flanders, Jr.  
Supreme Court of Rhode Island  
250 Benefit Street  
Providence, Rhode Island 02903  
Law Clerk

Summer 2000  
Hill & Barlow (firm dissolved in 2002)  
One International Place  
Boston, Massachusetts 02110  
Summer Associate

Summer 1999  
Shea & Gardner (firm acquired by Goodwin Proctor LLP in 2004)  
1900 N Street, Northwest  
Washington DC 20036  
Summer Associate

Other Affiliations (uncompensated):

Summer 1999

United States Department of Justice  
Antitrust Division  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
Legal Intern

Autumn/Winter 1998  
University of Pennsylvania Law School  
3501 Sansom Street  
Philadelphia, Pennsylvania 19104  
Teaching Assistant to Professor Michael Moore

Summer 1998  
United States Attorney's Office for the Eastern District of Pennsylvania  
615 Chestnut Street  
Philadelphia, Pennsylvania 19106  
Legal Intern

1994 – 1996  
London School of Economics  
Houghton Street  
London WC2A 2AE  
United Kingdom  
Teaching Assistant, Government Department

1992 – 1993  
University of Pennsylvania  
College Hall  
Philadelphia, Pennsylvania 19104  
Research Assistant, Professor Robert Engs

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 did not serve in the military. I registered for the selective service upon turning 18.

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.

Federal Bureau of Investigation, Recognition for investigation and successful prosecutions stemming from "Operation Perfect Hedge" (2012)

Federal Bureau of Investigation and United States Attorney's Office for the Southern

District of New York, Recognition for investigation and successful prosecutions of Iqbal and Elahwal (2008)

Bureau of Alcohol, Tobacco, and Firearms, Recognition for investigation and prosecution of Luis Sanchez and others (2006)

Drug Enforcement Administration, Recognition for assisting investigation and successful prosecutions stemming from "Operation Gear Grinder" (2005)

Federal Bureau of Investigation, Recognition for investigation and prosecution of United States v. Zito (2004)

Federal Bureau of Investigation, Recognition for investigation and prosecution of United States v. Rodin (2004)

Massachusetts State Police, Recognition for assisting investigation known as "Operation Dawg Pound" (2003)

University of Pennsylvania Law School

Journal of Constitutional Law, Editor-in-Chief (1999 – 2000)

Keedy Cup Moot Court, Competition Finalist (1999 – 2000)

Arthur Littleton & H. Clayton Louderback Legal Writing Instructor (1999 – 2000)

Student Ethics & Disciplinary Committee, Class Representative (1997 – 2000)

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.

Florida Federal Judicial Nominating Commission, Member (2017 – 2019)

National Association of Dealer Counsel, Member (2013 – 2023)

New York State Bar Association (2001 – 2002)

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.

Florida, 2001

Massachusetts, 2001

New York, 2001

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of

admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Second Circuit, 2005  
United States Court of Appeals for the Eleventh Circuit, 2013  
United States Court for the Southern District of Florida, 2012  
United States Court for the Southern District of New York, 2003

I allowed my status to become inactive in the United State Courts of Appeals for the Second Circuit between 2012 and 2020 and the Eleventh Circuit between 2015 and 2020. There have been no other lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. 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.

The Federalist Society (2017 – 2022)

Greater Miami Jewish Federation (2014 – present)  
Board of Directors (2018 – present)

New Jersey Commission on Holocaust Education (2008 – 2012)

Temple Beth Am (2012 – present)  
Board of Directors (2017 – 2021)

Temple Beth Am Day School (2012 – 2017)  
Board of Directors (2015 – 2017)

- 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.

*Statement of Former United States Attorneys and Assistant United States Attorneys in Opposition to Enforcement of the Executive Order Titled "Protecting the Nation from Foreign Terrorist Entry Into the United States,"* Jan. 27 – Feb. 2, 2017. Copy supplied (reprinted in multiple outlets).

With Louis J. Virelli III, *Federalism Whether They Want It or Not: The New Commerce Clause Doctrine and the Future of Federal Civil Rights Legislation After United States v. Morrison*, 3 U. PA. J. CONST. L. 926 (2001). Copy supplied.

*American Constitutional Communication: Appellate Court Opinions and the Implications for 'the Judicial Power of the United States.'* Ph.D. Dissertation on file with The British Library, London, United Kingdom (1998). Copy supplied.

*Lost on Luntz*, Letter to the Editor, THE DAILY PENNSYLVANIAN, Vol. CIX, No. 9 (Feb. 4, 1993). 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.

On February 19, 2020, I gave testimony on behalf of the Braman Automotive Group before the Florida Senate Judiciary Committee in Tallahassee, Florida. I testified in support of Senate Bill 1738 and Senate Bill 1484. Video available at [https://www.flsenate.gov/media/videoplayer?EventID=2443575804\\_2020021221&Redirect=true](https://www.flsenate.gov/media/videoplayer?EventID=2443575804_2020021221&Redirect=true).

On February 10, 2020, I gave testimony on behalf of the Braman Automotive Group to the Florida Senate Infrastructure and Security Committee in Tallahassee, Florida. I testified in support of Senate Bill 1738 and Senate Bill 1484. Video available at [https://www.flsenate.gov/media/videoplayer?EventID=2443575804\\_2020021111&Redirect=true](https://www.flsenate.gov/media/videoplayer?EventID=2443575804_2020021111&Redirect=true).

On May 4, 2017, I appeared on behalf of the Braman Automotive Group before the Colorado House Committee on Business Affairs and Labor in Denver, Colorado. I testified in support of SB17-298. Recording available at [https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20170504/-1/9397#agenda\\_](https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20170504/-1/9397#agenda_).

On April 26, 2017, I gave testimony on behalf of the Braman Automotive Group to the Colorado Senate Business, Labor, & Technology Committee in Denver, Colorado. I testified in favor of SB17-298. Video available at <https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20230531/-1/6457>.

On April 17, 2017, I gave testimony on behalf of the Braman Automotive Group to the Florida Senate Commerce and Tourism Committee in Tallahassee, Florida. I testified in support of Senate Bill 1678. Recording available at [https://www.flsenate.gov/Committees/Show/CM/Audio/3859/5812\\_Audio\\_3859.mp3](https://www.flsenate.gov/Committees/Show/CM/Audio/3859/5812_Audio_3859.mp3).

On April 4, 2017, I gave testimony on behalf of the Braman Automotive Group to the Florida Senate Committee on Transportation in Tallahassee, Florida. I testified in support of Senate Bill 1678. Recording available at [https://www.flsenate.gov/Committees/Show/TR/Audio/3830/5750\\_Audio\\_3830.mp3](https://www.flsenate.gov/Committees/Show/TR/Audio/3830/5750_Audio_3830.mp3).

In addition to the above, there were approximately two or three other occasions between 2015 and 2020 when I testified in the Colorado General Assembly. After conducting a public search, I could not find any records of the testimony. On these occasions I was testifying in support of specific state legislation that impacts the retail motor vehicle industry.

Similarly, there were approximately two or three other occasions in the Florida House of Representatives and the Florida Senate between 2013 and 2020 when I testified in support of specific state legislation that impacts the retail motor vehicle industry. After conducting a public search, I could not find any records of the testimony.

On January 9, 2012, the Executive Director of the State of New Jersey Commission on Holocaust Education Dr. Paul B. Winkler delivered a letter to

District Superintendents and Charter School Leaders in New Jersey regarding Primary Teacher Workshops. Although I was not the author, my name is listed on the correspondence as a member of the Commission Board. Copy supplied.

On August 2, 2011, the Executive Director of the State of New Jersey Commission on Holocaust Education delivered a letter to Steven H. Besserman. Although I was not the author, my name is listed on the correspondence as a member of the Commission Board. 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 3, 2019: Introductory Speaker, American Israel Public Affairs Committee (“AIPAC”) Real Estate Section Event, Braman Motors, 2060 Biscayne Boulevard, Miami, Florida. During this event, I introduced the guest speakers and gave general welcome remarks. I have no notes, transcript, or recording. The address for AIPAC’s national headquarters is 251 H Street, Northwest, Washington, DC 20001.

September 20, 2018: Introductory Speaker, American Israel Public Affairs Committee (“AIPAC”) Real Estate Section Event, Braman Motors, 2060 Biscayne Boulevard, Miami, Florida. During this event, I introduced the guest speakers and gave general welcome remarks. I have no notes, transcript, or recording. The address for AIPAC’s national headquarters is 251 H Street, Northwest, Washington, DC 20001.

January 29, 2000: Introductory remarks, University of Pennsylvania Journal of Constitutional Law, “Symposium 2000: Race, Crime and the Constitution”, University of Pennsylvania Law School, 3501 Sansom Street, Philadelphia, Pennsylvania. During this event, I welcomed guests and contributors to the symposium and gave introductory remarks. I have no notes, transcript, or recording.

- 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.

Lindsay Vanhulle, *Braman Dealerships Affected by Cyberattack, Report Says*,



AUTOMOTIVE NEWS (Apr. 20, 2021). Copy supplied.

Jackie Charniga, *Florida Dealership Protection Law Takes Effect*, AUTOMOTIVE NEWS (June 27, 2017). Copy supplied.

Jim DeFede, *Facing South Florida: Trump Travel/Immigration Ban Fallout*, WFOR TV / CBS4 News (Miami) (Feb. 5, 2017). Video available at: <https://www.cbsnews.com/miami/news/facing-south-florida-trump-travelimmigration-ban-fallout>.

Courtney Storm, *Defense Attorney Advocates Objectivity*, THE DAILY PENNSYLVANIAN, Vol. CXIII, No. 109 (Nov. 13, 1997). Copy supplied.

Matthew Selman, *U. Student Well-Suited for Job as NFL Mascot*, THE DAILY PENNSYLVANIAN, Vol. CVII, No. 75 (Sept. 23, 1991). 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 cases, approximately what percent were:
- jury trials: \_\_\_\_\_%
- bench trials: \_\_\_\_\_% [total 100%]
- ii. Of these cases, approximately what percent were:
- 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 of 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 (4) 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. 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.

None.

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

None.

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

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

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

From 2000 to 2001, I served as a law clerk to Associate Justice Robert G. Flanders, Jr., of the Supreme Court of Rhode Island.

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

I have not practiced law alone.

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

2001 – 2003

Middlesex District Attorney

40 Thorndike Street, Second Floor

Cambridge, Massachusetts 02141

Appeals and Training Bureau (2001 – 2002)

Special Investigations Unit (2002 – 2003)

Assistant District Attorney (2001 – 2003)

2003 – 2009; 2010 – 2012

United States Attorney's Office for the Southern District of New York

One St. Andrew's Plaza  
New York, New York 10007  
General Crimes Unit (2003 – 2004)  
Narcotics Unit (2004 – 2005)  
Violent Crimes Unit (2005 – 2007)  
Terrorism and National Security Unit (2007 – 2009)  
Securities and Commodities Fraud Task Force (2010 – 2012)  
Assistant United States Attorney, Criminal Division (2003 – 2009; 2010 – 2012)

2012 – present  
Braman Management Association  
2060 Biscayne Boulevard, Second Floor  
Miami, Florida 33137  
Assistant General Counsel (2012 – 2015)  
Secretary and General Counsel (2015 – 2023)  
Assistant Secretary and Assistant General Counsel (2023 – present)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

In September 2001, following my clerkship with Justice Flanders, I began serving as an Assistant District Attorney in Cambridge, Massachusetts, for the Middlesex District Attorney's Office. I started as an ADA in the Appeals and Training Bureau, which entailed the handling of a large appellate caseload, the preparation and review of search warrant applications county-wide, and the training of new ADAs. In 2002, the District Attorney asked me to join two other experienced ADAs in the Special Investigations Unit, where I assisted in conducting a wiretap investigation against a "La Cosa Nostra" cell operating in the greater Boston area. I also provided legal assistance for the trial prosecution team in a high-profile sexual assault investigation.

In 2003, I began serving as an Assistant United States Attorney in the Southern District of New York. As an AUSA, I handled my own caseload and worked with federal, state, and local officers on a daily basis to investigate and prosecute various federal crimes at all stages, including racketeering, murder, providing material support to foreign terrorist

organizations, and insider trading. As a line prosecutor, I tried approximately 10 cases to verdict (including cases in which I supervised others) and defended several cases on appeal before the United States Court of Appeals for the Second Circuit. During my tenure as an AUSA, I served in the General Crimes Unit, Narcotics Unit, Violent Crimes Unit, Terrorism and National Security Unit, and the Securities and Commodities Fraud Task Force.

In August 2012, I moved to Miami and became Assistant General Counsel for Braman Management Association, which is the advisory and management arm of the Braman Automotive Group. The Braman Automotive Group includes 22 motor vehicle franchises and more than 1600 employees spread across 9 "rooftops" in Florida and Colorado. After three years, I became Secretary and General Counsel. In that position I am the chief legal officer responsible for all litigation, compliance, licensing, human resource management, and transactional work. In addition, on behalf of my clients I have been active in proposing and defending specific legislation that affects the motor vehicle industry in Florida and Colorado. I work with and supervise three in-house attorneys and multiple outside counsel. In light of my possible nomination and to facilitate a smooth leadership transition at the firm, as of September 2023 I have been appointed as Assistant Secretary and Assistant General Counsel.

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

At Braman Management I represent the automobile dealership entities and their respective officers, directors, employees, shareholders, agents, and affiliates. In addition, I represent many of the personal interests of specific shareholders, including many of the personal interests of the principal shareholder and Chief Executive Officer. As a state and federal prosecutor, I did not have clients other than the public.

- 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.

As a state prosecutor in Massachusetts, my entire practice was in litigation, and I appeared in appellate courts approximately 20 times. Otherwise, I rarely appeared in trial courts and largely provided advice and assistance to live investigations. As a federal prosecutor in the Southern District of New York, I was exclusively a litigator and appeared in trial court very frequently, almost daily. I also appeared in the U.S. Court of Appeals for the Second Circuit occasionally.

As Secretary and General Counsel for Braman Management Association, I appear in court in person very infrequently. These personal appearances can occur in state or federal courts in Florida on a variety of matters large and small. My litigation practice primarily involves editing and filing briefs with other attorneys, managing litigation, attending depositions, responding to law enforcement and other subpoena requests, reviewing and editing real estate and transactional documents for the dealerships, managing and deciding questions of employee discipline and human resource compliance, and participating in many business decisions that are informed by my knowledge of the law. In most years I also make efforts to propose and defend specific state legislation that affects the retail motor vehicle industry.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 85% |
| 2. state courts of record:  | 10% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 5%  |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 20% |
| 2. criminal proceedings: | 80% |

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 10 cases to verdict, all in federal court. I was sole counsel in two of these cases, and I was a supervisor in two others. In the remaining six trials, I participated jointly with other attorneys, and I addressed the jury and handled important witnesses in every trial in which I participated.

i. What percentage of these trials were:

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

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

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

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of

the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

1. *United States v. Fleishman*, 11 Cr. 32 (Rakoff, J.) (S.D.N.Y. 2011).

This trial stemmed from "Operation Perfect Hedge," a wide-ranging wiretap investigation that led to one of the largest insider trading takedowns in the history of the Southern District of New York. Beginning in 2010, I was lead attorney for multiple related trials and the AUSA-in-charge of multiple spokes of a signature investigation by the United States Attorney. This specific case related to a "matchmaking" firm known as Primary Global Research ("PGR"). Insiders at publicly-traded companies were retained by PGR because they possessed valuable inside information from various publicly-traded companies. Through their use of PGR, hedge fund analysts used and paid these insiders for profitable information. Defendant Fleishman was a sales manager at PGR, and he was tried for his role in connecting hedge fund clients with insiders while knowing that illegal information was being passed. I shared responsibility for witness examinations and gave the Government's main summation. The defendant was convicted on all counts and was sentenced to 30 months' imprisonment.

Co-counsel for the United States:

Antonia M. Apps  
U.S. Securities and Exchange Commission  
100 Pearl Street, Suite 20-100  
New York, NY 10004  
(212) 336-1100

Counsel for defendant:

Ethan A. Balogh  
Balogh & Co., APC  
100 Pine Street, Suite 1250  
San Francisco, CA 94111  
(415) 391-0440

2. *United States v. Jiau*, 11 Cr. 161 (Rakoff, J.) (S.D.N.Y. 2011), *aff'd*, 734 F.3d 147 (2d Cir. 2013).

This trial stemmed from “Operation Perfect Hedge,” a wide-ranging wiretap investigation that led to one of the largest insider trading takedowns in the history of the Southern District of New York. Dozens of targets—including insiders at publicly-traded companies, matchmaking firm employees, and hedge fund analysts and portfolio managers—were indicted, arrested, and convicted. Beginning in 2010, I participated in this wide-ranging investigation and was lead attorney for multiple related trials. In this case the defendant was paid by hedge fund managers for providing illegal tips on technology companies. Her tips resulted in more than \$3 million in illegal profits for the fund managers. The defendant was convicted on all counts and sentenced to four years’ imprisonment. The trial was conducted with co-counsel, and I gave the Government’s opening statement, delivered rebuttal summation, and was responsible for various witnesses.

Co-Counsel for the United States:

Avi Weitzman  
Paul Hastings, LLP  
200 Park Avenue  
New York, NY 10166  
(212) 318-6920

Counsel for defendant:

Joanna C. Hendon  
Alston & Bird  
90 Park Avenue, 15th Floor  
New York, NY 10016  
(212) 210-1244

3. *United States v. Soler*, 05 Cr. 165 (Holwell, J.) (S.D.N.Y. 2007), *aff’d*, 325 F. App’x 19 (2d Cir. 2009).

On July 2, 1998, the defendant and another individual went inside a parking garage in the Bronx and shot and killed the victim. The murder was performed as part of an ongoing rivalry among narcotics traffickers, and the defendant was paid to kill the victim. The defendant was charged with contract murder in connection with a wide ranging narcotics conspiracy. He was convicted on all counts at trial and was sentenced to life imprisonment. I participated in the trial of the defendant in 2007, and I shared responsibilities for all witnesses and jury addresses at trial.

Co-counsel:

Jillian Berman  
Lankler, Siffert, and Wohl  
1185 Avenue of the Americas



New York, NY 10036  
(212) 930-1235

Counsel for defendant:

Frederick H. Cohn  
111 Broadway, Suite 1805  
New York, NY 10006  
(646) 664-1507

4. *United States v. Iqbal and Elahwal*, 06 Cr. 1054 (Berman, J.) (S.D.N.Y. 2006).

The targets provided material support to Hezbollah, a designated Foreign Terrorist Organization, by attempting to establish "al-Manar" television broadcasts in United States on Hezbollah's behalf. The investigation and prosecution obtained an important First Amendment ruling pre-trial. I joined the trial team close to the start of trial and obtained guilty pleas from both defendants on the eve of trial. The judge sentenced Iqbal to nearly six years in prison and sentenced Elahwal to 17 months.

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5. *United States v. Sanchez et al.*, 04 Cr. 36 (Patterson, J.) (S.D.N.Y. 2006).

This was a multi-year investigation into a violent robbery crew that was responsible for more than two dozen home invasions in the Bronx, as well as substantial narcotics trafficking and murder. The indictment charged multiple defendants and resulted in significant guilty pleas to controlled substance and Hobbs Act robbery offenses. I debriefed several cooperating witnesses in preparation for trial of Defendant Sanchez and others. Defendant Sanchez entered a guilty plea shortly before the close of the Government's evidence and was sentenced to 20 years' imprisonment.

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6. *United States v. Minaya et al.*, 01 Cr. 619 (Carter, J.) (S.D.N.Y. 2006), *aff'd*, 321 F. App'x 37 (2d Cir. 2009).

This was an investigation into a sophisticated robbery crew that committed scores of robberies in the Bronx. Two defendants went to trial on charges including RICO, Hobbs Act robbery, firearms, and narcotics charges, as well as two separate murders and a conspiracy to commit a third murder. I participated in the trial of the two defendants, and I handled multiple witness examinations at trial. The government's evidence included fingerprint expert, cooperating witness, immunized witness, and lay witness testimony. The trial lasted approximately one month, and both defendants were convicted of all charges against them. On October 23, 2007, Judge Carter sentenced defendant Minaya to a term of life plus 130 years' imprisonment. On April 2, 2008, Judge Carter sentenced defendant Castellano to a term of life plus 105 years' imprisonment.

Co-counsel for the United States:

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7. *United States v. Robles et al.*, 04 Cr. 1036 (Lynch, J.) (S.D.N.Y. 2006).

This was a prosecution of a robbery crew that employed police impersonation as a tactic and committed dozens of robberies in the New York City area over several years. (This matter is also related to *United States v. Sanchez*, 04 Cr.36 (RPP), referenced below.) Four defendants went to trial. The case was tried despite the loss of an important cooperating witness after indictment. I participated in the trial of the remaining defendants, and I handled the Government's main summation and rebuttal on very short notice. The case was tried before the Honorable Gerard E. Lynch. The Government secured robbery convictions for three of the defendants, and one defendant was acquitted.

Co-counsel for the United States:

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8. *United States v. Oquendo et al.*, 03 Cr. 502 (Sand, J.) (S.D.N.Y. 2005).

Defendant Oquendo ran a crack cocaine dealing ring with others in the Bronx, and his girlfriend assisted him in the enterprise. Multiple defendants were indicted on crack cocaine distribution and firearms charges and convicted on all counts. I was brought in as co-counsel on the eve of defendant Oquendo's trial in 2005, and I handled multiple witnesses and a jury address. Defendant Oquendo was sentenced to 72 months' imprisonment.

Co-counsel for the United States:

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9. *United States v. Zito*, 04 Cr.352 (S.D.N.Y. 2004) (Kram, J.), *aff'd*, 304 F. App'x 898 (2d Cir. 2008).

In 2004, I assisted the investigation and represented the Government before the District Court for this child enticement investigation and prosecution. The Federal Bureau of Investigation conducted a sting operation where the defendant believed he was communicating with and meeting a 13-year-old girl for sexual relationship. The Government's case was presented in less than three days, and the defendant testified in his own defense. The defendant was convicted on all counts, and the conviction was affirmed by Second Circuit. This was an early "internet enticement" case brought in the Southern District of New York. I was responsible for all witness examinations, jury addresses, motion practice, and appellate briefing and argument.

Counsel for defendant:

William Sandback  
Sandback, Birnbaum & Michelin  
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Mineola, NY 11501  
(516) 248-8000

10. *United States v. Rodin*, No. 2003-CR01499 (S.D.N.Y. 2004) (Rakoff, J.), *aff'd*, 225 F. App'x 33 (2d Cir. 2007).

In 2003 and 2004, I assisted the investigation and represented the Government in all court appearances and was the active prosecutor at trial (under the supervision of another AUSA). The Government investigated the defendant for internet auction fraud and September 11 assistance fraud. The defendant pled guilty to a false statement charge before trial and proceeded to trial on the internet auction fraud. In the course of the fraudulent scheme, the defendant transferred fraud proceeds of thirteen 9/11 victims totaling more than \$30,000. The defendant pleaded guilty to making false statements and was convicted on all counts after a two-day trial in 2003. The defendant fled the jurisdiction after sentencing, but was apprehended in the Netherlands and successfully extradited. The defendant appealed, arguing that the evidence of wire fraud and conspiracy presented at trial was insufficient to establish his guilt beyond a reasonable doubt. The U.S. Court of Appeals for the Second Circuit affirmed the conviction by summary order in May 2007. At trial and on appeal, I handled all witness examinations,

jury addresses, motion practice, briefing, and oral argument.

Counsel for defendant:

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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.)

After completing my graduate and legal education and a judicial clerkship, my legal career can be divided roughly into two halves: service as a state and federal prosecutor for approximately 12 years, and my role as Assistant General Counsel and General Counsel for the Braman Automotive Group for approximately the last 11 years.

From 2001 to 2003, I served as an Assistant District Attorney in Middlesex County, Massachusetts. During that time, I prepared search warrants, provided training, handled appeals, and assisted trial prosecutors in special investigations. For example, in 2001 and 2002 I provided assistance in the investigation of serious juvenile sexual assault crimes committed by local gang members. Also during this period the District Attorney asked for my view on revising the Commonwealth's position with respect to newly-found forensic evidence that could lead to DNA testing in closed cases. In or about April 2003, as a result of the District Attorney allowing access to evidence and testing, a defendant was exonerated by DNA evidence and released after spending 19 years in prison on the basis of wrongful rape convictions. I also provided assistance in a wiretap investigation of an organized crime cell handled in conjunction with the Massachusetts State Troopers. I was responsible for obtaining authorizations for surveillance and search warrants of multiple telephones and automobile listening devices. The investigation lasted approximately six months and yielded important narcotics and extortion evidence, including a large OxyContin seizure.

In 2003, I began serving as an Assistant United States Attorney in the Southern District of New York. As an AUSA, I handled my own caseload and worked with federal, state, and local officers on a daily basis to investigate and prosecute various federal crimes at all stages, including racketeering, murder, providing material support to foreign terrorist organizations, and insider trading. As a line prosecutor, I tried approximately 10 cases to verdict (including cases in which I supervised others) and defended several cases on appeal before the United States Court of Appeals for the Second Circuit. During my tenure as an AUSA, I served in the General Crimes Unit, Narcotics Unit, Violent Crimes Unit, Terrorism and National Security Unit, and the Securities and Commodities Fraud Task Force.

During my years of service in the Narcotics and Violent Crimes Units, I participated in the investigation and prosecution of narcotics trafficking, Hobbs Act robberies, murder, RICO, and firearms offenses, among others. Among other matters, in or about 2004 the U.S. Attorney designated me as the Northeast Regional contact for a nationwide anabolic steroid trafficking investigation led by the San Diego field office of the Drug Enforcement Administration. In this role I was responsible for the investigation of multiple New York-based steroid distributors that received large steroid loads from Mexican labs.

As a member of the Terrorism and National Security Unit, among other duties I was designated as part of a review team to determine whether high-value detainees held by United States military, including al-Qaeda members responsible for the terrorist acts committed on September 11, 2001, the terrorist bombing of the U.S.S. Cole, and other terrorism conduct could be tried in U.S. District Courts. I was provided Top Secret security clearance in connection with the review. I also assisted in the investigation of a leader of al-Qaeda in Somalia who was wanted in connection with his alleged involvement in the 1998 attacks on U.S. embassy personnel and for his links to the al-Shabab terrorist organization. This investigation, in conjunction with an FBI counter-terrorism unit, involved the debriefing of cooperating witnesses and obtaining a sealed complaint for providing material support to designated Foreign Terrorist Organization.

While serving on the Securities and Commodities Fraud Task Force, I was a lead attorney for a wide-ranging investigation ("Operation Perfect Hedge") that led to one of the largest insider trading takedowns in the history of the Southern District of New York. Dozens of targets, including insiders at publicly-traded companies, "matchmaking firm" employees, and hedge fund analysts and portfolio managers, were indicted, arrested, and convicted. I was a lead attorney for multiple trials with significant media attention and the AUSA-in-charge of multiple spokes of a signature investigation by the United States Attorney.

In August 2012, I moved to Miami, Florida and became Assistant General Counsel for the Braman Automotive Group. The Braman Automotive Group includes 22 motor vehicle franchises and employs more than 1600 people in Florida and Colorado. After three years, I became Secretary and General Counsel. In that position I am the chief legal officer responsible for all litigation, compliance, licensing, human resource management,

and transactional work. In addition, on behalf of my clients I have been active in proposing and defending specific legislation that affects the motor vehicle industry in Florida and Colorado. I work with and supervise three in-house attorneys and multiple outside counsel.

I have never been registered as a lobbyist or performed lobbying activities. Occasionally in my role as Secretary and General Counsel of the Braman Automotive Group I have provided testimony or made presentations to state legislative committees in Florida and Colorado. The testimony provided concerned the application of and potential amendment to relevant state laws governing the retail motor vehicle industry in those states.

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.

None.

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

I do not expect to derive any future income or future benefits because of my current or previous business relationships or employment. My current employment compensation from Braman Management Association is derived in substantial part from stock equity issued by dealership companies that currently employ me. These stock arrangements are governed by written agreements, and the terms of the agreements allow the companies to redeem and repurchase the stock from me upon my separation from employment.

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.

None.

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 formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.



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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

Cases most likely to present conflict issues would be those related to the Braman Automotive Group, which is a closely-held family business, and the financial arrangements of my extended family. If confirmed, I will evaluate, address, and resolve any actual or potential conflicts of interest on a case-by-case basis and as required by applicable laws, rules, and practices, including Canon 3C of the Code of Conduct for United States Judges and Title 28, United States Code, Section 455. If necessary, I will recuse where necessary or appropriate, and I will implement an approved investment arrangement or engage in divestment, as required, for any investments and/or investment income.

- 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 evaluate, address, and resolve any actual or potential conflicts of interest on a case-by-case basis and as required by applicable laws, rules, and practices, including Canon 3C of the Code of Conduct for United States Judges and Title 28, United States Code, Section 455. If necessary, I will recuse where necessary or appropriate, and I will implement an approved investment arrangement or engage in divestment, as required, for any investments and/or investment income.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As explained above, I began my legal career in public service and was largely precluded from engaging in direct pro bono work. Since leaving public service, I have not engaged in any pro bono legal services personally. Over the years I have given my time to serve others in my community in various small ways, including by participating as a coach and organizer of a community youth basketball league, fundraising and food drives for those in need, and through my current service as a Board member of the Greater Miami Jewish

Federation and the Miami Beach Holocaust Memorial Committee.

**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 or about March 2021, I learned that members of the Florida Democratic congressional delegation were screening interested applicants for federal judicial vacancies in the Southern District of Florida. I submitted my application to this "Federal Judicial Nominations Conference" on or about April 8, 2021.

In May 2021, I learned that Senator Marco Rubio formed a Judicial Advisory Commission ("JAC") that was screening applicants for these federal judicial vacancies. I submitted my application to the JAC on or about May 25, 2021. Shortly thereafter, I was invited to interview with the JAC, and the JAC held the interview on July 22, 2021. Shortly thereafter, I was informed that I was a "finalist" of this JAC process.

In or about August 2021, I provided my JAC application and related documents to Senator Rick Scott's General Counsel. From this point until about January 2023, I estimate that I had a few short contacts with representatives of Senator Rubio's and Senator Scott's offices, but these contacts mainly consisted of providing copies of documents or statements already provided.

On or about January 31, 2023, I participated in a telephone interview with Senator Rick Scott regarding the potential nomination. On or about March 24, 2023, I was contacted by the Office of the White House Counsel. I was interviewed by attorneys from the White House Counsel's Office on March 27, 2023. On or about April 27, 2023, the White House Counsel's Office informed me that the White House Counsel's Office would like to proceed with additional steps in the vetting process. Since April 27, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On November 1, 2023, the President announced his intent to nominate me.

- 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.