

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lewis Jeffrey Liman

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

United States District Judge for the Southern District of New York

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.

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
42nd Floor  
New York, New York 10006

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

1960; New York, New York

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.

1984 – 1987, Yale Law School; J.D., 1987

1983 – 1984, London School of Economics & Political Science; M.Sc. Economics (International Relations) (with distinction), 1984

1979 – 1983, Harvard College; A.B. (*magna cum laude*), 1983

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.

2003 – present

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
42nd Floor  
New York, New York 10006  
Partner

1999 – 2003  
Wilmer, Cutler & Pickering LLP (Now WilmerHale)  
7 World Trade Center  
New York, New York 10007  
Partner

1994 – 1999  
United States Attorney's Office for the Southern District of New York  
1 Saint Andrews Plaza  
New York, New York 10007  
Assistant United States Attorney

1990 – 1994  
Cravath, Swaine & Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019  
Associate

1989 – 1990  
Supreme Court of the United States  
1 First Street, Northeast  
Washington, D.C. 20543  
Law Clerk to the Honorable John Paul Stevens  
1987 – 1988

United States District Court for the Southern District of New York  
500 Pearl Street  
New York, New York 10007  
Law Clerk to the Honorable Pierre N. Leval

1987  
NAACP Legal Defense & Educational Fund, Inc.  
40 Rector Street, 5th Floor  
New York, New York 10006  
Lawyer

1986  
Cravath, Swaine & Moore LLP  
Worldwide Plaza

825 Eighth Avenue  
New York, New York 10019  
Summer Associate

1985  
Parker Auspitz Neeseman & Delahanty (Now Morrison & Foerster LLP)  
1290 Avenue of the Americas  
New York, New York 10104  
Summer Associate

1985  
United States District Court for the Southern District of New York  
500 Pearl Street  
New York, New York 10007  
Summer Clerk to the Honorable John E. Sprizzo

1983 – 1984  
Continental Grain Company  
277 Park Avenue  
New York, New York 10172  
Intern (London Office)

1983  
Kekst & Company  
437 Madison Avenue  
New York, New York 10022  
Intern

Other Affiliations (uncompensated)

Approximately 2015 – present  
Little Peconic Yacht Club  
*The Little Peconic Yacht Club does not have a physical mailing address.*  
Board of Directors

2013 – present  
New York Legal Assistance Group  
7 Hanover Square  
New York, New York 10004  
Board of Directors

2006 – present  
Legal Aid Society  
199 Water Street  
New York, New York 10038  
Board of Directors (2006 – 2012)

Board of Advisors (2013 – present)

2006 – present

United Jewish Appeal: Federation of Jewish Philanthropies of New York, Inc.

130 East 59th Street

New York, New York 10022

Lawyers Division, Criminal Law Committee (2006 – present)

Approximately 2001 – present

Lawyers Division of the Anti-Defamation League of New York

605 3rd Avenue

New York, New York 10158

Executive Committee

Approximately 1995 – present

The Liman Foundation

*The Liman Foundation does not have a physical mailing address*

Trustee

1995 – present

Supreme Court Historical Society

224 East Capitol Street Northeast

Washington, D.C. 20003

Trustee (2016 – present)

1997 – 2017

Federal Bar Council

150 Broadway, Suite 505

New York, New York 10038

Trustee (2004 – 2010)

Director (2011 – 2012)

Vice President (2012 – 2017)

Chair, Public Service Committee (2012 – 2017)

2006 – 2015

Lawyers Committee for Civil Rights Under Law

1401 New York Avenue Northwest, #400

Washington, D.C. 20005

Board of Directors

2011 – 2012

Federal Bar Council Foundation

150 Broadway, Suite 505

New York, New York 10038

Board of Directors

2007 – 2008

New York Council of Defense Lawyers

*The New York Council of Defense Lawyers does not have a physical mailing address.*

Board of Directors

1987

United States Senate Select Committee on the Iran-Contra Affair

(Committee no longer exists; general Senate address below)

Dirksen Senate Office Building

Washington, D.C. 20510

Volunteer (unpaid)

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.

“The Best Lawyers in America” (2015 – 2018)

Bet-the-Company Litigation

Commercial Litigation

Criminal Defense: White-Collar

Litigation: Banking and Finance

Litigation: Regulatory Enforcement (SEC, Telecom, Energy)

Litigation: Securities

Benchmark Litigation (2016 – 2018)

“Leading Litigation Firms and Attorneys” in Securities and White-Collar Crime

“Local Litigation Star” in Securities and White-Collar Crime

“Litigation Star” in Securities and White-Collar Crime

Election to the American Law Institute (2017)

The Legal 500 U.S.

Financial Services: Litigation (2016 – 2017)

Securities: Shareholder Litigation (2016 – 2017)

White-Collar Criminal Defense (2011 – 2017)

New York Super Lawyers, Criminal Defense: White-Collar, Securities Litigation  
(2006 – 2017)

Who's Who Legal (2017 – 2018)

Investigations: Lawyers (2017 – 2018)

Business Crime Defence: Corporates (2018)

Business Crime Defence: Individuals (2018)

Chambers Rankings

Nationwide, Securities: Litigation – Band 3 Leading Individual (2015 – 2016)

New York, Litigation: Securities – Band 3 Leading Individual (2015 – 2018)

New York, Litigation: Securities – Band 4 Leading Individual (2013 – 2014)

New York, Litigation: White-Collar Crime & Government Investigations –  
Band 1 Leading Individual (2018)

New York, Litigation: White-Collar Crime & Government Investigations –  
Band 2 Leading Individual (2007 – 2012, 2013 – 2017)

New York, Litigation: White-Collar Crime & Government Investigations –  
Band 3 Leading Individual (2004 – 2006)

Gould Award for Outstanding Oral Advocacy, Office of the Appellate Defender (2016)

Litigation Trailblazers, National Law Journal (2016)

Law360, “Most Valuable Practitioner in Securities Litigation” (2013)

Best Lawyers in America, “Banking & Finance Lawyer of the Year,” New York City  
Litigation (2012)

The AmLaw Daily, “Litigator of the Week” (2009)

Director's Award for Superior Performance as an Assistant United States Attorney, U.S.  
Department of Justice (1998)

M.Sc. degree conferred with distinction, London School of Economics & Political  
Science (1984)

A.B. conferred *magna cum laude*, Harvard College (1983)

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.

Advisory Committee on Local Rules, United States Court of Appeals for the Second  
Circuit (approximately 2001)

American Bar Association (2000 – present)

American Law Institute (2017 – present)

Association of the Bar of the City of New York (1991 – present)  
Member, Federal Legislation Committee (approximately 1993 – approximately 1995)  
Member, Federal Courts Committee (approximately 1996 – approximately 1999)  
Member, Task Force on the Role of Lawyers in Corporate Governance (2006)

Chief Judge's Task Force on Commercial Litigation in the 21st Century (2012)

Committee on Civil Litigation, United States District Court for the Eastern District of New York (approximately 2000 – present)

Federal Bar Council (approximately 1997 – present)  
Trustee (2004 – 2010)  
Director (2011 – 2012)  
Vice President (2012 – 2017)  
Chair, Public Service Committee (2012 – 2017)

Federal Bar Council Foundation (2011 – 2012)  
Board of Directors (2011 – 2012)

New York Council of Defense Lawyers (approximately 2002 – present)  
Board of Directors (2007 – 2008)

New York State Bar Association (2006 – present)

Supreme Court Historical Society (1995 – present)  
Trustee (2016 – present)

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.

New York, 1988. I am not aware of any lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1999  
United States Court of Appeals for the First Circuit, 2015  
United States Court of Appeals for the Second Circuit, 1994  
United States Court of Appeals for the Third Circuit, 2016  
United States Court of Appeals for the Fourth Circuit, 2015  
United States Court of Appeals for the Fifth Circuit, 2011

United States Court of Appeals for the Ninth Circuit, 2010  
United States Court of Appeals for the Federal Circuit, 1999  
United States Tax Court, 2010  
United States District Court, Eastern District of Michigan, 2003  
United States District Court, Eastern District of New York, 2000  
United States District Court, Southern District of New York, 1988  
New York State Supreme Court, First Department, 1988

I am not aware of any 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.

Century Country Club, Purchase, New York (1986 – present)

Educational Alliance, New York, New York (2001 – 2002)

Harvard Club of New York (1993 – 2004)

Lawyers Committee for Civil Rights Under Law (2006 – 2015)  
Board of Directors (2006 – 2015)

Lawyers Division of the Anti-Defamation League of New York (2001 – present)  
Executive Committee (approximately 2001 – present)

Legal Aid Society (2006 – present)  
Board of Directors (2006 – 2012)  
Board of Advisors (2013 – present)

Little Peconic Yacht Club (2015 – present)  
Board of Directors (2015 – present)

New York Legal Assistance Group (2013 – present)  
Board of Directors (2013 – present)

Poverty Task Force, Cuomo Commission on Competitiveness (1991 – 1992)

United Jewish Appeal: Federation of Jewish Philanthropies of New York, Inc.  
Lawyers Division  
Criminal Law Committee (2006 – present)



The Grand Jury Project, Report to Chief Judge Kaye and Chief Administrative Judge Lippman (1999)

The Liman Foundation

Trustee (approximately 1995 – present)

Yale Law Journal (1985 – 1987)

Articles Editor (1986 – 1987)

In addition, I have served on fundraising committees for my two alma maters, Harvard College and Yale Law School. I do not have a record of my past participation in these committees.

- 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 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.

*Securities Litigation Afficionados at Cleary Gottlieb Give a Behind-the-Scenes Look at Their Practice*, Securities Litigation, Chambers Associate Guide, accessed Dec. 21, 2017. Copy supplied.

With Jonathan S. Kolodner and Matthew Solomon, *Seventh Circuit Upholds First-Ever Federal Spoofing Conviction*, Cleary Gottlieb Alert Memorandum, Aug. 10, 2017. Copy supplied. Reprinted in the CLS Blue Sky Blog on Aug. 16, 2017, also supplied.

With Meredith Kotler, Roger A. Cooper, and Jared Gerber, *Supreme Court to Consider Whether Class Actions Under the Securities Act of 1933 May Be*

*Brought in State Courts*, Cleary Gottlieb Alert Memorandum, July 6, 2017. Copy supplied.

With Alexander Janghorbani and Matthew Solomon, *Supreme Court Applies Five-Year Statute of Limitations to SEC Disgorgement Claims*, Cleary Gottlieb Alert Memorandum, June 6, 2017. Copy supplied. Reprinted in the Harvard Law School Forum on Corporate Governance and Financial Regulation on June 7, 2017, also supplied.

With Elizabeth (Lisa) Vicens, Alexander Janghorbani, and Amanda Ravich, *District Judge Rules that Dodd-Frank Allows SEC to Bring Securities Fraud Claims over Certain Foreign Transactions*, Cleary Gottlieb Alert Memorandum, Apr. 3, 2017. Copy supplied.

“Interrogatories,” in *Business and Commercial Litigation in Federal Courts*, Fourth Edition, Thomson Reuters and the American Bar Association Section of Litigation, Feb. 23, 2017. Copy supplied.

With Evan A. Davis, Mitchell A. Lowenthal, and Avram E. Luft, “Chapter 91 Class Actions,” in *Seven Securities Law Techniques* (2017). Copy supplied.

With Roger A. Cooper and Jared Gerber, *Sixth Circuit Follows Second Circuit in Holding that Statutes of Repose Are Not Subject to Class Action Tolling*, Cleary Gottlieb Alert Memorandum, May 20, 2016. Copy supplied.

With Jared Gerber, *In Best Buy, Eighth Circuit Finds that Defendants Successfully Rebutted Presumption of Reliance By Showing A Lack of Price Impact*, Cleary Gottlieb Alert Memorandum, Apr. 14, 2016. Copy supplied.

With Arthur Kohn, *SEC Announces First Enforcement Action Against Company for Stifling the Whistleblowing Process by Improperly Using Restrictive Language in Confidentiality Agreements*, Cleary Gottlieb Alert Memorandum, Apr. 2, 2015. Copy supplied.

With Breon S. Peace, *Cleary Gottlieb Discusses Restitution for Internal Investigations*, CLS Blue Sky Blog, Oct. 23, 2014. Copy supplied.

With Breon S. Peace, *Ex-Duane Reade CEO Case A Model for VWPA Restitution*, Law 360, Oct. 8, 2014. Copy supplied.

Letter to the Editor, *Reply All: The 5.11.14 Issue*, N.Y. Times Mag., at MM8, May 23, 2014. Copy supplied.

With Mitchell A. Lowenthal, *Halliburton Decision Could Change the Game, But Won't End It*, Executive Counsel, Apr. 18, 2014. Copy supplied.

With David Oliwenstein, *FBC News: The Public Service Committee*, Federal Bar Council Quarterly (2014). Copy supplied.

With Victor Hou, *New York Supreme Court Limits New York Attorney General's Ability to Seek Disgorgement in an Action Brought Under the Martin Act*, Fin. Fraud L. Rep. (Mar. 2013). Copy supplied.

With Jennifer Kennedy Park, *The Second Circuit Holds the Short-Swing Profit Rule Inapplicable to Insider's Purchase and Sale of Different Types of Stock in the Same Company*, Cleary Gottlieb Alert Memorandum, Jan. 14, 2013. Copy supplied. Reprinted in Harvard Law School Forum on Corporate Governance and Financial Regulation on Feb. 1, 2013, also supplied.

With James Corsiglia, *Royalty as 'Foreign Officials': DoJ Offers FCPA Guidelines*, Compliance Rep. (Oct. 5, 2012). Copy supplied.

*Aider and Abettor Liability Standards in SEC Civil Enforcement Actions*, Harvard Law School Forum on Corporate Governance and Financial Regulation, Aug. 24, 2012. Copy supplied.

With Evan A. Davis, Mitchell A. Lowenthal, and Nancy I. Ruskin, "Chapter 92: Class Actions," in *Seven Securities Law Techniques: Transactions and Litigation* (2012). Copy supplied.

*Five Chiefs: A Supreme Court Memoir*, N.Y. L.J., Oct. 7, 2011. Copy supplied.

*Justice Stevens's Legacy and Immigrant Representation*, 33 Cardozo L. Rev. 347 (2011). Copy supplied.

With Robin Bergen, David E. Brodsky, Shawn J. Chen, Lev Dassin, Victor Hou, Joon Kim, Breon Peace, and Giovanni Prezioso, *SEC Curbs 'Pay to Play' Practices by Investment Advisers*, Cleary Gottlieb Alert Memorandum, July 13, 2010. Copy supplied.

With David H. Herrington, *Whether 'Foreign-Cubed' Securities Class Actions Fit in U.S. Courts; The Second Circuit declined to adopt a bright-line test*, N.Y. L.J., Feb. 17, 2009. Copy supplied.

With Roger A. Cooper, *The Continuing Saga of Westar Energy v. Lake: Advancement of Reasonable Legal Fees in Federal District Court*, 20 Andrews Util. Indus. Litig. Rep. 1 (Jan. 15, 2009). Copy supplied.

With Jennifer L. Colyer, Robert E. Juceam, and Sarah French Russell, *The Representational and Counseling Needs of the Immigrant Poor*, 78 Fordham L. Rev. 461 (2009). Copy supplied.

With Roger A. Cooper, *The Continuing Saga of Westar Energy v. Lake: Advancement of Reasonable Legal Fees in Federal District Court*, Andrews White-Collar Crime Reporter, 23 No. 3 White-Collar Crime Rep. 1 (Nov. 25, 2008). Copy supplied.

With Evan A. Davis and Mitchell A. Lowenthal, *Putting Together an Effective Special Litigation Committee Process*, Secs. Litig. Rep. (June 2008). Copy supplied.

With Evan A. Davis and Mitchell A. Lowenthal, *Delaware Chancery Court Renders Important Decision On SLC Investigations*, Cleary Gottlieb Alert Memorandum, May 9, 2008. Copy supplied.

With Lisa Schweitzer, *Seventh Circuit Applies Principle of "Loss Causation" in the Context of Negligence Claim Against Accounting Firm, Issues Warning to Bankruptcy Trustees*, Cleary Gottlieb Alert Memorandum, Mar. 31, 2008. Copy supplied.

With Mitchell A. Lowenthal and Lisa Schweitzer, *Third Circuit Clarifies Attorney-Client Privilege Rules for Jointly-Represented Corporate Entities*, Cleary Gottlieb Alert Memorandum, Aug. 17, 2007. Copy supplied.

With Max Gitter and Mitchell A. Lowenthal, *U.S. Supreme Court Articulates Standards For Pleading Scienter In Securities Fraud Cases*, Cleary Gottlieb Alert Memorandum, June 26, 2007. Copy supplied.

With David Becker, David E. Brodsky, and Michael Lazerwitz, *DOJ Adopts Policy on Waiver of Corporate Attorney-Client Privilege and Work Product Protection*, Cleary Gottlieb Alert Memorandum, Oct. 21, 2005. Copy supplied.

With David E. Brodsky, *Sentencing: Calculating Loss in Accounting Fraud Cases*, New York Law Journal, Aug. 16, 2005. Copy supplied.

With David E. Brodsky, *Sentencing: The Aftermath of 'Booker'*, New York Law Journal, May 17, 2005. Copy supplied.

With David E. Brodsky, *Sentencing: High Court to Review Constitutionality of Guidelines*, New York Law Journal, Aug. 16, 2004. Copy supplied.

With David E. Brodsky, *Sentencing: Amendments to the U.S. Organizational Sentencing Guidelines*, New York Law Journal, June 16, 2004. Copy supplied.

With Jeffrey R. Gleit, Andrew N. Goldman, Christopher J. Meade, and Jorian Rose, "Issues Arising In Chapter 11 Cases Involving Litigation Against Directors, Officers and Other Non-Debtor Third Parties," in *Emerging Issues in Workouts & Bankruptcies 2004: What You Need to Know Now!*, Practising Law Institute (Jan.

2004). Copy supplied.

With David E. Brodsky, *Sentencing: Advisory Group on Organizational Sentencing Guidelines Report*, N.Y. L.J., Oct. 29, 2003. Copy supplied.

*Sentencing: Protect Act §401(m): Chance to Revise Sentencing Guidelines*, New York Law Journal, Aug. 27, 2003. Copy supplied.

*Sentencing: 'Extreme Vulnerability' Revisited*, New York Law Journal, Mar. 7, 2003. Copy supplied.

*Sentencing: 'Extreme Vulnerability' Revisited*, New York Law Journal (Online), Mar. 6, 2003. Copy supplied.

*Constitutional Self-Government; The Lawyer's Bookshelf*, New York Law Journal, Aug. 9, 2002. Copy supplied.

"Chapter 3: Selected Topics Under the Private Securities Litigation Reform Act (PSLRA), Pleading Scierter, Pleading Particularity (Anonymous Sources) and Document Preservation," in *Hot Securities Litigation Issues in a Down Economy 2002: The Impact of Sudden Financial Loss*, Practising Law Institute (July 2002). Copy supplied.

*Recent Guidelines Departure Decisions in the Second Circuit; Sentencing*, N.Y. L.J., Apr. 12, 2002. Copy supplied.

*Relevant Conduct Revisited; Sentencing*, N.Y. L.J., Dec. 18, 2001. Copy supplied.

*Applying the Guidelines to Plea Bargains; Sentencing Guidelines*, N.Y. L.J., Aug. 30, 2001. Copy supplied.

*Recent Departure Case Law in the Second Circuit; Sentencing*, N.Y. L.J., July 18, 2001. Copy supplied.

*The Sentencing Commission's; Sentencing*, N.Y. L.J., Mar. 8, 2001. Copy supplied.

*Initial Thoughts On; Sentencing*, N.Y. L.J., July 5, 2000. Copy supplied.

*Should Interdistrict Disparity be a Permissible Basis for Departure?*, Federal Sentencing Reporter, 12 Fed. Sent'g Rep. 154 (1999). Copy supplied.

*The Quality of Justice*, 17 Yale L. & Pol'y Rev. 287 (1998). Copy supplied.

*The Constitution in the Courts: Law or Politics?; The Lawyer's Bookshelf*, N.Y.

L.J., June 7, 1994. Copy supplied.

*Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961; The Lawyer's Bookshelf*, N.Y. L.J., Apr. 12, 1994. Copy supplied.

*Fulminante, Vote Cycling and the Court*, N.Y. L.J., Apr. 3, 1991. Copy supplied.

Letter to the Editor, *High Court Wields a Powerful Footnote*, N.Y. Times, Jan. 4, 1991. Copy supplied.

With Pierre N. Leval, *Are Copyrights for Authors or Their Children*, J. Copyright Soc'y U.S.A., 39 J. Copyright Soc'y U.S.A. 1 (1991). Copy supplied.

*The Constitutional Infirmities of the United States Sentencing Commission*, 96 Yale L.J. 1363, 1987. Copy supplied.

*Outdoing Tradition*, Harv. Crimson, Mar. 16, 1982. Copy supplied.

*Legal Battle*, Harv. Crimson, June 4, 1981. Copy supplied.

*Wait Until Next Year; The Law Review Delays Its Affirmative Action Plan*, Harv. Crimson, May 8, 1981. Copy supplied.

*Faculty Panel Displeased with Law Review Plans*, Harv. Crimson, Apr. 27, 1981. Copy supplied.

*Less Pressure: Law School Considers Pass-Fail*, Harv. Crimson, Apr. 25, 1981. Copy supplied.

*Deans Petition for Legal Services*, Harv. Crimson, Apr. 25, 1981. Copy supplied.

*Pass-Fail Grading Proposed for First Year Law Students*, Harv. Crimson, Apr. 24, 1981. Copy supplied.

*Reflections on a Decade as Law School Dean*, Harv. Crimson, Apr. 13, 1981. Copy supplied.

*Law School Fails in Effort to Get Top Legal Scholar*, Harv. Crimson, Apr. 6, 1981. Copy supplied.

*Advise and Somnolent*, Harv. Crimson, Mar. 31, 1981. Copy supplied.

*James Vorenberg: Quietly Preparing to Take over at the Law School*, Harv. Crimson, Mar. 2, 1981. Copy supplied.

*Convention Blues*, Harv. Crimson, Aug. 8, 1980. Copy supplied.

*Tie Shatters Laxwomen's Title Hopes; Princeton and Yale Share Ivy Crown*, The Harvard Crimson, Apr. 30, 1980. Copy supplied.

*Former Ambassador to Egypt Sees New Mid-East Tensions*, Harv. Crimson, Apr. 29, 1980. Copy supplied.

*Coll Leads Rally to Protest Complacency Towards Poor*, Harv. Crimson, Apr. 24, 1980. Copy supplied.

*Godkin Lecture: News Shorts*, Harv. Crimson, Apr. 16, 1980. Copy supplied.

*Golfers to Face 7 Teams in 6 Days; Belmonte Takes Coaching Reigns*, Harv. Crimson, Apr. 11, 1980. Copy supplied.

*Professor Shortage Feared in Afro-Am*, Harv. Crimson, Apr. 7, 1980. Copy supplied.

With Ellen Liman, *The Collecting Book* (1980). Copy supplied.

With Ellen Liman, *Free and Low-Cost Collecting*, Boys' Life, Oct. 1979. 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.

The Chief Judge's Task Force on Commercial Litigation in the 21st Century, *Report and Recommendations to the Chief Judge of the State of New York* (June 2012). Copy supplied.

Committee on Civil Litigation of the United States District Court for the Eastern District of New York, *Comments of the Committee on Civil Litigation of the United States District Court for the Eastern District of New York Regarding the Proposed Amendments to Rules 26 and 56 of the Federal Rules of Civil Procedure* (Dec. 22, 2008). Copy supplied.

Committee on Civil Litigation of the United States District Court for the Eastern District of New York, *Comments of the Committee on Civil Litigation of the United States District Court for the Eastern District of New York on the Proposed Time-Computation Amendments* (Oct. 26, 2007). Copy supplied.

Association of the Bar of the City of New York, Task Force on the Lawyer's Role

in Corporate Governance, *Report of the Task Force on the Lawyer's Role in Corporate Governance* (Nov. 2006). Copy supplied.

Committee on Civil Litigation of the United States District Court for the Eastern District of New York, *Comments on Proposed Style Revisions and Amendments to the Federal Rules of Civil Procedure* (Nov. 30, 2005). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *Revisiting the Codification of Privileges Under the Federal Rules of Evidence* (Sept. 1999). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *The Proposed "Class Action Fairness Act"* (May 1999). Copy supplied.

The Grand Jury Project, *The Grand Jury Project: Report to Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman* (Mar. 31, 1999). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *Report and Recommendations on Second Circuit Certification of Determinative State Law Issues to the New York Court of Appeals* (Dec. 1, 1998). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, Professional Discipline, Professional and Judicial Ethics, and Professional Responsibility, *The Proposed Federal Rules of Attorney Conduct: The Wrong Solution for the Wrong Problem* (Dec. 1998). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *Report on the Second Circuit's Rule Regarding Citation of Summary Orders* (July 1998). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *Discovery of Electronic Evidence: Considerations for Practitioners and Clients* (July 1998). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *Report on Judicial Vacancies in the Second Circuit* (Apr. 1997). Copy supplied.

Association of the Bar of the City of New York Council on Judicial Administration, Committee on Federal Courts, *Comments on Proposed Amendments to Rule 23, Federal Rules of Civil Procedure* (Feb. 1997). Copy supplied.



*Jury And The Search For Truth: The Case Against Excluding Relevant Evidence At Trial, Hearing Before The Comm. on the Judiciary*, 104th Cong. app. at 308-320 (Mar. 29, 1995) (letter to Senator Patrick J. Leahy from the Association of the Bar of the City of New York with report, "Proposed Changes to the Exclusionary Rule by the Committee on Federal Legislation Association of the Bar of the City of New York"). Copy supplied.

Cuomo Commission on Competitiveness, *America's Agenda: Rebuilding Economic Strength* (1992). Copy supplied.

- 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.

*Sentencing Guidelines: Hearing before the Subcommittee on Criminal Justice of the H. Comm. On the Judiciary*, 100th Cong. 1 (May 12, 1987) (statement and testimony of Lewis Liman). 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.

The below is a list of all speeches or talks I have delivered, to the best of my recollection, and relying on my personal records.

June 13, 2018: Speaker, "Global Law Week: Defenses in Cross-Border Litigation: Recent Trends and Developments," Global Law Week 2018, hosted by Freshfields Bruckhaus Deringer US LLP at the New York State Bar Association. I have no notes, transcript, or recording. The address for the New York State Bar Association is 1 Elk Street, Albany, New York. I spoke on defenses for litigants involved in cross-border litigations in the United States.

May 11, 2017: Panelist, "Documents and Evidentiary Issues," Trial Advocacy Training for Pro Bono Lawyers, Federal Bar Council, New York, New York. Presentation supplied.

January 24, 2017: Speaker, "Navigating Investigations in the New Administration," Bloomberg BNA and Ernst & Young, New York, New York. I

have no notes, transcript, or recording. The address for Bloomberg LP is 120 Park Avenue, New York, New York, 10165. I spoke on SEC and DOJ enforcement in the new administration.

October 5, 2016: Oral Advocate, Office of the Appellate Defender, 23rd Annual First Monday in October Mock Supreme Court Argument & Gala, New York, New York. Recording supplied.

September 28, 2015: Moderator, "The Long Arm of the U.S. Regulators and Courts," Cleary Gottlieb Steen & Hamilton LLP, Santiago, Chile. Presentation supplied. Video available at <https://vimeo.com/257924272/f1c686bef2>.

October 22, 2014: Discussion Leader, "Crisis Management, Investor Activism, Regulation and Globalization: The Ever-Changing World of Corporate Counsel," Cleary Gottlieb Steen & Hamilton LLP, New York, New York. I have no notes, transcript, or recording. The address for Cleary Gottlieb Steen & Hamilton LLP is One Liberty Plaza, New York, New York 10006. I led a discussion about the changing role of corporate counsel in shareholder litigation.

September 10, 2014: Panelist, "Securities Litigation After Halliburton," The Yale Law School Center for the Study of Corporate Law, New York, New York. I have no notes, transcript, or recording. The address for Yale Law School is 127 Wall Street, New Haven, Connecticut 06511. I spoke on the importance of Halliburton for securities litigation.

June 6, 2014: Speaker, "Civil Appeals and Argument," Commercial Litigation Academy 2014, New York State Bar Association, New York, New York. Presentation supplied.

October 23, 2013: Panelist, "Recent Developments in Document Retention: Legal, Ethical and Practical Advice in the Context of Criminal, Regulatory and Civil Litigation," New York City Bar Association, New York, New York. Presentation supplied.

November 9, 2012: Speaker, "Private Securities Litigation," Practising Law Institute, New York, New York. I have no notes, transcript, or recording. The address for the Practising Law Institute is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036. I spoke regarding considerations in evaluating and defending securities class actions.

November 8, 2012: Moderator, "Governance Watch: Officer and Director Indemnification – Considerations for Companies," The Conference Board's Governance Watch Webcast, New York, New York. Presentation supplied.

October 18, 2012: Speaker, "Pleadings," Commercial Litigation Academy 2012, New York State Bar Association, New York, New York. I have no notes,

transcript, or recording. The address for the New York State Bar Association is One Elk Street, Albany, New York 12207. I spoke generally about how to draft pleadings in various venues and actions.

October 17, 2012: Panelist, "Special Litigation Committees: Role and Ethical Considerations," 2012 Regional Fall Conference, Society of Corporate Secretaries & Governance Professionals, New York, New York. Presentation supplied.

May 6, 2011: Moderator, "Civil Appeals: Brief Writing," New York State Bar Association 2011 Commercial Litigation Academy, New York, New York. I have no notes, transcript, or recording. The address for the New York State Bar Association is One Elk Street, Albany, New York 12207. I spoke on brief writing in appellate litigation.

May 3, 2011: Moderator, "Private Sector, Public Interest: Focus on Law Firm Initiatives," Innovative Approaches to Immigrant Representation: Exploring New Partnerships, Cardozo Law, New York, New York. I have no notes, transcript, or recording. The address for Cardozo Law is 55 Fifth Avenue, New York, New York 10003. I moderated a panel discussion about law firm initiatives in public interest.

March 4, 2010: Thirteenth Annual Liman Colloquium, Yale Law School, New Haven, Connecticut. I have no notes, transcript, or recording. The address for Yale Law School is 127 Wall Street, New Haven, Connecticut 06511. I gave introductory welcoming remarks.

March 5, 2009: Twelfth Annual Liman Public Interest Colloquium, Yale Law School, New Haven, Connecticut. I have no notes, transcript, or recording. The address for Yale Law School is 127 Wall Street, New Haven, Connecticut 06511. I gave introductory welcoming remarks.

March 1, 2007: Tenth Annual Liman Colloquium, Yale Law School, New Haven, Connecticut. The address for Yale Law School is 127 Wall Street, New Haven, Connecticut 06511. I gave brief remarks on the public service legacy of my father, Arthur Liman. Remarks supplied.

November 9, 2006: Panelist, "Ethics Issues," 38th Annual Institute on Securities Regulation, Practising Law Institute, New York, New York. I have no notes, transcript, or recording. The address for the Practising Law Institute is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036. I spoke on ethical considerations in the field of securities regulation.

October 7 or 8, 2004: Speaker, Document Retention and Destruction Under Sarbanes-Oxley, ALI-ABA Continuing Legal Education. Notes supplied.

April 14, 2000: Speaker, "Opening Statements," ALI-ABA Program on Civil

Practice and Litigation Techniques in Federal and State Courts, New Orleans, Louisiana. The address for ALI CLE, formerly ALI-ABA, is 4025 Chestnut Street Philadelphia, Pennsylvania 19104. I spoke on delivering effective opening statements. Handwritten notes supplied.

April 14, 2000: Panelist, "Advanced Evidentiary and Trial Practice Issues," ALI-ABA Program on Civil Practice and Litigation Techniques in Federal and State Courts, New Orleans, Louisiana. I have no notes, transcript, or recording. The address for ALI CLE, formerly ALI-ABA, is 4025 Chestnut Street Philadelphia, Pennsylvania 19104. I spoke on evidentiary and trial practice issues.

April 13, 2000: Speaker, "The Perils of Parallel Proceedings," ALI-ABA Program on Civil Practice and Litigation Techniques in Federal and State Courts, New Orleans, Louisiana. Presentation materials supplied.

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

To the best of my recollection:

Tessa Berenson, *Kellyanne Conway's Husband to Be Nominated to Department of Justice Post*, Time, Mar. 17, 2017. Copy supplied.

Tessa Berenson, *President Trump's Other Big Surprise Court Decision: Culture Warrior or Corporate Lawyer?*, Time, Jan. 25, 2017. Copy supplied.

Statements to media, including a reporter for Time Magazine, in regard to George Conway, Jan. and Apr. 2017. Copy of statement supplied. Reprinted in multiple outlets.

Nate Raymond, *Update 1: Chilean in \$13.2 mln Insider Trading Accord with U.S. Regulators*, Reuters, Oct. 23, 2015. Copy supplied.

*US Judge Orders New Trial for Man on Death Row*, Associated Press, July 24, 2014. Copy supplied. Reprinted in multiple outlets.

Stephanie Russell-Kraft, *Securities Group of the Year: Cleary Gottlieb*, Law 360, Jan. 10, 2014. Copy supplied.

Tracy Alloway, *Heavyweight Champions*, Fin. Times, Nov. 21, 2013. Copy supplied. Reprinted in multiple outlets.

*Juror in Death-Penalty Case Slams Defense Tactics*, Burlington Free Press, Oct. 10, 2013. Copy supplied.

Mark F. Bernstein, *Eisgruber Takes Charge*, Princeton Alumni Wkly., Oct. 9, 2013. Copy supplied.

*Judge to Review Conduct of 3 Jurors in Death Penalty Trial*, Burlington Free Press, June 6, 2013. Copy supplied.

*Amgen Inc.: Supreme Court Affirms Class Certification Ruling*, Class Action Rep., Apr. 10, 2013. Copy supplied.

*U.S. High Court Limits SEC Authority to Seek Penalties*, Reuters, Feb. 27, 2013. Copy supplied. Reprinted in multiple outlets.

Brent Curtis, *Fell seeks new trial*, Times Argus (Montpelier-Barre, Vermont), Mar. 26, 2011. Copy supplied.

Louise Story and Michael Barbaro, *New York State Investigation of Financier Turns Personal; Attorney General's Look into Pension Fund Activity Escalated into a Feud*, Int'l Herald Trib., Dec. 9, 2010. Copy supplied. Reprinted in multiple outlets.

Louise Story and Michael Barbaro, *How Cuomo Inquiry Escalated to Nasty Feud With Financier*, N.Y. Times, Dec. 8, 2010. Copy supplied.

*Lehman Report Puts 'Face' on Financial Crisis*, Dow Jones News Serv., Mar. 19, 2010. Copy supplied.

Alistair Barr, *Lehman Examiner's Report Puts 'Face' on Financial Crisis; Harsh Light Falls on Fuld, Callan, O'Meara; but Criminal Charges May be Difficult*, MarketWatch, Mar. 18, 2010. Copy supplied.

David Scheer and Joshua Gallu, *Report: Lehman CEO was 'Grossly Negligent'*, Bloomberg News, Mar. 13, 2010. Copy supplied. Reprinted in multiple outlets.

Pamela A. MacLean, *In a Split with Other Circuits, 2d Circuit Expands Sentencing Discretion of Judges*, Nat'l L.J., Mar. 10, 2009. Copy supplied.

Christopher S. Rugaber, *SEC sues Marc Gabelli for alleged securities fraud*, Associated Press, Apr. 24, 2008. Copy supplied. Reprinted in multiple outlets.

Marcy Gordon, *Waksals to pay \$5 million in final resolution of SEC civil charges*, Associated Press, Jan. 19, 2005. Copy supplied. Reprinted in multiple outlets.

Erin McClam, *Waksal agrees to \$800,000 fine, ban on corporate leadership*, The Associated Press, Mar. 11, 2003. Copy supplied. Reprinted in multiple outlets.

Peter Morton, *Waksal Silent in Trading Scandal: Former ImClone Boss 'Takes the Fifth' in Probe of FDA-Linked Insider Trading*, Nat'l Post (Canada), June 14, 2002. Copy supplied.

Randi F. Marshall and Susan Harrigan, *Insider-Trading Arrest; Ex-ImClone Chief Charged in Stock Scam*, Newsday, June 13, 2002. Copy supplied.

Andrew Pollack and David Cay Johnston, *Former Chief of ImClone Systems Is Charged With Insider Trading*, N.Y. Times, June 13, 2002. Copy supplied.

Walter Hamilton and Denise Gellene, *Ex-CEO Is Accused of Insider Trading*, L.A. Times, June 13, 2002. Copy supplied. Reprinted in multiple outlets.

Diana B. Henriques and Leslie Eaton, *Once and Future Issue: Subtracting Donations from Damage Awards*, N.Y. Times, Nov. 18, 2001. Copy supplied.

Robert E. Kessler, *Sabbath Prison Term Delayed*, Newsday, Feb. 3, 2001. Copy supplied.

Lois Smith Brady, *WEDDINGS: VOWS; Lisa Cohen and Lewis Liman*, N.Y. Times, Jan. 24, 1999. Copy supplied.

*Ex-Morgan Trainee Admits Stock Fraud*, N.Y. Times, Nov. 8, 1997. Copy supplied.

Chris Brennan, *Medicare Fraud Case Transferred to N.Y.*, Ledger (Lakeland, Florida), May 22, 1997. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

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

- b. Provide citations for all opinions you have written, including concurrences and dissents.

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

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;

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

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

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

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.

I performed volunteer services for John B. Anderson's 1980 campaign for President.

**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 1989 to 1990, I served as a law clerk to the Honorable John Paul Stevens, Supreme Court of the United States.

From 1987 to 1988, I served as a law clerk to the Honorable Pierre N. Leval, then a District Judge for the United States District Court for the Southern District of New York. (Judge Leval is now a Circuit Judge on the United States Court of Appeals for the Second Circuit.)

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

I have never practiced alone.



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

1987

United States Senate Select Committee on the Iran-Contra Affair  
(Committee no longer exists; general Senate address below)  
Dirksen Senate Office Building  
Washington, D.C. 20510  
Volunteer (unpaid)

1987

NAACP Legal Defense & Educational Fund, Inc.  
40 Rector Street, 5th Floor  
New York, New York 10006  
Lawyer

1990 – 1994

Cravath, Swaine & Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019  
Associate

1994 – 1999

United States Attorney's Office for the Southern District of New York  
1 Saint Andrews Plaza  
New York, New York 10007  
Assistant United States Attorney

1999 – 2003

Wilmer, Cutler & Pickering LLP (now WilmerHale)  
7 World Trade Center  
New York, New York 10007  
Partner

2003 – present

Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
42nd Floor  
New York, New York 10006  
Partner

- 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 or arbitrator.

b. Describe:

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

I have handled a broad range of litigation during my career. I began my litigation career in 1987 as a lawyer working for the NAACP Legal Defense & Educational Fund, Inc. ("LDF"), until my clerkship began with Judge Pierre Leval, then on the United States District Court for the Southern District of New York. During that short time period, I assisted the LDF and its clients in cases involving employment discrimination, housing discrimination, voting rights, and capital punishment, among other practice areas.

I then clerked for Judge Leval and, following that clerkship, for Justice John Paul Stevens on the United States Supreme Court. From 1990 to 1994, I was an associate at Cravath, Swaine & Moore, where my primary area of specialty was antitrust litigation and corporate litigation. I also was involved in securities and shareholder derivative litigations, bankruptcy litigation, patent litigation, and arbitrations.

From 1994 to 1999, I was a federal criminal prosecutor and was involved in prosecuting a broad range of federal criminal cases, from stolen credit card and bank fraud prosecutions, to major narcotics cases, to tax and health care frauds and securities fraud to, in one instance, a terrorism case. I helped convict four defendants for the importation into the United States of approximately three thousand pounds of cocaine. Other achievements included the conviction after trial of the Chief Executive Officer of a large public corporation for accounting fraud and the operators of a small broker-dealer firm for penny stock fraud.

Beginning in 1999, and for the last 18 years, I have been in private practice, first at Wilmer, Cutler & Pickering (now WilmerHale), and now at Cleary Gottlieb. My practice has been a varied one. I have represented both companies and individuals in a broad range of commercial litigations and regulatory and white collar criminal investigations, and have litigated a number of appellate cases, including one case before the United States Supreme Court (which was decided unanimously in favor of my client). I have also maintained an active, robust, and diverse pro bono practice.

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

When I began my career at the NAACP, my clients ranged from tenants of a public housing project, to a woman who was a victim of employment discrimination, to criminal defendants.

While at Cravath, I handled a number of complex litigation matters. I represented Time Warner Corporation (in antitrust litigation), IBM (in patent and shareholder derivative litigation), and Witco Corporation (in a state-law tortious interference with contract case). I also represented immigrants in asylum proceedings and represented the New York County District Attorney's Office, pro bono, defending convictions that the Office had obtained in New York State Supreme Court.

During my time in public service as an Assistant U.S. Attorney, I represented the United States and its agencies.

In 1999, I re-entered private practice. My clients at Wilmer, Cutler & Pickering (now WilmerHale) included major securities broker-dealers (including Credit Suisse First Boston Corp. and Citigroup) and audit firms (such as Price Waterhouse Coopers) as well as individuals and companies swept up in securities fraud and white collar criminal investigations. I also continued my pro bono practice. Among other clients, I represented an individual wrongly convicted of a violent crime in Suffolk County, New York, on his successful claim of actual innocence.

At Cleary, I have continued to represent many of the same types of clients as I represented at Wilmer Cutler. Thus, among other clients, I represented Bear, Stearns & Co. (in litigation and investigations related to mutual-fund market timing), Bank of America (in litigation and investigations arising from its acquisition of Merrill Lynch), Bank of New York Mellon Corp. (in litigation and investigations related to the Madoff fraud), and Petrobras (in securities litigation arising out of a bribery investigation in Brazil). I also have represented companies such as IMAX, Sanofi, and Pall Corporation in securities fraud litigation, and I have represented numerous individuals in investigations by the U.S. Securities and Exchange Commission, the U.S. Department of Justice, the New York State Attorney General, and other regulators.

I have also represented clients in other types of disputes. I represented Vale S.A. in litigation arising under the Racketeer Influenced and Corrupt Organizations Act ("RICO") and the Puerto Rico Electric Power Authority in a challenge to the Recovery Act. I also have represented the Office of the New York County District Attorney in a wrongful-prosecution lawsuit brought against it in federal district court as well as an individual in a defamation and tortious interference case in federal district court in California. While at Cleary, I have continued my pro bono practice,

assisting in a number of matters, including the representation of women who were victims of sex-trafficking who were seeking state-court relief to have their records of conviction expunged, victims of Hurricanes Katrina and Harvey, individuals filing clemency petitions, and a police officer who was a defendant in a Section 1983 lawsuit.

- 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.

While in private practice at Cleary, and Wilmer, Cutler & Pickering (now WilmerHale), 100% of my practice was in litigation. I have appeared in court frequently, mainly for pretrial proceedings and for appeals.

As an Assistant United States Attorney, approximately 100% of my practice was in litigation, and I appeared in court on virtually a daily basis, for pre-trial proceedings, trial, sentencings, or appeals.

As an associate at Cravath, Swaine & Moore, approximately 100% of my practice was in litigation, and I rarely appeared in court. My court appearances were limited to a few pretrial proceedings, preparing for trial, and taking extensive depositions. In addition, I argued several appeals in New York State Court defending convictions on behalf of the District Attorney's Office of the County of New York.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 45% |
| 2. state courts of record:  | 15% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 40% |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 75% |
| 2. criminal proceedings: | 25% |

- 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 11 cases to verdict or judgment in federal court in the Southern District of New York. Ten of these cases were jury trials. One was a bench trial. I acted as lead counsel in nine of the cases and, of those, I was sole counsel in seven.

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 91% |
| 2. non-jury: | 9%  |

- 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 argued one case before the United States Supreme Court: *Gabelli v. S.E.C.*, 133 S. Ct. 1216 (2013) (No. 11-1274) (cert. pet. filed Apr. 20, 2012, 2012 WL 1419938; cert. reply filed Aug. 15, 2012, 2012 WL 4428088; supp. br. filed Sept. 10, 2012, 2012 WL 3991470; second supp. br. filed Sept. 21, 2012, 2012 WL 4426419; merits br. filed Nov. 9, 2012, 2012 WL 5532193; merits reply filed Dec. 26, 2012, 2012 WL 6755122). Oral argument transcript supplied.

I also have filed briefs in the Supreme Court, appearing as counsel either for a party or an amicus in the following matters:

*Miller v. Dino La Rosa*, 114 S. Ct. 1049 (1994) (No. 93-659) (cert. pet. filed Oct. 26, 1993). Copy supplied.

*City of Chicago v. Shalala*, 120 S. Ct. 1530 (2000) (No. 99-898) (amicus filed Dec. 27, 1999, 1999 WL 33632746)

*United States v. Booker*, 125 S. Ct. 738 (2005) (Nos. 04-104, 04-105) (amicus filed Sept. 21, 2004, 2004 WL 2097157)

*Arthur Anderson LLP v. United States*, 125 S. Ct. 2129 (2005) (No. 04-368) (amicus filed Feb. 22, 2005, 2005 WL 435901)

*Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008) (Nos. 07-21, 07-25) (amicus filed Nov. 13, 2007, 2007 WL 3440941)

*Henry v. Mukasey*, 129 S. Ct. 68 (2008) (No. 08-68) (cert. pet. filed July 10, 2008, 2008 WL 2773351)

*Vitro, S.A.B. de C.V. v. Ad Hoc Group of Vitro Noteholders*, 133 S. Ct. 1862 (2013) (No. 12-1177) (cert. pet. filed Mar. 25, 2013, 2013 WL 1247972)

*Sears, Roebuck & Co. v. Butler*, 133 S. Ct. 2768 (2013); *Whirlpool Corp. v. Glazer*, 133 S. Ct. 2768 (2013) (Nos. 13-430, 13-431) (amicus filed Nov. 6, 2013, 2013 WL 5967531)

*Halliburton Co. v. Erica P. John Fund, Inc.*, 134 S. Ct. 2398 (2014) (No. 13-317) (amicus filed Jan. 6, 2014, 2014 WL 60718)

*Public Employees' Ret. Sys. of Mississippi v. IndyMac MBS, Inc., et al.*, 135 S. Ct. 42 (2014) (No. 13-640) (amicus filed July 24, 2014, 2014 WL 3704558)

*Puerto Rico v. Franklin California Tax-Free Trust*, 136 S. Ct. 1938 (2016) (Nos. 15-233, 15-255) (amicus filed Jan. 26, 2016, 2016 WL 355052)

*Kokesh v. S.E.C.*, 137 S. Ct. 1635 (2017) (No. 16-529) (amicus filed Mar. 3, 2017, 2017 WL 929702)

*Leidos, Inc. v. Indiana Pub. Ret. Sys.*, 137 S. Ct. 1395 (2017) (No. 16-581) (amicus filed June 28, 2017, 2017 WL 2839266)

*Marinello v. United States*, 137 S. Ct. 2327 (2017) (No. 16-1144) (amicus filed Sept. 8, 2017, 2017 WL 4055645)

*Petroleo Brasileiro S.A. – Petrobras v. Universities Superannuation Scheme Ltd.*, No. 17-664 (2017) (No. 17-664) (cert. pet. filed Nov. 1, 2017, 2017 WL 512730; cert. reply filed Nov. 27, 2017, 2017 WL 5953446)

*China Agritech, Inc. v. Resh*, No. 17-432 (2018) (amicus filed Jan. 29, 2018, 2018 WL 655376)

*Quality Systems, Inc. v. City of Miami Fire Fighters' and Police Officers' Ret. Trust*, No. 17-1056 (2018) (amicus filed Mar. 22, 2018, 2018 WL 1757730)

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. Garcia*, 94 Cr. 78 (JES) (S.D.N.Y.).

I represented the United States in the criminal prosecution of four alleged members of the Cali drug cartel in a narcotics conspiracy case stemming from the seizure in New York of what was, to that point, the largest seizure of cocaine in the United States. I was one of two prosecutors handling the litigation and trial. The trial, which lasted

approximately three weeks, resulted in the criminal convictions of all four defendants. The four defendants were later sentenced to lengthy terms in prison.

The representation lasted from approximately 1994 to approximately 1996 and the case was tried in the United States District Court for the Southern District of New York before Judge John E. Sprizzo.

Co-Counsel:

Lev Dassin (then Assistant United States Attorney, Southern District of New York)  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Counsel for the Defendants:

Michael Steven Ross  
Law Offices of Michael S. Ross  
One Grand Central Place  
60 East 42nd Street, Floor 47  
New York, New York 10165  
(212) 505-4060

Barry E. Schulman  
16 Court Street, #1800  
Brooklyn, New York 11241  
(718) 855-8855

Assemblyman Charles D. Lavine (then in private practice)  
New York State Assembly  
Legislative Office Building 441  
Albany, New York 12248  
(518) 676-0050

Maranda Fritz  
Thompson Hine  
335 Madison Avenue  
New York, New York 10017  
(212) 344-5680

William Joseph Stampur  
Hurwitz Stampur & Roth  
299 Broadway, Suite 800  
New York, New York 10007  
(212) 619-4240

2. *United States v. Abrams*, 95 Cr. 285 (JES) (S.D.N.Y.), *aff'd*, 137 F.3d 704 (2d Cir. 1998).

I represented the United States in the criminal prosecution of a tax accountant, who was mastermind of a large scale tax evasion scheme and who prepared false tax returns and aided and abetted the tax evasion of dozens of clients through the creation of sham tax deductions. The case resulted in the conviction after trial of Mr. Abrams, the lead defendant. In related cases that I handled, over a dozen of his clients were convicted of tax evasion either after trial or through a guilty plea. Mr. Abrams was sentenced to a long term in prison. The other defendants either received shorter prison terms or sentences of probation.

The representation lasted from approximately 1995 to 1998 and the case was tried in the United States District Court for the Southern District of New York before Judge John E. Sprizzo. I also represented the United States on appeal and argued the case successfully before the Second Circuit.

Co-Counsel:

George S. Canellos (then Assistant United States Attorney, Southern District of New York)  
Milbank, Tweed, Hadley & McCloy  
28 Liberty Street  
New York, New York 10005  
(212) 530-5000

Counsel for the Defendants:

William Aronwald  
Aronwald & Pykett  
81 Main Street, Suite 450  
White Plains, New York 10601  
(914) 946-6565

The Honorable Vincent Briccetti (then in private practice)  
United States District Court  
Southern District of New York  
300 Quarropas Street, Room 620  
White Plains, New York 10601  
(914) 390-4166

Counsel for Defendant on appeal:

David L. Lewis  
Lewis & Fiore



225 Broadway, Suite 3300  
New York, New York 10007  
(212) 285-2290

3. *United States v. Moskowitz*, 97 Cr. 1122 (MBM) (S.D.N.Y.), *aff'd* 215 F.3d 265 (2d Cir. 2000).

I represented the United States in the criminal securities fraud prosecution of the Chief Executive Officer of a public company located in New Hampshire. Mr. Moskowitz was charged by the grand jury with masterminding a complex accounting fraud in which several others participated. The other defendants pled guilty to securities fraud. Mr. Moskowitz was convicted after a multi-week trial in the Southern District of New York.

I was lead prosecutor on the investigation and trial. Mr. Moskowitz was sentenced to a lengthy term of imprisonment. The representation lasted from approximately 1997 to 1999 and the case was tried in the United States District Court for the Southern District of New York before Judge Michael B. Mukasey.

Co-Counsel:

David R. Lewis  
United States Attorney's Office  
Southern District of New York  
1 Saint Andrews Plaza  
New York, New York 10007  
(212) 637-2200

Reid Figel (then Assistant United States Attorney, Southern District of New York)  
Kellogg, Hansen, Todd, Figel & Frederick, PLLC  
1615 M Street, Northwest, Suite 400  
Washington, D.C. 20036  
(202) 326-7900

Counsel for the Defendants:

Bruce Karpati (then in private practice at Dechert)  
Kohlberg Kravis Roberts & Co. (New York)  
9 West 57th Street, Suite 4200  
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(212) 750-8300

Janet A. Broeckel (then in private practice at Dechert)  
Goldman, Sachs & Co.  
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(212) 902-1000

Joseph J. Aronica  
Duane Morris LLP  
505 9th Street, Northwest, Suite 1000  
Washington, D.C. 20004  
(202) 776-7800

Jess Fardella (then in private practice)  
Goldman Sachs & Co.  
200 West Street  
New York, New York 10282  
(212) 902-1000

John Carroll  
Skadden, Arps, Slate, Meagher, & Flom, LLP  
4 Times Square  
New York, New York 10036  
(212) 735-3000

4. *Stewart v. Strack*, 99 Cv. 6400 (ERK) (E.D.N.Y.)

I was appointed by the Honorable Edward R. Korman, United States District Judge for the Eastern District of New York, to represent Mr. Stewart, a habeas corpus petitioner who was challenging the constitutionality and lawfulness of his state court conviction for burglary. After filing an amended Section 2254 petition, we convinced the District Attorney for Queens County to investigate and that Office agreed to the vacatur of Mr. Stewart's conviction after reviewing evidence that suggested he was actually innocent.

My appointment began in June 2000 when Judge Korman appointed me to represent Mr. Stewart and the representation concluded in the summer of 2001 after judgment was entered granting the petition and directing that Mr. Stewart be released.

Opposing Counsel:  
Nicoletta J. Caferri  
Office of the District Attorney  
Queens County  
125-01 Queens Boulevard  
Kew Gardens, New York 11415  
(718) 286-6000

5. *INEOS Americas LLC v. The Dow Chem. Co.*, 06 Civ. 7152 (S.D.N.Y.), *aff'd*, 378 Fed. Appx. 74 (2d Cir. 2010).

I tried this breach of contract case in which INEOS alleged that Dow Chemical breached a long-term supply agreement by failing to give it the right to participate in

an expansion project. The principal disputed issue was damages, with INEOS claiming in excess of \$40 million in damages. After Judge Hellerstein found for INEOS on liability, he awarded INEOS \$100 in nominal damages.

My involvement in the case lasted from approximately 2008 to 2010 and the case was tried in the United States District Court for the Southern District of New York before Judge Alvin Hellerstein.

Co-Counsel:

Thomas J. Moloney  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Opposing counsel:

Mark D. Alexander  
Francis H. Morrison, III  
Axinn, Veltrop & Harkrider LLP  
90 State House Square  
Hartford, Connecticut 06103  
(860) 275-8100

Nicholas Emrys  
Owen Gaglio  
Axinn, Veltrop & Harkrider LLP  
114 West 47th Street  
New York, New York 10036  
(212) 728-2200

6. *S.E.C. v. Bank of America*, 09 Civ. 6829 (JSR) (S.D.N.Y.); *In re Bank of America Secs. Litig.*, 09 MDL 2058 (PKC) (S.D.N.Y.).

I was lead counsel for the Bank of America in this securities fraud action brought against it by the SEC. I also was one of the counsel representing the bank in parallel private civil litigation. I represented the bank during the SEC's investigation of the bank's proxy statement issued in connection with its acquisition of Merrill Lynch. That investigation led initially to an agreed-upon settlement alleging that the bank's disclosure of compensation to be paid to Merrill Lynch employees violated federal securities laws. After the court rejected the settlement, I led the Bank's representation in the ensuing civil litigation, including acting as lead counsel with respect to discovery and trial planning and as principal negotiator of a revised settlement the bank reached with the SEC. In the parallel private civil litigation, I was one of the principal lawyers handling both briefing on legal issues and the depositions of the main witnesses. That litigation ended in a settlement negotiated by our co-counsel.

My involvement in the litigation lasted from approximately 2009 to 2013. The SEC lawsuit was managed in the United States District Court for the Southern District of New York before Judge Jed Rakoff. The private civil litigation was before Judge P. Kevin Castel of the Southern District of New York.

Co-Counsel:

Alex Young Kyong Oh  
Paul Weiss Rifkind Wharton & Garrison LLP  
2001 K Street, Northwest  
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(202) 223-7300

Brad Scott Karp  
Daniel Jonathan Kramer  
Mark Floyd Pomerantz  
Theodore Von Wells, Jr.  
Audra Jan Soloway  
Marc Falcone  
Paul Weiss Rifkind Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, New York 10019  
(212) 373-3000

Lawrence B. Friedman  
Mitchell A. Lowenthal  
Victor L. Hou  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Counsel for the Securities and Exchange Commission:

George S. Canellos (then at U.S. Securities and Exchange Commission)  
Milbank, Tweed, Hadley & McCloy  
28 Liberty Street  
New York, New York 10005  
(212) 530-5000

Alexander Mircea Vasilescu  
U.S. Securities and Exchange Commission  
New York Regional Office  
200 Vesey Street, Suite 400  
New York, New York 10281  
(212) 336-1100

Professor David Rosenfeld (then at U.S. Securities and Exchange Commission)  
Northern Illinois University College of Law  
1425 West Lincoln Highway  
DeKalb, Illinois 60115  
(815) 753-1000

Scott Lawrence Black (then at U.S. Securities and Exchange Commission)  
Hudson Bay Capital Management LLC  
777 Third Avenue, 30th Floor  
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(212) 571-1244

Joseph O. Boryshansky (then at U.S. Securities and Exchange Commission)  
Akin Gump Strauss Hauer & Feld LLP  
One Bryant Park  
Bank of America Tower  
New York, New York 10036  
(212) 872-1000

7. *In re IMAX Corp. Secs. Litig.*, 06 Civ. 06128 (NRB) (S.D.N.Y.).

I was lead counsel representing IMAX Corporation and certain officers of IMAX in the United States portion of cross-border securities litigation filed by shareholders against the company and its officers following the company's decision to restate its financial statements. I also represented the company and its officers in a parallel regulatory investigation. The case raised novel issues regarding cross-border securities class action lawsuits. The United States case settled after the federal district court entered a preliminary approval order conditioning settlement on the amendment of a class that had already been certified in Canada to eliminate persons who were eligible to participate in the United States settlement and after the Canadian court (which had certified a global class) so amended the class definition.

My involvement lasted from approximately 2006 to 2013. The case was litigated before the Hon. Naomi Reice Buchwald, United States District Judge, Southern District of New York.

Co-Counsel:

Breon S. Peace  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Co-Counsel Representing Co-Defendant PricewaterhouseCoopers:

M. Byron Wilder (deceased)  
Jennifer Laurie Conn  
Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, New York 10166  
(212) 351-4000

Co-Counsel for Canadian Proceedings:

R. Paul Steep  
Dana M. Peebles  
McCarthy Tétrault  
TD Bank Tower, Suite 5300  
66 Wellington Street West  
Toronto, Ontario M5K 1E6  
(416) 362-1812

Lead Counsel for Plaintiffs:

The first lead plaintiff in this case was represented by Robbins Geller. After the motion of that lead plaintiff for class certification was denied, a new lead plaintiff was appointed, represented by Abbey, Spanier, Rodd & Abrams, LLP.

David Avi Rosenfeld  
Robert M. Rothman  
Robbins Geller Rudman & Dowd LLP  
58 South Service Road, Suite 200  
Melville, New York 11747  
(631) 367-7100

Arthur N. Abbey  
Abbey Spanier, LLP  
212 East 39th Street  
New York, New York 10016  
(212) 889-3700

Richard Barry Margolies (then at Abbey Spanier)  
Financial Industry Regulatory Authority  
One World Financial Center  
200 Liberty Street  
New York, New York 10281  
(646) 315-7312

Jill Sharyn Abrams (then at Abbey Spanier)  
Vermont Attorney General's Office  
109 State Street  
Montpelier, Vermont 05609

(802) 828-1106

8. *In re Beacon Assocs. Litig.*, 09 Civ. 777 (LBS) (S.D.N.Y.); *In re Jeanneret Assocs., Inc.*, 09 Cv. 03907 (CM) (S.D.N.Y.).

I was lead counsel representing Bank of New York Mellon Corporation and its subsidiary Ivy Asset Management LLC (“Ivy”) and individual defendants in these complex consolidated cases brought by the United States Department of Labor and private plaintiffs alleging violations of federal securities law and ERISA, as well as various state laws and arising from the Madoff Ponzi scheme. Ivy was alleged to have provided faulty investment advice to certain funds that, in turn, invested with Madoff; Bank of New York Mellon Corporation was sued primarily as the owner of Ivy. The Office of the New York State Attorney General also conducted an investigation. Ultimately, all the cases were resolved through a novel settlement that brought together a state regulator, a federal regulator, and a large group of private plaintiffs.

The representation lasted from 2009 to 2013. Two federal district judges and one magistrate judge handled the cases: Judge Leonard B. Sand (now deceased, Southern District of New York), Judge Colleen McMahon (Southern District of New York), and Magistrate Judge Andrew Peck (then a Magistrate in the Southern District of New York).

Co-Counsel:

Jeffrey A. Rosenthal  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Counsel for the other defendants included:

Tab Rosenfeld  
Steven Kaplan  
Rosenfeld & Kaplan, LLP  
1180 Avenue of the Americas, Suite 1920  
New York, New York 10036  
(212) 682-1400

Brian E. Whiteley  
Barclay Damon, LLP  
One Financial Center, Suite 1701  
Boston, Massachusetts 02111  
(617) 274-2900

Arthur Jakoby  
Herrick Feinstein LLP

2 Park Avenue  
New York, New York 10016  
(212) 592-1400

Counsel for Plaintiffs:

The private plaintiffs were represented by, among others:

Barbara Hart (lead counsel for the class)  
Lowey, Dannenberg, Cohen & Hart, PC  
44 South Broadway, Suite 1100  
White Plains, New York 10601  
(914) 997-0500

David Preminger  
Keller Rohrback LLP  
1140 Avenue of the Americas, Ninth Floor  
New York, New York 10036  
(646) 380-6690

The New York Attorney General was represented by:

Roger Waldman  
Office of the New York Attorney General  
28 Liberty Street  
New York, New York 10005  
(212) 416-8000

The Department of Labor was represented by:

Risa D. Sandler  
Robert Furst  
U.S. Department of Labor, Office of the Solicitor  
Frances Perkins Building  
200 Constitution Avenue, Northwest  
Washington, D.C. 20210  
(202) 693-5600

9. *S.E.C. v. Gabelli*, 653 F.3d 49 (2d Cir. 2011), *rev'd*, 568 U.S. 442 (2013).

I was lead counsel representing a fund manager, Mr. Gabelli, in securities litigation instituted against him by the U.S. Securities and Exchange Commission. The principal allegation against Mr. Gabelli was that he violated the Investment Advisers Act of 1940 by permitting a form of abusive trading called market-timing in a mutual fund that he managed without informing the board of that mutual fund. We successfully moved in the District Court for the Southern District of New York (Hon. Deborah A. Batts) to have the claim for penalties dismissed on grounds that it was



barred by the applicable statute of limitations. The United States Court of Appeals for the Second Circuit (by District Judge Jed Rakoff and Circuit Judges Denny Chin and Debra Ann Livingston) reversed that order, but the United States Supreme Court, in turn, unanimously reversed the Second Circuit.

I handled the case in the district court and argued the case in the Second Circuit and the United States Supreme Court. After the Supreme Court's ruling in our favor, the SEC dismissed with prejudice all charges against Mr. Gabelli. The representation began in 2003 and ended in 2014.

Co-Counsel:

Breon S. Peace  
Michael R. Lazerwitz  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, New York 10006  
(212) 225-2000

Co-Counsel on Appeal:

David R. Lurie  
Law Office of David R. Lurie  
194 President Street  
Brooklyn, New York 11231  
(347) 651-0194

Edward McDonald (also represented co-defendant)  
Kathleen Massey  
Dechert LLP  
1095 Avenue of the Americas  
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(212) 698-3500

Opposing Counsel:

Kevin O'Rourke (retired)  
formerly at U.S. Securities & Exchange Commission  
100 F Street, Northeast  
Washington, D.C. 20549  
(202) 551-6000

Jill Henderson  
U.S. Securities & Exchange Commission  
100 F Street, Northeast  
Washington, D.C. 20549

(202) 551-6000

Opposing Counsel for Appeal:

Dominick Freda  
U.S. Securities & Exchange Commission  
100 F Street, Northeast  
Washington, D.C. 20549  
(202) 551-6000

Opposing Counsel in Supreme Court:

Jeffrey B. Wall  
Malcolm Stewart  
Office of the Solicitor General  
United States Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, D.C. 20530  
(202) 514-2203

10. *In re Petrobras Secs. Litig.*, No. 14-cv-9662 (JSR) (S.D.N.Y.); *In re Petrobras Secs.*, 862 F.3d 250 (2d Cir. 2017)

I am acting as lead counsel defending Petroleo Brasileiro (“Petrobras”), Brazil’s national oil company, in one of the largest securities fraud class actions in history. The securities action asserts both Securities Act and Exchange Act claims against Petrobras, including allegations that Petrobras made materially false and misleading statements in its various offering documents, annual reports, and financial statements.

The matter involves nearly thirty opt-out actions involving large institutional investors, which we have simultaneously coordinated with the main action on an expedited basis. Following consolidation of the action in the Southern District of New York, we successfully dismissed a number of claims at the district court level. After the district court certified a class, we also successfully sought interlocutory appeal of the class certification under Rule 23(f), advancing a number of novel legal arguments. The Second Circuit ruled for us on one of three issues and vacated the order of class certification. Following the Second Circuit’s ruling, we filed a petition to the Supreme Court seeking certiorari for the remaining two challenges.

Following the appeal, the parties reached a settlement of the securities class action. The motion for approval of the class action settlement remains sub judice. A number of the individual actions either settled or are participating in the class action settlement.

I have handled the case in the district court, argued the case in the Second Circuit, and am handling the case in the United States Supreme Court. The representation began

in 2014 and continues to the present day.

Counsel for Lead Plaintiffs:

Jeremy A. Lieberman  
Marc I. Gross  
Emma Gilmore  
John Kehoe  
Pomerantz LLP  
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New York, New York 10016  
(212) 661-1100

Co-Counsel:

Roger A. Cooper  
Elizabeth Vicens  
Mitchell A. Lowenthal  
Cleary Gottlieb Steen & Hamilton LLP  
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Counsel for the Underwriters:

Jay B. Kasner  
Scott D. Musoff  
Jeremy A. Berman  
Skadden, Arps, Slate, Meagher & Flom LLP  
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Counsel for PWC Brazil

Israel Dahan  
James J. Capra, Jr.  
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Kenneth Yeatts Turnbull  
Michael Pauze  
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Lauren Webb Mitchell (then at King & Spaulding LLP)  
PricewaterhouseCoopers LLP  
300 Madison Avenue  
New York, New York 10017  
(646) 471-1100

Counsel for Defendant Jose Sergio Gabrielli

Elkan Abramowitz  
Edward M. Spiro  
Jasmine Marie Juteau  
Howard Adam Locker  
Morvillo, Abramowitz, Grand, Iason & Anello P.C.  
565 5th Avenue  
New York, New York 10017  
(212) 856-9600

Counsel for Defendant Maria Das Gracas Silva Foster:

Richard Mark Strassberg  
Daniel Prugh Roeser  
Goodwin Procter, LLP (NYC)  
The New York Times Building  
620 Eighth Avenue  
New York, New York 10018  
(212) 813-8800

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.)

Participation in Task Forces and Committees

Separate from my full time practice, I have had the honor of serving on three task forces devoted to the administration of justice: (1) "The Grand Jury Project" (a report to Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman), (2) "The Task Force on the Lawyer's Role in Corporate Governance of the Association of the Bar of the City of New York," and (3) the Chief Judge's "Task Force on Commercial Litigation in the 21st Century."

For these task forces, I participated in committee discussions, drafted portions of the reports (or was on subcommittees that drafted portions of the reports), conducted research, and provided critical commentary. Each report and committee made a contribution in its own distinctive way to the improvement of the administration of justice in New York. For the Grand Jury Project, I chaired a Subcommittee that developed a series of recommendations designed to make the grand jury more inclusive and grand jury service less onerous. As a member of the Task Force on Corporate Governance, I examined the role of counsel in several well-publicized corporate scandals in the aftermath of Enron, and helped develop a set of best practices for counsel, including best practices for lawyers conducting investigations. Finally, the Task Force on Commercial Litigation developed a set of recommendations designed to improve the efficiency of the commercial courts in the State of New York and the quality of justice they provide. In addition to the above committee participation, in 2008, I joined the Study Group on Immigrant Representation at the invitation of Chief Judge Robert A. Katzmann of the United States Court of Appeals for the Second Circuit. During my tenure with the Study Group, its primary objective was with respect to the representation of persons in removal and asylum proceedings.

#### Amicus counsel to SIFMA and United States Chamber of Commerce

I have represented the principal industry group for the securities industry as amicus curiae in a series of cases involving, among other things, the duties of an underwriter of securities to the company whose securities it has underwritten and the scope of the equitable tolling doctrine in federal securities class action lawsuits. These cases include: *Quality Sys., Inc. v. City of Miami Fire Fighters' and Police Officers' Ret. Trust.*, No. 17-1056 (2018) (amicus brief for the Securities Industry and Financial Markets Association and the Chamber of Commerce supporting petitioners); *Pub. Emps.' Ret. Sys. of Mississippi v. IndyMac MBS, Inc., et al.*, 135 S. Ct. 42 (2014) (brief for the Securities Industry and Financial Markets Association as amicus curiae in support of respondents); *EBC I, Inc. v. Goldman, Sachs & Co.*, Index No. 601805/02 (2013) (duties of underwriter to company whose securities it is underwriting); *Int'l Fund Mgmt. S.A. v. Citigroup Inc.*, No. 12-1903-cv (2d Cir. 2012) (scope of American Pipe equitable tolling doctrine); *Stichting Pensioenfonds ABP v. Countrywide Fin. Corp.*, Nos. 11-56642 & 11-57135 (9th Cir. 2011) (same); *The Western & Southern Life Ins. Co. v. Countrywide Fin. Corp.*, No. 12-57303 (9th Cir. 2012) (same); and *China Agritech, Inc. v. Resh*, No. 17-432 (2018) (brief for the Securities Industry and Financial Markets Association as amicus curiae in support of respondents). In these briefs, I have advocated the importance of clear, understandable, and easily administered legal rules applied to complex commercial activity.

I have also written briefs for the U.S. Chamber of Commerce in the following cases: *In re Intuitive Surgical Secs. Litig.*, No. 17-80001 (9th Cir. 2017) (amicus brief for the Chamber of Commerce of the United States in support of petition for leave to appeal pursuant to Federal Rule of Civil Procedure 23(f)); *In re High-Tech Emp. Antitrust Litig.*, No. 13-80223 (9th Cir. 2013) (amicus brief for the Chamber of Commerce of the United States, the California Chamber of Commerce, and the National Association of

Manufacturers in support of petition for Rule 23(f) appeal of class certification order); *Pension Funds v. Goldman Sachs Group, Inc.*, No. 16-0250-cv (2d Cir. 2016) (amicus brief for the Chamber of Commerce of the United States in support of appeal seeking reversal of class certification pursuant to Federal Rule of Civil Procedure 23(f)); *IBEW Local 98 Pension Fund v. Best Buy Co.*, No. 14-3178 (8th Cir. 2014) (amicus brief for the Chamber of Commerce of the United States supporting defendants-appellants for reversal); and *Marinello v. United States*, 137 S. Ct. 2327 (2017) (amicus brief for the Chamber of Commerce of the United States and the National Federation of Independent Business supporting defendant-petitioner).

#### Other Key Representations

Many of my representations have never concluded in a litigated court case. My departure from the United States Attorney's Office for the Southern District of New York coincided with several large-scale corporate scandals. At Wilmer Cutler, I represented Credit Suisse First Boston in the scandal over the allocation of shares in hot initial public offerings and Citigroup in the investigations by the New York Attorney General and the SEC of research analyst ratings. I played a leading role in both representations. For Credit Suisse First Boston, I represented its employees in testimony taken by regulators, coordinated with counsel for the individuals, prepared the memorandum on behalf of Credit Suisse arguing that it should not be charged with violations of the securities laws, and ultimately negotiated a resolution with the SEC and the other involved self-regulatory organizations. For Citigroup, once again, I represented a number of individuals in testimony, helped develop the factual record, drafted the legal memoranda presenting arguments on behalf of Citigroup, and – along with other counsel – helped negotiate the settlement that resolved the investigations.

I have also represented several executives whose conduct has been investigated by the United States Department of Justice, the Securities and Exchange Commission, and the New York Attorney General's Office.

Finally, I acted as lead counsel for Sanofi-Aventis in a class action securities fraud litigation arising from the failure to be approved of one of Sanofi's blockbuster pharmaceutical drugs. *See In re Sanofi-Aventis Sec. Litig.*, No. 1:07-cv-10279 (GBD). The case settled in late 2013 and I represented Sanofi-Aventis from the beginning of the lawsuit in 2007 until its conclusion in 2014. The case presented novel issues of cross-border litigation: a French company sued in the United States, in part, based on trading of ordinary shares traded on exchanges located exclusively outside of the United States.

#### Arthur Liman Public Interest Program at Yale Law School

When my father, Arthur Liman, passed away in 1997, his friends and former clients established a Chair and Public Interest Program in his name. For a period of time, I participated as a non-voting member in the selection committee. Each year, the Program grants one-year fellowships to graduates of Yale Law School who practice in the public interest, as well as summer fellowships to students at the following colleges: Barnard, Brown, Harvard, Princeton, Spellman, and Yale. Since the program's creation, fellows have been selected to work in a range of areas, from housing rights to elder law to

environmental law to protecting the rights of young girls who are victims of sex trafficking to criminal justice. These fellows generally are young lawyers who have decided to devote some portion of their careers to serving communities of persons with recognized legal rights but who have been underserved by the legal community.

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

I taught a course on voting rights as an adjunct professor of law at New York University School of Law in the spring of 1991. The major topics covered included the Equal Protection Clause, the Fifth Amendment, and the Voting Rights Act. I do not have a syllabus for this course.

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 am entitled to receive retirement benefits from my current firm, Cleary Gottlieb Steen & Hamilton LLP, and anticipate entering into an arrangement that would terminate any financial relationship between me and Cleary Gottlieb while compensating me for the value of those benefits.

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.

No.

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 Statement.

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

See attached Financial Disclosure 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 ever played a role. I expect to terminate any continuing financial relationship with my law firm, but I also anticipate recusing for a period of time from matters involving the firm. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, 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 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.

My commitment to public service and pro bono work is longstanding. It was inspired by my father, the late Arthur Liman, who wrote: "Public service is not an act of duty or charity. For a lawyer, it is as natural as breathing. It is what we do when we are at our best."

I have tried in my career to combine public service and pro bono work with private practice. As an associate at Cravath, Swaine & Moore, I successfully handled three asylum applications for individuals who feared persecution in their home countries as a result of their political views. On a pro bono basis, I also handled several appeals for the New York County District Attorney's Office, represented the first person sentenced to death under the then-new federal death penalty statute, and served on several committees of the New York City Bar Association.

After I left Cravath in 1993, I had the opportunity to serve the United States as an Assistant United States Attorney. Although the work was not pro bono, it was public service. I had the privilege to represent the United States in a wide variety of criminal prosecutions, ranging from credit card fraud to immigration fraud to bank fraud, mail



fraud and securities fraud to serious narcotics violations. I also served as Deputy Chief of Appeals.

I joined Wilmer Cutler & Pickering in New York in 1999. Although the bulk of my practice consisted of representing paying clients, I also had the opportunity to do pro bono work. In one instance, I was appointed by the United States District Court for the Eastern District of New York to represent an individual who claimed that he was wrongfully convicted of a property offense in state court. After presenting the facts to the District Attorney for Queens County, that office agreed to dismiss the indictment and release my client on the grounds of his innocence.

At Cleary Gottlieb I have continued to do pro bono work. Among other projects, I represented a defendant sentenced to death in federal court, I helped launch a project to provide services to victims of hurricanes, and I help lead a project to assist women victims of sex trafficking to have their sex-related convictions expunged under New York state law.

Finally, from 2012 until earlier this year, I was the Chairman of the Federal Bar Council's Public Service Committee, which is comprised primarily of private practitioners who practice within the federal courts of the Second Circuit and who are committed to furthering the public interest and promoting public service.

**26. Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On May 7, 2015, I met with the Judicial Screening Committee for Senator Chuck Schumer which recommended my nomination to Senator Schumer. On August 11, 2015, I was interviewed by Senator Schumer.

On April 12, 2017, I was interviewed by the Office of White House Counsel. On November 21, 2017, I was informed by the Office of the White House Counsel that I should complete forms for a FBI Security Check. On November 29, 2017, I informed the White House Counsel's Office that I completed my SF-86 and I communicated with the White House Counsel's Office on November 30, 2017. On December 1, 2017, I spoke to the Justice Department Office of Legal Policy regarding logistical issues.

Since the interview, I have continued to have sporadic communications with individuals from the Department of Justice and the White House Counsel's Office. On May 15, 2018, the President submitted my nomination to the Senate.

I have communicated regularly with the Office of Legal Policy in the preparation of my answers to this questionnaire and the completion of other related materials.

- 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.