

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Kirk Edward Sherriff

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

United States District Judge for the Eastern District of California

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

United States Attorney's Office, Eastern District of California
Robert E. Coyle Federal Courthouse
2500 Tulare Street, Suite 4401
Fresno, California 93704

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

1968; Berkeley, California

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.

1992 – 1995, Harvard Law School; J.D., 1995

1990, University of Mississippi, School of Education; Mississippi Teacher Corps training classes (no degree received)

1988 – 1989, University of Paris VII (study abroad, no degree received)

1986 – 1990, Columbia College, Columbia University; B.A., 1990

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.

2002 – present
United States Attorney’s Office, Eastern District of California
Robert E. Coyle Federal Courthouse
2500 Tulare Street, Suite 4401
Fresno, California 93704
Chief, Fresno Office (2015 – present)
Chief, White Collar Crime Unit (2013 – 2015)
Assistant U.S. Attorney, Criminal Division (2007 – present)
Assistant U.S. Attorney, Civil Division (2002 – 2007)

1997 – 2001, 1995 – 1996, Summer 1994
White & Case LLP
1221 Avenue of the Americas
New York, New York 10020
Associate (1997 – 2001; 1995 – 1996)
Summer Associate (1994)

1996 – 1997
New Jersey Supreme Court
Richard J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625
Law Clerk for the Honorable Deborah T. Poritz

June 1995
Harvard Law School
1585 Massachusetts Avenue
Cambridge, Massachusetts 02138
Short-Term Data Project Assistant for Professor Charles Donohue

November 1994
Harvard Law School
1585 Massachusetts Avenue
Cambridge, Massachusetts 02138
Short-Term Research Project Assistant for Professor Laurence Tribe (Emeritus)

Summer 1993
Bulawayo Legal Projects Centre
Legal Resources Foundation
94 Fort Street
Bulawayo, Zimbabwe
Summer Intern (unpaid)

Summer 1992
University of California, Davis, Extension

International Training and Education Center
(now University of California, Davis, Continuing and Professional Education)
International Center Building
463 California Avenue, Suite 1130
Davis, California 95616
English Instructor

1991 – 1992
College Carnot
43 Boulevard Carnot
Lille, France
Assistant English Teacher

1991 – 1992
College des Flandres (now College Yvonne Abbas)
64 bis Rue des Gantois
La Madeleine, France
Assistant English Teacher

Summer 1991
Institute of International Education
One World Trade Center
285 Fulton Street, 36th Floor
New York, New York 10007
Clerical Support

1990 – 1991
Amanda Elzy High School
604 Elzy Avenue
Greenwood, Mississippi 38930
Teacher

1990 – 1991
Leflore County High School
401 Lakeside Drive
Itta Bena, Mississippi 38941
Teacher

Other Affiliations (Uncompensated)

1993 – 1994
Harvard Legal Aid Bureau

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.

National Association of Former United States Attorneys, Exceptional Service Award (2015)

Federal Bureau of Investigation, Certificates of Appreciation (2014, 2012)

Council of the Inspectors General on Integrity and Efficiency, Gaston L. Gianni, Jr. Better Government Award (2013)

United States Postal Inspection Service, Certificate of Appreciation (2013)

United States Department of Agriculture, Office of Inspector General, Certificate of Appreciation (2013)

United States Attorney's Office for the Eastern District of California, Special Act Awards (2006, 2008)

United States Department of Agriculture, Certificate of Appreciation (2005)

United States Attorney's Office for the Eastern District of California, Time-Off and On-The-Spot Awards (numerous times between 2003 and 2021)

Harvard Law School
Cum laude (1995)

Harvard Human Rights Journal
Co-Editor in Chief (1994 – 1995)

Columbia College, Columbia University
Cum laude (1990)

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.

California Lawyers Association

Federal Bar Association, San Joaquin Valley Chapter
Board Member (2018 – present)

President (2021)
Vice-President (2020)

Fresno County Bar Association (2004 – 2011; 2015 – 2017)

National Association of Assistant U.S. Attorneys

United States District Court for the Eastern District of California
COVID Jury Trial Committee (2020 – 2021)
Judicial Advisory Committee (2021)
Standing Merit Selection Panel, Chair (2020; 2017)

10. **Bar and Court Admission:**

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

California, 2002
New Jersey, 1996
New York, 1996

There have been no lapses in membership. After I was admitted to the California bar, I resigned from the New Jersey bar in 2003 because I did not want to maintain three bar memberships.

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

United States Court of Appeals for the Ninth Circuit, 2002
United States District Court for the Eastern District of California, 2002
United States District Court for the Northern District of California, 2002
United States District Court for the District of New Jersey, 1997
United States District Court for the Eastern District of New York, 1997
United States District Court for the Southern District of New York, 1997

There have been no 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.

ACLU of Southern California (2019 – present)

Fig Garden Swim & Racquet Club (2003 – present)

Valley Public Radio (approximately 2003 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, the organizations listed above do not currently discriminate, nor did they formerly discriminate, 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.

Columbiafest Defended, Columbia Daily Spectator (Apr. 30, 1990). Copy supplied.

Candidate Statement, Columbia Daily Spectator (Mar. 24, 1987). 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.

United States District Court for the Eastern District of California, COVID Jury Trial Committee, *Proposed COVID Jury Trial Plan* (Final Draft, Apr. 15, 2021). Copy supplied.

United States District Court for the Eastern District of California, COVID Jury

Trial Committee, *Proposed COVID Jury Trial Plan* (June 2, 2020). Copy supplied.

United States District Court for the Eastern District of California, COVID Jury Trial Committee, *Eastern District of California COVID-19 Prescreening Questionnaire* (June 2, 2020). Copy supplied.

Standing Merit Selection Panel, *Panel Report to the United States District Court for the Eastern District of California* (July 21, 2020) (regarding the reappointment of a United States Magistrate Judge). I am unable to provide a copy of this report as it was a confidential report to the district court.

Standing Merit Selection Panel, *Panel Report to the United States District Court for the Eastern District of California* (May 13, 2020) (regarding the appointment of a new United States Magistrate Judge). I am unable to provide a copy of this report as it was a confidential report to the district court.

Standing Merit Selection Panel, *Panel Report to the United States District Court for the Eastern District of California* (Sept. 29, 2017) (regarding the appointment of a new United States Magistrate Judge). I am unable to provide a copy of this report as it was a confidential report to the district court.

Standing Merit Selection Panel, *Panel Report to the United States District Court for the Eastern District of California* (July 21, 2017) (regarding the reappointment of a United States Magistrate Judge). I am unable to provide a copy of this report as it was a confidential report to the district court.

Standing Merit Selection Panel, *Panel Report to the United States District Court for the Eastern District of California* (July 14, 2017) (regarding the reappointment of a United States Magistrate Judge). I am unable to provide a copy of this report as it was a confidential report to the district court.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

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

If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following list reflects my best efforts to identify the presentations or talks that I have given, based on a review of my records and publicly available information. There may, however, be other presentations or talks that I have been unable to recall or identify, as I may have spoken briefly at events for which I did not retain any record.

June 1, 2023: Speaker, United States Attorney's Office Overview, Bullard High School, Fresno, California. Presentation supplied.

March 28, 2023: Speaker, Federal Hate Crimes, Stop the Hate event, Madera, California. Presentation supplied.

March 17, 2023: Speaker, United States Attorney's Office Overview, United States District Court and Federal Bar Association's Open Doors program for high school students, United States Courthouse, Fresno, California. Presentation supplied.

February 28, 2023: Welcoming Remarks, School Safety Symposium – Active Shooter Threat Prevention and Response, Kermit Koontz Educational Complex, Career Technical Education Center, Fresno, California. Notes supplied.

November 9, 2022: Class discussion facilitator, Operation Protect and Defend civics program: The Second Amendment, at Roosevelt High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Second Amendment. Roosevelt High School is located at 4250 East Tulare Avenue, Fresno, California 93702.

August 25, 2022: Welcoming Remarks, Houses of Worship Symposium, Peoples Church, Fresno, California. Notes supplied.

April 19, 2022: Speaker, United States Attorney's Office Overview, FBI Citizens Academy, FBI Office, Fresno, California. Presentation supplied.

April 8, 2022: Brief remarks, Islamic Cultural Center of Fresno, Fresno, California. I have no notes, transcript, or recording. I gave brief remarks on behalf of the United States Attorney's Office at an Iftar dinner. The Islamic Cultural Center of Fresno is located at 2111 East Nees Avenue, Fresno, California 93720.

April 5, 2022: Speaker, United States Attorney's Office Overview, United States Courthouse, Fresno, California. I have no notes, transcript, or recording. I spoke to Bullard High School students about the role of the United States Attorney's Office. The address for the United States District Court for the Eastern District of

California is 2500 Tulare Street, Fresno, California 93721.

March 30, 2022: Class discussion facilitator, Operation Protect and Defend civics program: The Second Amendment, at Roosevelt High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Second Amendment. Roosevelt High School is located at 4250 East Tulare Avenue, Fresno, California 93702.

February 22, 2022: Class discussion facilitator, Operation Protect and Defend civics program: The Second Amendment, at Roosevelt High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Second Amendment. Roosevelt High School is located at 4250 East Tulare Avenue, Fresno, California 93702.

November 20, 2020: Class discussion facilitator, Operation Protect and Defend civics program: Celebrating the 14th Amendment to the U.S. Constitution, at CART High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Fourteenth Amendment. CART High School is located at 2555 Clovis Avenue, Clovis, California 93612.

September 25, 2020: Speaker, United States Attorney's Office Overview, Reedley College Constitution Week Conference, Reedley, California. Presentation supplied.

April 30, 2020: Moderator, Federal Bar Association Question and Answer Program with the Chief United States District Judge and the Clerk of Court, United States District Court, Eastern District of California (via Zoom). Notes supplied.

November 13, 2019: Class discussion facilitator, Operation Protect and Defend civics program: Celebrating the 14th Amendment to the U.S. Constitution, at Edison High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Fourteenth Amendment. Edison High School is located at 540 East California Avenue, Fresno, California 93706.

November 13, 2019: Class discussion facilitator, Operation Protect and Defend civics program: Celebrating the 14th Amendment to the U.S. Constitution, at CART High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Fourteenth Amendment. CART High School is located at 2555 Clovis Avenue, Clovis, California 93612.

June 12, 2019: Speaker, United States Attorney's Office Overview, United States District Court's Summer Institute for Teachers. I have no notes, transcript, or recording. I spoke to teachers about the role of the United States Attorney's Office. This program was run by the United States District Court at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

May 20, 2019: Brief remarks, Islamic Cultural Center of Fresno, Fresno, California. Notes supplied.

March 1, 2019: Speaker, United States Attorney's Office Overview, Open Doors program for high school students. I have no notes, transcript, or recording. I spoke to the students about the role of the United States Attorney's Office and introduced speakers from other agencies. The Open Doors program was run by the United States District Court and the Federal Bar Association at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

November 14, 2018: Class discussion facilitator, Operation Protect and Defend civics program: WWII: The Japanese-American Internment Cases, at CART High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Japanese-American internment cases. CART High School is located at 2555 Clovis Avenue, Clovis, California 93612.

November 6, 2018: Class discussion facilitator, Operation Protect and Defend civics program: WWII: The Japanese-American Internment Cases, at Edison High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Japanese-American internment cases. Edison High School is located at 540 East California Avenue, Fresno, California 93706.

September 20, 2018: Speaker, United States Attorney's Office Overview, Reedley College Constitution Week Conference, Reedley, California. Presentation supplied.

September 19, 2018: Panelist, Hate Crimes and the Impact on Minority Communities, California State University, Fresno, Fresno, California. Presentation supplied.

September 6, 2018: Speaker, United States Attorney's Office – Federal Criminal and Immigration Update, Fresno and Madera Counties Police Chiefs Association Meeting, Pismo Beach, California. Presentation supplied.

July 31, 2018: Speaker, Waking in Oak Creek Film Program, California State University Police Chiefs Meeting, 401 Golden Shore, Long Beach, California 90802. Presentation supplied.

June 5, 2018: Brief remarks, Islamic Cultural Center of Fresno, Fresno, California. Notes supplied.

March 2, 2018: Speaker, United States Attorney's Office Overview, Open Doors program for high school students. I have no notes, transcript, or recording. I spoke to the students about the role of the United States Attorney's Office and introduced speakers from other agencies. The Open Doors program was run by

the United States District Court and the Federal Bar Association at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

November 30, 2017: Panelist, Legal Ethics in the Criminal Justice System, The Ethics Center, California State University, Fresno, Fresno, California. I have no notes, transcript, or recording. I and the other panelists addressed legal ethics issues relating to the criminal justice system. The address for The Ethics Center at California State University, Fresno, is 2380 East Keats M/S MB105, Fresno, California 93740.

November 17, 2017: Class discussion facilitator, Operation Protect and Defend civics program: WWII: The Japanese-American Internment Cases, at McClane High School. I have no notes, transcript, or recording. I helped lead a class discussion concerning the Japanese-American internment cases. McClane High School is located at 2727 North Cedar Avenue, Fresno, California 93703.

November 6, 2017: Speaker, United States Attorney's Office Overview, California State University, Fresno, Fresno, California. I have no notes, transcript, or recording. I spoke to an Introduction to Criminal Justice class about the role of the United States Attorney's Office. The address for the Criminology Department at California State University, Fresno, is 2576 East San Ramon, MS/ST104, Fresno, California 93740.

September 26, 2017: Speaker, United States Attorney's Office Overview and Human Trafficking Prosecutions, Madera County Bar Association, Oakhurst, California. Presentation supplied.

September 19, 2017: Panel Moderator, Stronger Communities Through Diversity and Understanding, Waking in Oak Creek – Film Screening and Panel Discussion, California State University, Bakersfield, Bakersfield, California. Notes supplied.

June 13, 2017: Speaker, United States Attorney's Office Overview, United States District Court's Summer Institute for Teachers. I have no notes, transcript, or recording. I spoke to teachers about the role of the United States Attorney's Office. This program was run by the United States District Court at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

October 21, 2016: Speaker, *Miranda v. Arizona*, McClane High School, Fresno, California. Notes supplied.

October 12, 2016: Speaker, *Miranda v. Arizona*, Clovis North High School, Clovis, California. Notes supplied.

October 8, 2016: Brief remarks, Muslim American Chaplains Association Awards Banquet. I have no notes, transcript, or recording. I gave brief remarks

on behalf of the United States Attorney's Office at an awards banquet for prison chaplains. The event was held at Ramada Fresno North, 324 East Shaw Avenue, Fresno, California 93710.

September 14, 2016: Panel Moderator, Stronger Communities Through Diversity and Understanding, Waking in Oak Creek – Film Screening and Panel Discussion, California State University, Fresno, Fresno, California. Notes and press coverage supplied.

May 3, 2016: Speaker, Rural Crimes Prosecutions, Rural Crimes Task Force Meeting, South Lake Tahoe, California. Presentation supplied.

April 29, 2016: Speaker, 50th Anniversary of *Miranda v. Arizona*, Yosemite Law Day, United States District Court for the Eastern District of California, Yosemite Valley, California. Notes supplied.

March 4, 2016: Speaker, United States Attorney's Office Overview, Open Doors program for high school students. I have no notes, transcript, or recording. I spoke to the students about the role of the United States Attorney's Office and introduced speakers from other agencies. The Open Doors program is hosted by the United States District Court and the Federal Bar Association at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

January 26, 2015: Speaker, United States Constitution, Edison Computech Middle School, Fresno, California. Presentation supplied.

March 7, 2014: Speaker, United States Attorney's Office Overview, Open Doors program for high school students. I have no notes, transcript, or recording. I spoke to the students about the role of the United States Attorney's Office and introduced speakers from other agencies. The Open Doors program is hosted by the United States District Court and the Federal Bar Association at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

December 1, 2011: Speaker, United States Constitution, Edison Computech Middle School, Fresno, California. Presentation supplied.

September 29, 2010: Panel Moderator, Financial Fraud Enforcement Task Force – Mortgage Fraud Working Group Meeting, United States Courthouse, Fresno, California. The panel was on mortgage fraud issues in the Central Valley. I have no notes, transcript, or recording, but press coverage is supplied. The meeting was held at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

- 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.

The following list reflects my best effort to identify the interviews in which I have participated, based on a review of my records and publicly available information.

Press Conference, United States Courthouse, Fresno, California (May 26, 2023). Video available at <https://kmpfh.com/news/local/multi-agency-drug-and-gang-bust-in-fresno-county-fbi-dea-magec-highway-patrol-department-of-justice> and representative press coverage supplied.

Press Conference, Fresno Police Department, Fresno, California (September 14, 2022). Video available at <https://www.yourcentralvalley.com/news/local-news/no-danger-at-bullard-high-school-fresno-police-say> and representative press coverage supplied.

Gary Silverman, *Welcome to Bakersfield, California: How an Ordinary Town Became One of the Home Foreclosure Capitals of America*, Financial Times (Feb. 7, 2014). Copy supplied.

David, Jennifer Crisp Plead Guilty in Court, Bakersfield Californian (Dec. 16, 2013). Copy supplied.

Surrogate Parenting Agent Pleads Guilty to Fraud, Associated Press (Feb. 20, 2013). Copy supplied.

Courtenay Edelhart, *Fifth Guilty Plea Entered in Crisp and Cole Fraud Case*, Bakersfield Californian (July 2, 2010). Copy supplied.

Gretchen Wenner, *Fourth Guilty Plea in Crisp and Cole Case Entered*, Bakersfield Californian (Jan. 26, 2010). Copy supplied.

John Cox & Steven Mayer, *Crisp & Cole Ex-Staffer Pleads Guilty to Federal Fraud Charges*, Bakersfield Californian (Sept. 29, 2009). Copy supplied.

John Ellis, *Market Agrees to Meat Checkup: Fresno Store Resolves Case by Making Deal with USDA Inspectors*, Fresno Bee (Dec. 31, 2005). Copy supplied.

Student Election Forum Extracts Issues, Columbia Daily Spectator (Mar. 23, 1987). Copy supplied.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
- i. Of these cases, approximately what percent were:
- jury trials: _____%
- bench trials: _____% [total 100%]
- ii. Of these cases, approximately what percent were:
- civil proceedings: _____%
- criminal proceedings: _____% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. 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.

None.

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

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

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

From 1996 to 1997, I served as a law clerk to the Honorable Deborah T. Poritz of the New Jersey Supreme Court.

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

I have not practiced alone.

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

1997 – 2001; 1995 – 1996

White & Case LLP

1221 Avenue of the Americas

New York, New York 10020

Associate (1997 – 2001; 1995 – 1996)

2002 – present

United States Attorney's Office

Robert E. Coyle Federal Courthouse

2500 Tulare Street, Suite 4401

Fresno, California 93704

Chief, Fresno Office (2015 – present)

Chief, White Collar Crime Unit (2013 – 2015)

Assistant U.S. Attorney, Criminal Division (2007 – present)

Assistant U.S. Attorney, Civil Division (2002 – 2007)

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

I joined White & Case LLP in 1995 as a litigation associate in the firm's New York headquarters office. I took a leave of absence from 1996 to 1997 to serve my clerkship at the New Jersey Supreme Court, and then returned to White & Case in 1997. My work in the New York office focused on

complex commercial litigation and on domestic and international arbitration matters. I also represented pro bono clients in Social Security and immigration cases. From 2000 to 2001, I was based in White & Case's Paris office, where I worked primarily on international arbitration cases involving contract disputes. I was engaged at White & Case in a range of civil litigation work, including investigating potential cases; conducting legal research and drafting legal memoranda; drafting briefs and other pleadings in federal and state cases and in arbitration proceedings; conducting discovery, including taking and defending depositions; working with expert witnesses; assisting lead counsel with arbitration and court hearings; and conducting several examinations in arbitration hearings.

In 2002, I joined the United States Attorney's Office for the Eastern District of California as an Assistant United States Attorney in the civil division, in Fresno. I litigated a wide range of civil matters in federal court on behalf of the United States, including tort cases to recover damages for the United States in forest fire cases; other affirmative civil enforcement actions, including false claims act cases; federal tort claims act cases, including medical malpractice cases; employment cases; and administrative procedure act matters. My practice focused on federal civil litigation, including investigating potential cases; drafting complaints and other pleadings; researching legal issues; briefing and arguing civil motions, including motions to dismiss, discovery motions, and motions for summary judgment; handling civil discovery, including working with expert witnesses and taking and defending fact and expert witness depositions; and handling settlement conferences, mediation hearings, and other settlement negotiations. I tried two federal civil jury trials as lead counsel, and I briefed and argued appeals to the Court of Appeals for the Ninth Circuit. I also co-tried two federal criminal fraud jury trials while serving in the civil division.

In 2007, I joined the criminal division of the United States Attorney's Office in Fresno in the white collar crime unit. Since 2007, I have handled a broad range of federal criminal cases. These include fraud and financial crime cases (involving investment fraud; mortgage fraud; health care fraud concerning Medicare, Medi-Cal, and private insurers; federal program fraud; agricultural-related fraud; and other fraud matters); mail theft; counterfeiting; identity theft; criminal tax matters; threats to kill a federal judge; narcotics trafficking; and assault on a prison official. My practice includes working with agents on criminal investigations (including reviewing search warrants, other investigative measures, and criminal complaints); drafting indictments; presenting witnesses and indictments before the grand jury; working with expert witnesses; negotiating and drafting plea agreements; briefing and arguing criminal motions and other matters at pretrial and sentencing hearings; and presenting and arguing cases at trial and on appeal.

From 2013 to 2015, I served as chief of the white collar crime unit in the Fresno office of the United States Attorney's Office. I led and managed a team of ten Assistant United States Attorneys prosecuting fraud and financial crime, child exploitation, human trafficking, tax, and other criminal cases. I assigned and staffed investigations; reviewed and approved charging decisions, indictments, and plea agreements in the unit's cases; and mentored and trained newer attorneys.

Since 2015, I have been the chief of the Fresno office of the United States Attorney's Office. I supervise the offices of the United States Attorney's Office in Fresno and Bakersfield, and represent and work with the United States Attorney and other senior leadership in overseeing federal prosecutions brought in the southern half of the Eastern District of California. I supervise the chiefs of the violent crime and narcotics unit, the white collar crime unit, and the two support staff units based in the Fresno office. I review and approve charging decisions and indictments brought in the Fresno division, and in coordination with the unit chiefs I review and provide guidance on significant matters handled by Assistant United States Attorneys in the Fresno and Bakersfield offices. I coordinate with federal, state, and local law enforcement agencies. I also continue to directly handle criminal cases at trial, on appeal, and in other proceedings in federal court.

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

At White & Case, I typically worked on matters involving large companies involved in civil disputes pending in federal or state court or before arbitration tribunals. I specialized in complex commercial litigation, including domestic and international arbitration cases involving contract disputes.

At the United States Attorney's Office, my client is the United States. Between 2002 and 2007, I specialized in federal civil practice at trial and on appeal, including affirmative civil enforcement actions brought on behalf of the United States. Since 2007, I have specialized in federal criminal law and federal criminal practice at trial and on appeal.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

My practice has been entirely in litigation. At White & Case, I appeared in arbitration hearings, court, or administrative hearings occasionally. At the United States Attorney's Office, I have appeared frequently in federal district court since

2002.

i. Indicate the percentage of your practice in:

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

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 40% |
| 2. criminal proceedings: | 60% |

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 ten federal criminal jury trials to verdict, five as lead counsel and five as co-counsel. I have tried two federal civil jury trials to verdict, both as lead counsel. These trials were all in the Eastern District of California. As associate counsel in private practice, I tried three arbitration cases to decision as second-chair, two in American Arbitration Association proceedings and one in an International Chamber of Commerce proceeding. I tried one Massachusetts state civil case to decision in a bench trial as co-counsel. I also handled two benefits determination hearings before administrative law judges, one as sole counsel and one as co-counsel. Additionally, I have argued before the Court of Appeals for the Ninth Circuit in eight appeals and have briefed other appeals.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 75% |
| 2. non-jury: | 25% |

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.

None.

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. Vincent*, No. 1:14-cr-00049 (E.D. Cal.)

I represented the United States as co-counsel in this criminal tax evasion trial in 2017; former Assistant United States Attorney Christopher Baker was lead counsel. Mr. Vincent was charged with five counts of evading the assessment and payment of individual income taxes. I participated in the preparation of the trial pleadings, expert disclosures, and trial exhibits; conducted the direct examination of one of the government's expert witnesses; conducted the direct examination of four fact witnesses; and gave the closing argument for the government. The evidence at trial showed that Mr. Vincent had not filed an individual income tax return since 1989 despite earning significant income, including close to \$500,000 between 2007 and 2010. He operated a Fresno-based engineering company, Veco Technologies, organized as Stafford Group Limited Partnership, for which he was general partner. Mr. Vincent funneled his business income from the partnership through various trusts and other entities. He also signed tax returns for Stafford Group in which he falsely represented that he did not have a social security number. On April 7, 2017, a federal jury convicted Mr. Vincent on all five counts of evading the assessment and payment of individual income taxes. On July 24, 2017, the district court (O'Neill, J.) sentenced him to 51 months in custody. Mr. Vincent did not appeal.

Co-counsel:

Hon. Christopher D. Baker (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
Bakersfield Federal Courthouse
510 19th Street
Bakersfield, CA 93301
(661) 326-6621

Counsel for Defendant:

Maurice E. Joy, Jr.
Attorney at Law
246 West Shaw Avenue
Fresno, CA 93704
(559) 248-0448

2. *United States v. Jara, et al.*, No. 1:12-cr-00213 (E.D. Cal.)

I represented the United States as lead counsel in a federal criminal mortgage fraud case from 2012 to 2016 and in the investigation prior to 2012. The case was against nine defendants and involved a scheme to defraud lenders of more than \$5 million. With co-counsel, I drafted and presented the indictment, negotiated and drafted plea agreements, and prepared and argued sentencing matters. All defendants pleaded guilty pursuant to plea agreements. Mr. E. Jara, Mr. S. Jara, and Ms. Chavez developed residential properties in Bakersfield. After the housing market declined, they conspired with the co-defendants to have straw buyers purchase properties they had developed. The conspirators paid straw buyers to purchase the properties and funded the purchases using loans they obtained for the buyers from lenders based on false and fraudulent loan applications. The conspirators used a mortgage brokerage company that Ms. Chavez owned. The loan applications frequently contained false statements concerning the buyers' employment status, income, assets, and intent to occupy the properties as their personal residences. The conspirators also submitted false supporting documentation to lenders and concealed from lenders that the property developers had funded certain of the buyers' down payments. Seven of the defendants pleaded guilty to conspiracy to commit bank fraud, mail fraud, and wire fraud; one defendant pleaded guilty to wire fraud; and one defendant pleaded guilty to bank fraud. The district court (Ishii, J.) sentenced eight of the defendants to custodial terms between 24 months and 78 months; the remaining defendant was sentenced to time served. No appeals were filed.

Co-counsel:

Henry Z. Carbajal III
United States Attorney's Office, Eastern District of California
2500 Tulare Street, Suite 4401
Fresno, CA 93721
(559) 497-4028

Counsel for Defendants:

Carl M. Faller (Mr. E. Jara, Mr. S. Jara, and Ms. Jara)
Attorney at Law
116 Blackfield Drive
Bel Tiburon, CA 94920
(559) 679-4999

Ann H. McGlenon (Mr. Perez-Marcial)
Attorney at Law
2401 44th Avenue, #6
San Francisco, CA 94116
(415) 680-7946

Anthony P. Capozzi (Ms. Chavez and Mr. Chavez)

Law Offices of Anthony P. Capozzi
1233 West Shaw Avenue, Suite 102
Fresno, CA 93711
(559) 221-0200

E. Marshall Hodgkins III (Ms. Mojardin)
Law Offices of E. Marshall Hodgkins III
1186 West Shaw Avenue, Suite 103
Fresno, CA 93711
(559) 248-0900

David A. Torres (Ms. Gonzales)
Torres & Torres Stallings
1318 K Street
Bakersfield, CA 93301
(661) 326-0857

John F. Garland (Mr. Salinas)
Law Office of John Garland
2950 Mariposa Street, Suite 130
Fresno, CA 93721
(559) 497-6132

3. *United States v. Burtis et al.*, No. 1:10-cr-0343 (E.D. Cal.), *aff'd sub nom. United States v. Salado*, 590 F. App'x 692 (9th Cir. Jan. 21, 2015) (Noonan and Clifton, Circuit Judges, and Rakoff, Senior District Judge)

I represented the United States as lead counsel in a federal criminal fraud case from 2010 to 2015 (and in the investigation prior to 2010) against four defendants for their roles in a scheme to defraud nut hulling and processing businesses of more than \$3 million. Mr. Burtis was the general manager of a nut huller, Mr. Salado was the almond buyer at a nut processor, and Mr. Adams was the plant manager at a nut processor. These defendants conspired to steal almonds from nut growers and businesses in the nut industry and sold the almonds under fictitious and nominee names for the defendants' benefit. At times, the defendants caused a nut processor to enter into fictitious purchases of nuts that did not exist. A fourth defendant, Mr. Espinola, acted as a purported nut grower. I participated in the case investigation, drafted and presented the indictment, negotiated and drafted plea agreements, and briefed and argued sentencing matters. With co-counsel, I briefed and argued pretrial motions and tried the case as to Mr. Salado. Mr. Burtis pleaded guilty to conspiracy to commit mail fraud and bank fraud and was sentenced to 34 months in custody. Mr. Adams pleaded guilty to conspiracy to commit mail fraud and bank fraud and was sentenced to 46 months in custody. Mr. Espinola pleaded guilty to bank fraud and was sentenced to seven months in custody. At the trial of the remaining defendant, Mr. Salado, I gave the opening statement for the government, conducted the direct examination of many of the government's witnesses, including two cooperating co-defendants, conducted the cross examination of Mr. Salado, and gave the government's

closing argument. In November 2011, a federal jury convicted Mr. Salado of conspiracy to commit mail fraud or bank fraud, and of several mail fraud, bank fraud, and money laundering counts. The district court (O'Neill, J.) sentenced Mr. Salado to 136 months in custody. Mr. Salado appealed his money laundering convictions and his sentence. I briefed and argued the appeal for the United States. The Ninth Circuit affirmed Mr. Salado's convictions and sentence.

Co-counsel:

Hon. Stanley A. Boone (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
2500 Tulare Street
Fresno, CA 93721
(559) 499-5200

Counsel for Defendants:

Robert L. Forkner (Mr. Burtis)
Law Office of Robert L. Forkner
722 Thirteenth Street
Modesto, CA 95354
(209) 544-0200

Kirk W. McAllister (Mr. Adams)
McAllister & McAllister
1600 G Street, Suite 103
Modesto, CA 95354
(209) 575-4844

Stephen L. Foley (Mr. Espinola)
Law Office of Stephen L. Foley
229 East Weber Avenue, Suite 204
Stockton, CA 95202
(209) 524-5860

Frank C. Carson (trial counsel) (deceased) (Mr. Salado)

Ann C. McClintock (appellate counsel) (Mr. Salado)
Office of the Federal Defender
801 I Street, 3rd Floor
Sacramento, CA 95814
(916) 498-5700

4. *United States v. Hernandez et al.*, No. 1:10-cr-0249 (E.D. Cal.), *aff'd sub nom. United States v. Montalvo*, 667 F. App'x 677 (9th Cir. 2016) (Shroeder, Canby, and

Callahan, Circuit Judges), and appeal dismissed sub nom. *United States v. Sanchez*, No. 15-10199 (9th Cir. May 6, 2016)

I represented the United States as lead counsel in a federal criminal mortgage fraud case from 2010 to 2016 (and in the investigation prior to 2010) against five defendants and involving more than \$6 million in fraud losses. With co-counsel, I participated in the case investigation, drafted and presented the indictment, briefed and argued pretrial motions, negotiated and drafted plea agreements, briefed and argued sentencing matters, prepared trial pleadings and exhibits, and tried the case as to Ms. Sanchez and Ms. Montalvo. The defendants defrauded lenders by causing them to fund millions of dollars in mortgage loans based on false and misleading information, including false statements in loan applications, and false and fabricated supporting documentation. Mr. Hernandez and Ms. Hernandez pleaded guilty to conspiracy to commit mail fraud, wire fraud, and bank fraud; Ms. King pleaded guilty to mail fraud. The district court (Ishii, J.) sentenced Mr. Hernandez to 130 months in custody, Ms. Hernandez to 12 months in custody, and Ms. King to 37 months in custody. At the trial of the remaining two defendants, Ms. Sanchez and Ms. Montalvo, I gave the government's opening statement, conducted the direct examination of a cooperating co-defendant and other government witnesses, conducted the cross examination of Ms. Sanchez and another defense witness, and gave the government's rebuttal closing. The jury convicted Ms. Sanchez and Ms. Montalvo of mail fraud and conspiracy to commit mail fraud, wire fraud, and bank fraud. The jury also convicted Ms. Montalvo of money laundering. The court sentenced Ms. Sanchez and Ms. Montalvo each to 24 months in custody. On appeal, counsel for Ms. Sanchez filed an *Anders* brief stating that the record did not support an appeal. The Ninth Circuit subsequently dismissed Ms. Sanchez's appeal for failure to prosecute when Ms. Sanchez did not respond to an order to show cause issued by the Court. My co-counsel had lead responsibility on Ms. Montalvo's appeal challenging her sentence; I assisted in reviewing and editing the government's appellate brief. The Ninth Circuit affirmed Ms. Montalvo's sentence.

Co-counsel:

Henry Z. Carbajal III
United States Attorney's Office, Eastern District of California
2500 Tulare Street, Suite 4401
Fresno, CA 93721
(559) 497-4028

Counsel for Defendants:

David A. Torres (Mr. Hernandez)
Torres & Torres Stallings
1318 K Street
Bakersfield, CA 93301
(661) 326-0857

W. Scott Quinlan (Ms. Hernandez)
Attorney at Law
2300 Tulare Street, Suite 300
Fresno, CA 93721
(559) 442-0634

Robert D. Wilkinson (retired) (Ms. King)

James R. Homola (trial counsel) (Ms. Sanchez)
Attorney at Law
2950 Mariposa, Suite 250
Fresno, CA 93721
(559) 441-7111

Lisa M. Sciandra (appellate counsel) (Ms. Sanchez)
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102
(415) 865-7160

Eric V. Kersten (Ms. Montalvo)
Office of the Federal Defender
2300 Tulare Street, Suite 330
Fresno, CA 93721
(559) 487-5561

5. *United States v. Crisp et al.*, No. 1:11-cr-0026 (E.D. Cal.)

I represented the United States in a federal criminal mortgage fraud case from 2011 to 2016, and in the investigation prior to 2011, against the owners and managers of Crisp & Cole Real Estate and its affiliated mortgage brokerage in Bakersfield, and other conspirators, for a scheme to defraud lenders of nearly \$30 million. I was lead counsel from late 2012; former Assistant United States Attorney Stanley Boone was lead counsel prior to that time. With co-counsel, I negotiated pre-indictment resolutions prior to 2011 with five cooperating defendants in related cases, participated in the case investigation, drafted and presented the indictment, briefed and argued pretrial motions, negotiated and drafted plea agreements, briefed and argued sentencing matters, and tried the case as to Ms. Farmer. From 2004 to 2007, Mr. Crisp, Mr. Cole, and the eight other defendants carried out a scheme to defraud mortgage companies and financial institutions. They used straw purchasers to acquire properties at inflated prices with funds borrowed from lenders based on false and fraudulent loan applications, often using 100 percent financing. The conspirators frequently resold the properties from one straw buyer to another, each time at an inflated, higher price to extract the purported increased “equity” from the property for their benefit. Ultimately, most of the properties were foreclosed upon after the defendants failed to make the mortgage payments when due. Mr. Crisp, Mr. Cole, and four other defendants pleaded guilty to conspiracy to commit mail fraud,

wire fraud, and bank fraud. Three defendants pleaded guilty to mail fraud and/or wire fraud. The District Court (O'Neill, J.) sentenced Mr. Crisp and Mr. Cole each to 211 months in custody. Six other defendants were sentenced to custodial terms from 5 months to 78 months. One defendant was sentenced to probation. At the trial of the remaining defendant, Ms. Farmer, I gave the opening statement for the government, conducted the direct examination of the government's expert witness, conducted the direct examination of a cooperating co-defendant and other witnesses, and conducted the cross-examination of Ms. Farmer and several other defense witnesses. The jury convicted Ms. Farmer of conspiracy to commit mail fraud, wire fraud, and bank fraud, and of several mail fraud and wire fraud counts. The court sentenced Ms. Farmer to 36 months in custody. No direct appeals were filed. In 2014 and 2015, four defendants filed habeas petitions under 28 U.S.C. § 2255, which were denied.

Co-counsel:

Hon. Stanley A. Boone (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
2500 Tulare Street
Fresno, CA 93721
(559) 499-5200

Henry Z. Carbajal III
United States Attorney's Office, Eastern District of California
2500 Tulare Street, Suite 4401
Fresno, CA 93721
(559) 497-4028

Hon. Christopher D. Baker (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
Bakersfield Federal Courthouse
510 19th Street
Bakersfield, CA 93301
(661) 326-6621

Counsel for Defendants:

Eric V. Kersten (Mr. Crisp)
Office of the Federal Defender
2300 Tulare Street, Suite 330
Fresno, CA 93721
(559) 487-5561

Katherine Hart (Mr. Cole)
Attorney at Law

P.O. Box 5948
Fresno, CA 93755
(559) 930-3776

Anthony P. Capozzi (Ms. Farmer)
Law Offices of Anthony P. Capozzi
1233 West Shaw Avenue, Suite 102
Fresno, CA 93711
(559) 221-0200

Carl M. Faller (Ms. Mohammadi and Mr. Munoz)
Attorney at Law
116 Blackfield Drive
Bel Tiburon, CA 94920
(559) 679-4999

John F. Garland (Mr. Costa)
Law Office of John Garland
2950 Mariposa Street, Suite 130
Fresno, CA 93721
(559) 497-6132

Eric K. Fogderude (deceased) (Mr. Salinas)

Steven L. Crawford (Mr. Nguyen)
Law Office of Steven L. Crawford
P.O. Box 553
Grover Beach, CA 93483
(805) 458-6312

Gary L. Huss (Ms. Crisp)
Law Office of Gary Huss
13605 North West 45th Court
Vancouver, WA 98685
(559) 832-9010

Jeffrey T. Hammerschmidt (second Mr. Cole)
Hammerschmidt Law Corporation
2445 Capitol Street, Suite 215
Fresno, CA 93721
(559) 233-5333

6. *United States v. Livingston*, No. 1:09-cr-00273 (E.D. Cal.), *aff'd*, 725 F.3d 1141 (9th Cir. 2013) (Graber and Christen, Circuit Judges, and Tunheim, District Judge)

I represented the United States with co-counsel from 2010 to 2011 in the retrial of Mr. Livingston on charges of mail fraud under 18 U.S.C. § 1341 and theft by an officer of an Indian gaming establishment under 18 U.S.C. § 1168(b). I then represented the United States on Mr. Livingston's appeal from 2011 to 2013. Mr. Livingston was the general manager of the Chukchansi Gold Resort and Casino, which he defrauded by using the casino's funds to make personal purchases. With co-counsel, I drafted and presented the superseding indictment, briefed and argued pretrial motions, prepared trial pleadings and trial exhibits, and briefed and argued sentencing matters. At trial, I gave the government's opening statement, conducted the direct examination of several witnesses, conducted the cross-examination of Mr. Livingston, and gave the government's rebuttal closing. The jury convicted Mr. Livingston on all counts. The district court (O'Neill, J.) sentenced Mr. Livingston to 24 months in custody, and Mr. Livingston appealed his convictions. He argued among other issues that, in prosecutions under § 1168(b), which is part of the Indian Gaming Regulatory Act, the government must allege and prove that the gaming establishment is located on Indian lands. I briefed and argued the appeal for the United States. In a case of first impression, the Ninth Circuit held that the location of the gaming establishment is not an element of the offense under § 1168(b). The court affirmed Mr. Livingston's convictions.

Co-counsel:

Ian L. Garriques
United States Attorney's Office, Eastern District of Washington
920 West Riverside Avenue, Suite 340
Spokane, WA 99201
(509) 835-6323

Counsel for Defendant:

Marc Days (trial counsel)
Days Law Firm
1107 R Street
Fresno, CA 93721
(559) 708-4844

Peggy Sasso (trial counsel)
Office of the Federal Defender
2300 Tulare Street, Suite 330
Fresno, CA 93721
(559) 487-5561

Ann C. McClintock (appellate counsel)
Office of the Federal Defender
801 I Street, 3rd Floor
Sacramento, CA 95814
(916) 498-5700

7. *United States v. Collins*, No. 1:12-cr-0110 (E.D. Cal.)

I represented the United States with co-counsel in the prosecution of Ms. Collins from 2012 to 2013 (and in the investigation prior to 2012) for carrying out a scheme to defraud prospective parents, surrogates, and businesses of approximately \$2 million. Former Assistant United States Attorney Stanley Boone was lead counsel until late 2012; thereafter, I was sole counsel. With co-counsel, I participated in the investigation and in drafting the indictment. I negotiated the plea agreement and briefed and argued sentencing matters. Ms. Collins owned Surrogenesis, a surrogate and egg donation agency that marketed itself as assisting individuals in having children through third-party assisted reproduction. She steered Surrogenesis clients to Michael Charles Independent Financial Holding Group, which purported to be an independent escrow company that would hold the clients' funds in trust and make payments only upon the clients' authorization, and only for legitimate expenses associated with the surrogacy process. Ms. Collins concealed from clients that she owned and controlled the escrow company, and used the client trust funds and other funds held by Surrogenesis and the escrow company to pay for unauthorized personal purchases. Ms. Collins pleaded guilty to wire fraud, and the district court (Ishii, J.) sentenced her to 63 months in custody. No appeal was filed.

Co-counsel:

Hon. Stanley A. Boone (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
2500 Tulare Street
Fresno, CA 93721
(559) 499-5200

Counsel for Defendant:

Peggy Sasso
Office of the Federal Defender
2300 Tulare Street, Suite 330
Fresno, CA 93721
(559) 487-5561

8. *United States v. Nelson*, No. 1:11-cr-00096 (E.D. Cal.)

I was counsel for the United States in a federal criminal fraud case from 2011 to 2013 against the owner of a large organic fertilizer business, and in the investigation prior to 2011. I participated in the investigation, drafted and presented the indictment, negotiated and drafted the plea agreement, and handled the sentencing. Mr. Nelson pleaded guilty to four counts of mail fraud in connection with a scheme to defraud customers of over \$40 million for purportedly organic fertilizers that actually contained synthetic materials not

permitted for use in organic agriculture. The district court (Ishii, J.) sentenced Mr. Nelson to 78 months in custody. No appeal was filed.

Counsel for Defendant:

Carl M. Faller
Attorney at Law
116 Blackfield Drive
Bel Tiburon, CA 94920
(559) 679-4999

9. *United States v. Sodhi*, No. 1:11-cr-00332 (E.D. Cal.)

I represented the United States with co-counsel in the prosecution of Mr. Sodhi from 2011 to 2013 for carrying out a scheme to defraud investors of more than \$2 million through his business Elite Financial Inc. I was lead counsel from late 2012; former Assistant United States Attorney Stanley Boone was lead counsel prior to that time. With co-counsel, I participated in the drafting of the indictment, negotiated and drafted the plea agreement, and briefed and argued sentencing matters. In January 2006 the New York Stock Exchange had permanently debarred Mr. Sodhi, and in January 2009 the California Department of Corporations had ordered Mr. Sodhi to cease and desist from engaging in the business of an investment advisor in California. Mr. Sodhi nonetheless continued to solicit investments from individuals using false pretenses, promising various investment opportunities with high rates of return in a relatively short period of time. He did not use the investors' funds for the stated investment purpose, but instead used incoming funds to pay returns to other investors and personal expenses for himself and others. Mr. Sodhi periodically sent investors false financial statements purportedly showing the investments made on their behalf. Mr. Sodhi pleaded guilty to mail fraud and wire fraud in 2013, and the district court (O'Neill, J.) sentenced him to 57 months in custody. Mr. Sodhi did not file a direct appeal. However, in 2019 he filed a motion, construed as a coram nobis petition, alleging ineffective assistance of counsel. I briefed the opposition to Mr. Sodhi's petition. At an evidentiary hearing in 2022, I conducted the cross-examinations of Mr. Sodhi and two other witnesses. Following the evidentiary hearing, the district court (Thurston, J.) denied Mr. Sodhi's petition and denied his subsequent motion for reconsideration. Mr. Sodhi has filed an appeal that is not yet briefed.

Co-counsel:

Hon. Stanley A. Boone (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
2500 Tulare Street
Fresno, CA 93721
(559) 499-5200

Hon. Christopher D. Baker (formerly with the United States Attorney's Office)

Magistrate Judge
United States District Court, Eastern District of California
Bakersfield Federal Courthouse
510 19th Street
Bakersfield, CA 93301
(661) 326-6621

Counsel for Defendant:

Daniel A. Bacon
Attorney at Law
2445 Capitol Street, Suite 160A
Fresno, CA 93721
(559) 412-4420

Meredith L. Fahn (post-conviction counsel)
1702-L Meridian Avenue #151
San Jose, CA 95125
(408) 947-1512

10. *United States v. Union Pacific R. Co.*, 565 F. Supp. 2d 1136 (E.D. Cal. 2008)

With co-counsel, I represented the United States in a federal civil case to recover damages from Union Pacific Railroad for destruction of national forest lands and fire suppression costs resulting from the 2000 Storrie Fire in the Plumas and Lassen National Forests. Former Assistant United States Attorney Kendall Newman was lead counsel. I participated in drafting the pleadings in the case, conducting fact and expert discovery, briefing and arguing a discovery motion, and briefing motions for partial summary judgment. I also took and defended numerous depositions in the case and participated in settlement negotiations and a mediation conference. Two of the summary judgment motions that co-counsel and I briefed resulted in a published decision by the district court (Damrell, J.) that confirmed the wide range of damages the United States could recover at trial in forest fire cases. The decision also precluded defendant Union Pacific from presenting at trial an affirmative defense theory that the United States failed to mitigate \$73 million in damages. Following this ruling, the case settled prior to trial for \$102 million paid to the United States.

Co-counsel:

Hon. Kendall J. Newman (formerly with the United States Attorney's Office)
Magistrate Judge
United States District Court, Eastern District of California
Robert T. Matsui Federal Courthouse
501 I Street
Sacramento, CA 95814
(916) 930-4710

Hon. Kimberly A. Gaab (formerly with the United States Attorney's Office)
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, CA 93724
(559) 486-0163

Counsel for Defendant:

Susan M. Keeney
Severson & Werson
1 Embarcadero Center, 26th Floor
San Francisco, CA 94111
(415) 398-3344

Peter C. Lyon
Hughes Gill Cochrane Tinetti, P.C.
2820 Shadelands Drive, Suite 160
Walnut Creek, CA 94598
(925) 285-8996

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In addition to the above-noted litigated matters, I have been actively involved in over two hundred cases in federal court, most of which have resolved prior to trial. On the criminal side, those cases have covered a wide variety of practice areas, including investment fraud; mortgage fraud; health care fraud involving Medicare, Medi-Cal, and private insurers; federal program fraud; agricultural-related fraud; other fraud and financial crime matters; mail theft; counterfeiting; identity theft; threats to kill a federal judge; narcotics trafficking; and assault of a prison guard. The federal civil matters in which I was actively involved included tort cases, including cases to recover for damages to federal lands and fire-suppression costs in forest fire cases; false claims act matters involving fraud against the Medicare and Medicaid systems; other affirmative civil enforcement actions; federal tort claims act cases, including medical malpractice cases; employment cases; and administrative procedure act matters. At White & Case, I worked on complex commercial litigation matters, including international arbitration cases involving contract disputes.

Within the Fresno office of the United States Attorney's Office, the most significant legal activity I pursue, in addition to active litigation, is supervision and case management of

the criminal cases and investigations arising in the Fresno and Bakersfield offices. These matters include cases involving narcotics trafficking, gang-related violent crime, illegal firearms, fraud and financial crimes, civil rights, hate crimes, public corruption, criminal tax, child exploitation, and human trafficking charges, among other cases. I communicate regularly with the United States Attorney and other senior leadership regarding matters arising in the Fresno and Bakersfield offices. I review and approve Fresno division indictments before they are presented to a grand jury, review and advise on significant developments in investigations and cases, and participate in moots and team meetings for attorneys prior to trials and significant arguments. I also coordinate the hiring process for criminal division Assistant United States Attorneys in the Fresno and Bakersfield offices. Additionally, I served as the Office's professional responsibility advisor and ethics advisor from 2008 to 2013, and I coordinated the Fresno office's mortgage fraud task force from 2008 to 2012.

In 2020, I served as chair of the United States District Court's standing merit selection panel. The panel vetted applications for a United States Magistrate Judge position, interviewed candidates, and identified finalists for consideration by the district court. The panel also reviewed the service of a sitting United States Magistrate Judge and made recommendations to the district court concerning the judge's reappointment to a second term. I also served as the chair of the United States District Court's standing merit selection panel in 2017. The 2017 panel similarly vetted candidates for a United States Magistrate Judge position and identified finalists for consideration by the district court. The 2017 panel also reviewed the service of two sitting United States Magistrate Judges and made recommendations to the district court concerning their reappointments to second terms.

In 2020 and 2021, I was a member of the district court's COVID Jury Trial Committee, which developed recommendations with respect to jury trial procedures during the COVID-19 period. I served on the court's Judicial Advisory Committee in 2021. I was a member of the planning group that assisted the district court in developing Wellness Court, a reentry program that launched in 2019 to provide increased assistance and supervision to individuals with mental health concerns who are entering into supervised release following their release from prison. Additionally, I have served on the board of the Federal Bar Association, San Joaquin Valley chapter, since 2018. I served as the Federal Bar Association chapter president in 2021 and as the vice-president in 2020.

I have not registered as a lobbyist or engaged in any lobbying activities.

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

In the summer of 1992, I was an English instructor at the University of California, Davis, in a language program for foreign university students. Otherwise, I have not taught a course at the university level.

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

None.

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

None.

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

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

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation in which I have ever played a role, and in any matters handled by the Fresno office of the United States Attorney's Office for the Eastern District of California while I have been a supervisor in the office. For a period of time, I also anticipate recusing in all cases where my current employer, the United States Attorney's Office for the Eastern District of California, is or represents a party. My wife is currently the president of the board of directors of Central California Legal Services. I will recuse in any litigation involving Central California Legal Services since she has been serving on its board of directors or that arises in the future while she serves on the board

of directors.

I will evaluate any other potential conflict, as well as any relationship that could give rise to the appearance of such a conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including by recusing where necessary or appropriate.

- 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 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.

While in private practice at White & Case, I took on pro bono assignments for indigent clients in a Social Security benefits determination hearing and in an immigration proceeding to obtain relief from removal. I also assisted with the briefing of a pro bono criminal appeal. I was a member of the Harvard Legal Aid Bureau while in law school and represented clients in matters including a state court bench trial in an eviction case and a disability benefits determination hearing. In the summer of 1993, I interned at the Legal Resources Foundation, a human rights organization in Bulawayo, Zimbabwe.

Since 2002, I have represented the United States at the United States Attorney's Office. I otherwise may not engage in the practice of law. However, I have participated in numerous educational programs for college, high school, and middle school students, including speaking at Reedley College's Constitution Week Conference; serving as a panelist at California State University, Fresno, on panels addressing "Hate Crimes and the Impact on Minority Communities" and "Legal Ethics and the Criminal Justice System"; moderating panel discussions of law enforcement and community leaders at California State University, Fresno and California State University, Bakersfield on the topic of "Stronger Communities through Diversity and Understanding"; speaking to middle school and high school students on the 50th Anniversary of *Miranda v. Arizona*; and taking part in the Operation Protect and Defend civics education program, in which attorneys and judges are paired up to lead high school class discussions on constitutional rights. For many years, I have also helped run the Federal Bar Association's Open Doors program, through which the federal court and the Federal Bar Association host mock criminal trials and presentations to familiarize high school students with the federal criminal justice system. I coordinate attorneys for the mock trials, arrange for agent witnesses from federal law enforcement agencies, arrange for presenters to address the

students following the mock trials, and host the presentations segment of Open Doors. I also participated in the mock trials as an attorney in earlier years.

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 January 20, 2021, I submitted an application to the judicial screening committee for Senator Dianne Feinstein. On February 2, 2021, I interviewed with Senator Feinstein's screening committee. On February 15, 2021, I submitted an application to the judicial screening committee for Senator Alex Padilla. On February 18, 2021, I interviewed with the statewide chair of Senator Feinstein's screening committee. On March 3, 2021, I interviewed with Senator Padilla's screening committee. Thereafter, I did not further interview until 2023. On March 30, 2023, I interviewed with the statewide chair of Senator Padilla's screening committee. On June 6, 2023, I interviewed with attorneys from Senator Padilla's office. On June 8, 2023, I interviewed with Senator Padilla. On June 27, 2023, I interviewed with the statewide chair of Senator Feinstein's screening committee. On June 30, 2023, I interviewed with attorneys from the White House Counsel's Office. Since then, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 6, 2023, the President announced his intent to nominate me.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.