

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Richard Joseph Sullivan

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

United States Court of Appeals Judge for the Second Circuit

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 District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2104
New York, New York 10007

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

1964; Manhasset, New York

5. **Education:** List in reverse chronological order each college, law school, or New York 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.

1987 – 1990, Yale Law School; J.D., 1990

1982 – 1984, 1985 – 1986, College of William & Mary; B.A. 1986

1984 – 1985, Georgetown University (no degree; visiting student)

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.

2007 – present

United States District Court for the Southern District of New York

40 Foley Square
New York, New York 10007
United States District Judge

2012 – present
Columbia Law School
435 West 116th Street
New York, New York 10027
Adjunct Professor of Law

2008 – 2015
Fordham University School of Law
150 West 62nd Street
New York, New York 10023
Adjunct Professor of Law

2006 – 2007
Marsh Inc.
1166 Avenue of the Americas
New York, New York 10036
General Counsel

2005 – 2007
Marsh & McLennan Companies, Inc.
1166 Avenue of the Americas
New York, New York 10026
Deputy General Counsel – Litigation

1994 – 2005
United States Attorney's Office for the Southern District of New York
1 Saint Andrew's Plaza
New York, New York 10007
Assistant United States Attorney

1991 – 1994
Wachtell Lipton Rosen & Katz
51 West 52nd Street
New York, New York 10019
Associate

1990 – 1991
United States Court of Appeals for the 10th Circuit
1929 Stout Street
Denver, Colorado 80294
Law Clerk to the Honorable David M. Ebel

1990

McCutchen Doyle Brown & Enersen
3 Embarcadero Center
San Francisco, California 94111
Summer Associate

1990

Gibson Dunn & Crutcher
200 Park Avenue
New York, New York 10166
Summer Associate

1989 – 1990

Federal Courts Study Commission
141 Church Street
New Haven, Connecticut 06510
Intern to the Honorable Jose A. Cabranes

1989

Cahill Gordon & Reindel
80 Pine Street
New York, New York 10005
Summer Associate

1989

McCutchen Doyle Brown & Enersen
3 Embarcadero Center
San Francisco, California 94111
Summer Associate

1988

Mayer Brown & Platt (now Mayer Brown)
71 South Wacker Drive
Chicago, Illinois 60606
Summer Associate

I also spent half the summer in Mayer Brown's New York City office

1987

Governor's Office, Commonwealth of Virginia
1000 Bank Street
Richmond, Virginia 23219
Speechwriter.

1986 – 1987

New York City Urban Fellows Program
New York City Police Department

Now run out of the New York City Department of Citywide Administrative Services
1 Centre Street
New York, New York 10007
Urban Fellow

1986
Governor's Office, Commonwealth of Virginia
1000 Bank Street
Richmond, Virginia 23219
Governor's Fellow

Other Affiliations (uncompensated)

1988 – 1989
Organized Crime Strike Force
United States Attorney's Office for the District of Connecticut
141 Church Street
New Haven, Connecticut 06510
Intern

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.

Hamilton Cup, Columbia Law School Federalist Society (2017)

Adjunct Professor of the Year, Fordham University School of Law (2013)

Leadership Award, New York American Inn of Court (2013)

American Hero Award, Federal Drug Agents Foundation (2008)

Organized Crime Drug Enforcement Task Force, Special Award of Honor; presented in recognition of outstanding contributions to the federal Organized Crime Drug Enforcement Task Force (2004)

Henry L. Stimson Medal, Association of the Bar of the City of New York; presented annually to the outstanding Assistant United States Attorney for the Southern District of New York (2003)

Federal Prosecutor of the Year Award, Federal Law Enforcement Foundation, New York, New York; presented annually to the outstanding Assistant United States Attorney for the Southern District of New York (1998)

International Narcotic Enforcement Officers Association, Federal Prosecutor's Award/International Award of Honor; presented in recognition of superior achievement in international narcotics prosecutions (1997, 1998, 2002, 2003)

College of William & Mary – Phi Beta Kappa, Alpha Chapter (1986)

College of William & Mary – Student Speaker, Phi Beta Kappa Induction Ceremony (1986)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Inns of Court, New York Chapter (2002 – present)
Executive Committee (2006 – present)

Federal Bar Council, New York (2000 – present)
Criminal Law Committee (2016 – present)

Southern District of New York Criminal Justice Advisory Board (2011 – present)
Chair (2011 – present)

Southern District of New York Grievance Committee (2008 – present)

Southern District of New York Security Committee (2007 – present)
Chair (2009 – present)

American Bar Association (2005 – 2008)
Criminal Justice Section (2005 – 2008)
Tort, Trial and Insurance Section (2005 – 2008)

Association of the Bar of the City of New York (2005 – 2007)

Association of Corporate Counsel (2006 – 2008)

New York County Lawyers Association (2005 – 2007)

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 (1993)

There has been no lapse in membership; since becoming a judge in 2007, however, I am now considered “Retired” from the practice of law.

- 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.

New York State courts (1993)

United States Court of Appeals for the Second Circuit (1997)

United States District Court for the Eastern District of New York (1993)

United States District Court for the Southern District of New York (1993)

There have been no lapses in membership; however, since becoming a judge in 2007, I am now considered “Retired” from the practice of law.

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.

Chelsea Piers Soccer League, New York, New York, Coach (2015 – present)

Council of Insurance Agents & Brokers, Legal Committee (2006 – 2007)

Downtown Little League, New York, New York, Coach (2011 – 2016)

Downtown Soccer League, New York, New York, Coach (2011 – present)

Downtown United Soccer Club, New York, New York, Coach (2013 – 2015)

Federalist Society for Law and Public Policy Studies (1991 – 1994; 2005 – 2007)

International Narcotic Enforcement Officers Association (2001 – 2005)

Memorial-Sloan Kettering Cancer Center, New York, New York, Volunteer

(1995 – 2002)

New York Road Runners Club (1992 – 2009, 2018 – present)

St. John's University School of Law Center for Law and Religion (2013 – Present)

Director (2013 – Present)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

With David R. Marriott and Alison Miller, *The Opening Statement: Charting A Path To Victory*, N.Y. L.J., Sept. 15, 2015. A copy of this article, as reprinted in Practising Law Institute course materials, is supplied.

With Emil Bove III, *Federal Sentencing Guidelines*, in *Business Crimes* (2012). Copy supplied.

With Theodore V. Wells, *Closing Arguments*, in *Trial Methods* (2012). Copy supplied.

With David R. Marriott, *Opening to Win: Seven Tips for Delivering an Effective Opening Statement*, N.Y.L.J., Nov. 14, 2011. 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.

New York State Bar Association, Working Group on Court Improvements, *Faster, Cheaper, Smarter Courts* (2011). 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.

On April 11, 2007, I testified before the United States Senate Committee on the Judiciary at my confirmation hearing to be a United States District Judge for the Southern District of New York. My testimony is available at: <https://www.gpo.gov/fdsys/pkg/CHRG-110shrg37658/html/CHRG-110shrg37658.htm>.

- 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.

Although I have given numerous speeches and panel presentations on legal topics, I typically speak extemporaneously (with notes or a PowerPoint) and not from a prepared text.

2007 – present

Since becoming a United States District Judge in 2007, I have spoken to high school students, law school classes, civic groups, and bar associations on a regular basis. I have not always kept notes or information about the presentations. I compiled the list below from my review of my calendars and records and searching publicly available databases, although there may be additional events that I am unable to recall.

As discussed below, on multiple occasions I have spoken in ceremonies swearing in new citizens. I have attached a copy of the speech I typically use for this occasion. I have also spoken in ceremonies swearing in new attorneys. I have attached a copy of the speech I typically use for this occasion.

May 11, 2018: Speaker, New York City Bar Association, Litigation Committee,

“Lunch with a Judge.” New York, New York. I have no notes, transcript, or recording of this program. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

May 9, 2018: Lecturer, “Federal Sentencing Law,” United States Military Academy, West Point, New York. I have no notes from this lecture. The address of the United States Military Academy at West Point is 600 Thayer Road, West Point, New York 10996.

May 4, 2018: Moderator, Second Circuit Committee on Civic Education and Public Engagement, Law Day Courthouse Visit by Cardozo High School, “Separation of Powers In the United States.” PowerPoint supplied.

April 30, 2018: Judge, New York State Bar Association High School Mock Trial Tournament, New York, New York. I have no notes, transcript or recording. The address of the New York State Bar Association is 1 Elk Street, Albany, New York 12207

April 26, 2018: Moderator, “Summations,” Pro Bono Lawyer Training, Southern District of New York, New York, New York. Notes supplied.

April 14, 2018: Judge, Langfan Moot Court Competition, Cornell Law School, Ithaca, New York. I have no notes, transcript, or recording. The address of Cornell Law School is Myron Taylor Hall, Ithaca, New York 14853.

February 28, 2018: Moderator, “Judges Roundtable,” New York American Inn of Court, New York, New York. PowerPoint supplied.

December 22, 2017: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

December 15, 2017: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

December 12, 2017: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

December 7, 2017: Panelist, “The Art of Pleading,” New York City Bar Association, New York, New York. Notes, PowerPoint, and audio supplied.

November 16, 2017: Judge, Moot Court Competition, New York City Bar Association, New York, New York. I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York,

New York 10036. Press coverage supplied.

November 13, 2017: Moderator, "Opening Statements," Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

October 20, 2017: Panelist, "Judicial Pet Peeves," Practising Law Institute, New York, New York. Video supplied.

October 18, 2017: Speaker, Swearing In of New Officers, Federal Bar Association, New York, New York. Notes supplied.

October 11, 2017: Panelist, "Federal Drug Sentencing Reform," Center for the Administration of Criminal Law, New York University School of Law, New York, New York. Notes supplied.

October 4, 2017: Panelist, White Collar Crime Seminar, Practising Law Institute, New York, New York. Video supplied.

September 13, 2017: Panelist, "The Vanishing Jury Trial," Fordham University School of Law, New York, New York. Notes supplied.

August 3, 2017: Judge, Mock Trial Competition, Legal Outreach Summer Law Institute, New York, New York. I have no notes, transcript, or recording. The address for Legal Outreach is 36-14 35th Street, Queens, New York 11106.

July 13, 2017: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

July 7, 2017: Lecturer, Summer Teachers' Institute, United States Court of Appeals for the Second Circuit, New York, New York. I have no notes, transcript or recording. The address for the Second Circuit is 40 Foley Square, New York, New York 10007.

June 21, 2017: Moderator, "The Future of Dodd-Frank Act Regulation of Financial Services," New York Lawyers Chapter, Federalist Society, New York, New York. I have no notes, transcript, or recording. The address of the New York Lawyers Chapter of The Federalist Society is c/o Mary Beth Buchanan, Bryan Cave, 1290 6th Avenue, New York, New York 10104.

May 24, 2017: Moderator, "Judges Roundtable," New York American Inn of Court, New York, New York. PowerPoint supplied.

May 11, 2017: Moderator, "Summations," Pro Bono Lawyer Training, Southern District of New York, New York, New York. Notes supplied.

April 24, 2017: Judge, Moot Court Final, University of Chicago Law School, Chicago, Illinois. I have no notes, transcript, or recording. The address of the University of Chicago Law School is 1111 East 60th Street, Chicago, Illinois 60637.

March 30, 2017: Judge, Lanham Act Mock Trial, American Bar Association Antitrust Section Spring Meeting, Washington DC. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Avenue N.W., Suite 400, Washington, D.C. 20036.

March 22, 2017: Panelist, "The Future of Insider Trading," Yale Law School, New Haven, Connecticut. Notes supplied.

March 4, 2017: Moderator, "Campaign Finance and Free Speech," National Students Symposium, Federalist Society, Columbia Law School, New York, New York. Pre-symposium notes supplied. Video available at: <https://fedsoc.org/commentary/videos/campaign-finance-and-free-speech-event-audio-video>.

March 3, 2017: Speaker, National Students Symposium, Federalist Society, Columbia Law School, New York, New York. Video supplied.

March 2, 2017: Panelist, "Winning the Discovery War: Tips From the Bench on Effective Advocacy in Pre-Trial Litigation," American Bar Association Insurance Litigation Section, Tucson, Arizona. Notes and PowerPoint supplied.

February 28, 2017: Lecturer, "Insider Trading Law," United States Military Academy, West Point, New York. Notes supplied.

January 30, 2017: Moderator, "The Future Of Insider Trading Law," New York County Lawyers Association, New York, New York. Notes and PowerPoint supplied.

January 25, 2017: Panelist, "Federal Wage and Hour Laws," Hofstra Law School Journal of Labor and Employment Law Symposium, New York, New York. Notes supplied.

January 23, 2017: Judge, Empire International Collegiate Mock Trial Competition, New York, New York. I have no notes, transcript, or recording. I am not aware of a mailing address for Empire Mock Trial.

December 15, 2016: Judge, New York City High School Mock Trial Competition, Justice Resource Center, New York, New York. I have no notes, transcript, or recording. The address of the Justice Resource Center is 122 Amsterdam Avenue, New York, New York 10023.

December 5, 2016: Panelist, "Justice Scalia's Opinions: Federal Judges Discuss Their Favorites," New York Lawyers Chapter, Federalist Society, New York, New York. Notes supplied.

November 21, 2016: Panelist, "Opening Statements," Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

November 14, 2016: Judge, Empire International High School Mock Trial Competition, New York, New York. I have no notes, transcript, or recording. I am not aware of a mailing address for Empire Mock Trial.

November 9, 2016: Speaker, "Where Have All The Trials Gone," Yale Law School Federalist Society, New Haven, Connecticut. Notes supplied.

November 7, 2016: Video Toast, "True American Hero Awards Ceremony" in honor of NYPD Commissioner Jimmy O'Neill and then-FBI Director James Comey, Federal Drug Agents Foundation, New York, New York. Video supplied.

October 26, 2016: Speaker, "Federal Drug Sentences," Harvard Law School, Cambridge, Massachusetts. Notes supplied.

October 24, 2016: Panelist, "Fair Labor Standards Act," New York City Bar Association, New York, New York. Notes and program agenda supplied.

October 19, 2016: Speaker, "The Great Divide: Stare Decisis at Home and Abroad," Columbia Law School, New York, New York. Notes supplied.

October 14, 2016: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

October 11, 2016: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

October 7, 2016: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

October 5, 2016: Lecturer, "Insider Trading," United States Military Academy, West Point, New York. Notes supplied.

October 4, 2016: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have

attached a copy of the speech I typically use for this occasion.

September 30, 2016: Panelist, White Collar Crime Seminar, Practising Law Institute, New York, New York. Video supplied.

September 29, 2016: Panelist, "Federal Rules Update," Federal Bar Council, New York, New York. PowerPoint and program supplied.

September 27, 2016: Speaker, "A View From the Bench," National Advertisers Division, Better Business Bureau, New York, New York. Notes supplied.

August 4, 2016: Judge, Mock Trial Competition, Legal Outreach Summer Law Institute, New York, New York. I have no notes, transcript, or recording. The address for Legal Outreach is 36-14 35th Street, Queens, New York 11106.

July 7, 2016: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

July 6, 2016: Lecturer, "First Amendment Issues," Summer Teachers' Institute, United States Court of Appeals for the Second Circuit, New York, New York. I have no notes, transcript, or recording. The address for the Second Circuit is 40 Foley Square, New York, New York 10007.

June 2, 2016: Alumni Speaker, "Judging and Sentencing," Chaminade High School, Mineola, New York. Notes supplied.

May 11, 2016: Moderator, "Judges Roundtable," New York American Inn of Court, New York, New York. I have no notes, transcript, or recording. The address for the national office of the American Inns of Court is 225 Reinekers Lane, Alexandria, Virginia 22314.

May 5, 2016: Moderator, "Opening Statements," Pro Bono Lawyer Training, Southern District of New York, New York, New York. Notes supplied.

May 4, 2016: Lecturer, "Federal Sentencing Law," United States Military Academy, West Point, New York. I have no notes from this lecture. The address of the United States Military Academy at West Point is 600 Thayer Road, West Point, New York 10996.

April 6, 2016: Moderator, "Wasting A Crisis: Why Securities Regulation Fails," University of Virginia School of Law, Charlottesville, Virginia. Notes supplied.

March 9, 2016: Judge, International Moot Court Competition, Venice, Italy. I have no notes, transcript or recording. The sponsoring organization was

Fondazione Studium Generale Marcianum, Dorsoduro 1 - 30123 – Venezia.

March 4, 2016: Panelist, “Settlement Facilitation,” American Bar Association Insurance Litigation Section, Tucson, Arizona. Notes supplied.

January 9, 2016: Panelist, “Is Evidence Still Relevant?” American Association of Law Schools – Litigation Section, New York, New York. I have no notes, transcript, or recording. The address of the American Association of Law Schools is 1614 20th Street, N.W., Washington, D.C. 20009.

December 10, 2015: Moderator, “Who’s Right on Birthright? Are Trump and Cruz, or Rubio and Bush, Reading the 14th Amendment Right on Birthright Citizenship?” New York City Lawyers Chapter, Federalist Society, New York, New York. I have no notes, transcript, or recording. The address of the New York Lawyers Chapter of The Federalist Society is c/o Mary Beth Buchanan, Bryan Cave, 1290 6th Avenue, New York, New York 10104.

December 7, 2015: Panelist, Judges’ Panel, White Collar Crime Seminar, Thomson Reuters, New York, New York. Notes and seminar agenda supplied.

November 6, 2015: Moderator, “Religious Liberty and the Free Society,” Notre Dame Law Review Symposium, University of Notre Dame Law School, South Bend, Indiana. Notes and media coverage supplied.

November 5, 2015: Panelist, “Opening Statements,” Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

October 27, 2015: Speaker, “Religious Freedom and the Supreme Court,” St. John’s University School of Law, New York, New York. Notes and media coverage supplied.

October 9, 2015: Moderator, Insider Trading Panel, at “Government Enforcement in the Financial Sector,” Columbia Law School Federalist Society, New York, New York. Notes supplied.

September 25, 2015: Speaker, “Federal Drug Sentences: Too High?” St. Thomas Law School, Minneapolis, Minnesota. Notes supplied. Video available at <https://www.youtube.com/watch?v=ourEbNMzJ4U&feature=youtu.be>.

September 21, 2015: Panelist, “The Future of Insider Trading,” Yale Law School, New Haven, Connecticut. Notes supplied.

September 11, 2015: Speaker, “A View from the C-Suite and the Bench,” World Services Group – General Counsel, New York, New York. Notes supplied.

July 9, 2015: Judge, Mulligan Memorial Moot Court Competition, Fordham

University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

June 12, 2015: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

June 9, 2015: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

June 5, 2015: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

June 2, 2015: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

May 7, 2015: Moderator, "Summations," Pro Bono Lawyer Training, Southern District of New York, New York, New York. Notes supplied.

May 4, 2015: Lecturer, "Federal Sentencing Law," United States Military Academy, West Point, New York. I have no notes, transcript, or recording. The address of the United States Military Academy at West Point is 600 Thayer Road, West Point, New York 10996.

April 29, 2015: Panelist, Fordham Institute on Religion, Law and Lawyer's Work, Fordham University School of Law, New York, New York. PowerPoint supplied.

April 9, 2015: Speaker, "Game Changers: 21st Century Challenges for the American Legal System," Columbia Law School Federalist Society, New York, New York. Notes supplied.

March 23, 2015: Moderator, "Libertarians, Conservatives and the Long War for Control of the Courts," New York Lawyers Chapter, Federalist Society, New York, New York. I have no notes, transcript, or recording. The address of the New York Lawyers Chapter of The Federalist Society is c/o Mary Beth Buchanan, Bryan Cave, 1290 6th Avenue, New York, New York 10104.

March 9, 2015: Judge, International Moot Court Competition, Venice, Italy. I have no notes, transcript, or recording. The sponsoring organization was Fondazione Studium Generale Marcianum, Dorsoduro 1 - 30123 - Venezia.

February 17, 2015: Moderator, "Electronic Media and the Fourth Amendment," Federal Bar Council, Winter Retreat, Casa de Campo, Dominican Republic. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

February 11, 2015: Speaker, "Federal Drug Sentences: Too High?" University of Pennsylvania Law School, Philadelphia, PA. Notes supplied.

January 23, 2015: Panelist, "Federal Securities Litigation," American Conference Institute, New York, New York. I have no notes, transcript, or recording. The address of the American Conference Institute is 45 West 25th Street, New York, New York 10010.

January 14, 2015: Speaker, Litigation Section, New York City Bar Association, New York, New York. I have no notes from this event. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

December 11, 2014: Moderator, "Judges Roundtable," New York American Inn of Court, New York, New York. I have no notes, transcript, or recording. The address for the national office of the American Inns of Court is 225 Reinekers Lane, Alexandria, Virginia 22314.

December 8, 2014: Lecturer, "Federal Sentencing Law," United States Military Academy, West Point, New York. I have no notes from this class. The address of the United States Military Academy at West Point is 600 Thayer Road, West Point, New York 10996.

December 4, 2014: Speaker, "Federal Drug Sentences: Too High?" Yale Law School Federalist Society, New Haven, Connecticut. I have no notes from this program, but the content was similar to the February 11, 2015 program at the University of Pennsylvania Law School, for which notes have been supplied.

November 19, 2014: Panelist, "Opening Statements," Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

September 29, 2014: Panelist, "From the Trenches: High Profile Trials in 2014," Practising Law Institute, New York, New York. Video supplied.

September 23, 2014: Panelist, White Collar Crime Seminar, Practising Law Institute, New York, New York. Video and press coverage supplied.

July 10, 2014: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

July 8, 2014: Moderator, "Terrorism Trials in Federal Courts," Yale Law School Alumni Association, New York, New York. Notes supplied.

June 12, 2014: Master of Ceremonies, Introduction of New Judges, Second Circuit Judicial Conference, Saratoga Springs, New York. Notes supplied.

May 29, 2014: Moderator, "Summations," Pro Bono Lawyer Training, Southern District of New York, New York, New York. Notes supplied.

May 19, 2014: Moderator, "Lessons from Recent Trials," New York City Bar Association, New York, New York. Notes supplied.

April 24, 2014: Panelist, "Expert Testimony," National Law Journal, New York, New York. Notes supplied.

April 18, 2014: Speaker, New York Intellectual Property Lawyers Association, New York, New York. Notes supplied.

January 10, 2014: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

January 7, 2014: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

January 3, 2014: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

December 31, 2013: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

December 16, 2013: Panelist, "Social Media in Criminal Trials," New York City Bar Association, New York, New York. Notes and audio supplied.

November 20, 2013: Panelist, "Direct Examinations," Trial By Jury Seminar, Practising Law Institute, New York, New York. I have no notes, transcript, or recording. The address of the Practising Law Institute in New York is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036.

November 4, 2013: Video Toast, "True American Hero Award Ceremony," Federal Drug Agents Foundation, New York, New York. Video attached.

October 27, 2013: Judge, Wormser Memorial Moot Court Competition, Fordham

University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

October 19, 2013: Panelist, "Federal Sentencing," Federal Practice Institute, New York County Lawyers Association and Federal Bar Council, New York, New York. Notes supplied.

October 1, 2013: Panelist, White Collar Crime Seminar, Practising Law Institute, New York, New York. Notes and representative press coverage supplied.

August 1, 2013: Judge, Mock Trial Competition, Legal Outreach Summer Law Institute, New York, New York. I have no notes, transcript, or recording. The address for Legal Outreach is 36-14 35th Street, Queens, New York 11106.

July 11, 2013: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

June 13, 2013: Panelist, "International Dispute Resolution," International Law Office Global Congress, New York, New York. I have no notes, transcript, or recording. The address of the International Law Office is New Hibernia House, Winchester Walk, London SE1 9AG, United Kingdom.

May 8, 2013: Panelist, "Cooperating With the Government," Federal Bar Council, New York, New York. Notes supplied.

February 13, 2013: Moderator, "Judges Roundtable," New York American Inn of Court, New York, New York. I have no notes, transcript, or recording. The address for the national office of the American Inns of Court is 225 Reinekers Lane, Alexandria, Virginia 22314.

January 23, 2013: Panelist, "The View from the Bench: Judicial Views on Trying White Collar Cases, Evidentiary Requests, and Effective Defense Advocacy," White Collar Crime Summit, American Conference Institute, New York, New York. Notes supplied.

January 11, 2013: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

January 8, 2013: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

January 4, 2013: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

January 2, 2013: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

December 16, 2012: Performer, Inn of Court Musical Program: "A Civility Seder," New York American Inn of Court, New York, New York. Article with linked video attached.

November 28, 2012: Panelist, "Direct Examinations," Trial By Jury Seminar, Practising Law Institute, New York, New York. Video supplied.

November 4, 2012: Judge, Wormser Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

October 25, 2012: Speaker, Chaminade High School Lawyers Association, Mineola, New York. Notes supplied.

October 22, 2012: Speaker, "From Ghailani to Gitmo: Trying Terrorism Cases," Touro Law School, Central Islip, New York. Notes supplied.

October 17, 2012: Moderator, "The Federal Government's Tax Power," New York Lawyers Chapter, Federalist Society, New York, New York. I have no notes, transcript, or recording. The address of the New York Lawyers Chapter of The Federalist Society is c/o Mary Beth Buchanan, Bryan Cave, 1290 6th Avenue, New York, New York 10104.

October 2, 2012: Panelist, "Trial Tactics in White Collar Cases," White Collar Crime Seminar, Practising Law Institute, New York, New York. Video attached.

September 20, 2012: Speaker, "Corporate Criminal Liability," Yale Law School, New Haven, Connecticut. Notes supplied.

September 19, 2012: Judge, Moot Court Competition, Touro Law School, Central Islip, New York. I have no notes, transcript, or recording. The address of Touro Law School is 225 Eastview Drive, Central Islip, New York 11722.

September 12, 2012: Moderator, "The Future of the Foreign Corrupt Practices Act," New York American Inn of Court, New York, New York. I have no notes, transcript, or recording. The address for the national office of the American Inns of Court is 225 Reinekers Lane, Alexandria, Virginia 22314.

July 18, 2012: Panelist, "Supreme Court Roundup," New York City Bar Association, New York, New York. I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

July 12, 2012: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

July 11, 2012: Speaker, Inner City Scholarship Fund, Lawyers' Committee, New York, New York. Notes supplied.

May 9, 2012: Panelist, "Criminal Tax Prosecutions," New York City Bar Association, New York, New York. Notes supplied.

April 20, 2012: Speaker, "Clemency Symposium," St. Thomas Law School, Minneapolis, Minnesota. Notes supplied.

December 1, 2011: Moderator, "ERISA Stock Drop Cases," Federal Bar Council, New York, New York. Notes supplied.

November 30, 2011: Panelist, "Opening Statements," Trial By Jury Seminar, Practising Law Institute, New York, New York. I have no notes, transcript, or recording. The address of the Practising Law Institute in New York is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036.

November 22, 2011: Panelist, "Judges' Pet Peeves," Practising Law Institute, New York, New York. I have no notes, transcript, or recording. The address of the Practising Law Institute in New York is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036.

November 1, 2011: Speaker, "Sentencing, Judging, and Justice," New York Council of Defense Lawyers, New York, New York. Notes supplied.

October 30, 2011: Judge, Wormser Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

October 15, 2011: Panelist, "The Federal Sentencing Guidelines," Federal Practice Institute, New York County Lawyers Association and Federal Bar Council, New York, New York. Video supplied.

October 3, 2011: Panelist, White Collar Crime Seminar, Practising Law Institute,

New York, New York. I have no notes, transcript, or recording. The address of the Practising Law Institute in New York is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036.

September 26, 2011: Moderator, "Is Sharia Law Coming to America? And Should We Care?," New York Lawyers Chapter, Federalist Society, New York, New York. Notes supplied.

July 20, 2011: Panelist, "Supreme Court Roundup," New York City Bar Association, New York, New York. Notes supplied.

July 14, 2011: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

June 23, 2011: Panelist, "Corporate Criminal Liability," New York City Bar Association, New York, New York. Notes and audio supplied.

May 21, 2011: Panelist, "Judges' Panel," New York State Bar Association, Federal and Commercial Litigation Section, Newport, Rhode Island. Notes supplied.

April 11, 2011: Speaker, "The Long Arm of the Law: Enforcing U.S. Criminal Statutes Abroad," Yale Law School Federalist Society, New Haven, Connecticut. I have no notes, transcript, or recording. The address of the Yale Law School Federalist Society is 127 Wall Street, New Haven, Connecticut 06511.

March 3, 2011: Judge, Moot Court Competition, Cardozo School of Law, New York, New York. I have no notes, transcript, or recording. The address of the Cardozo School of Law is 55 5th Ave, New York, New York 10003.

February 10, 2011: Panelist, "Insider Trading Law," Federal Bar Council, New York, New York. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

February 9, 2011: Moderator, "Lessons From Ghailani," Yale Law School Federalist Society, New Haven, Connecticut. Notes supplied.

January 10, 2011: Speaker, New York City Bar Association, Litigation Committee, "Meet the Judges." New York, New York. Notes supplied.

December 14, 2010: Speaker, Yale Federalist Society, New Haven, Connecticut. Notes supplied.

December 1, 2010: Panelist, "Terrorism Trials in Federal Courts," Federal Bar

Council, New York, New York. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

December 1, 2010: Panelist, "Opening Statements," Trial By Jury Seminar, Practising Law Institute, New York, New York. Notes supplied.

November 7, 2010: Judge, Wormser Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

October 21, 2010: Panelist, "Foreign Corrupt Practices Act," Federal Bar Council, New York, New York. Notes supplied.

October 18, 2010: Video Toast, "True American Hero Awards Ceremony," Federal Drug Agents Foundation, New York, New York. Video supplied.

October 2, 2010: Panelist, "Or Else: Blackmail, Extortion, Threats, and Damage Control in Negotiations," Federal Bar Council, Fall Retreat, Lenox, Massachusetts. Notes supplied.

August 27, 2010: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

August 24, 2010: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

August 20, 2010: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

August 17, 2010: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

July 14, 2010: Judge, Mulligan Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

April 7, 2010: Moderator, "Securities Law: Primary Liability for Secondary Actors," Federal Bar Council, New York, New York. Notes supplied.

March 9, 2010: Speaker, N.Y.U. Criminal Law Group, New York University School of Law, New York, New York. Notes supplied.

February 11, 2010: Moderator, "*Salazar v. Buono*: The Establishment Clause and Its Implications for Religious Imagery & Expression in Public Forum," Fordham University Law School Federalist Society, New York, New York. I have no notes, transcript, or recording. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

November 9, 2009: Speaker, "Federal Sentencing Law," Yale Law School Federalist Society, New Haven, Connecticut. Talking points and notes supplied.

October 17, 2009: Panelist, "The Federal Sentencing Guidelines," New York County Lawyers Association, New York, New York. I have no notes from this panel. The address of the New York County Lawyers Association is 14 Vesey Street, New York, New York 10007.

October 5, 2009: Panelist, White Collar Crime Seminar, Practising Law Institute, New York, New York. I have no notes from this panel. The address of the Practising Law Institute in New York is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036.

August 28, 2009: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

August 25, 2009: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

August 21, 2009: Speaker, Swearing In of New Citizens, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

August 18, 2009: Speaker, Swearing In of New Attorneys, United States District Court for the Southern District of New York, New York, New York. I have attached a copy of the speech I typically use for this occasion.

June 5, 2009: Speaker, Portrait Unveiling, Marsh & McLennan Companies, Inc., New York, New York. I have no notes, transcript, or recording. The address of Marsh & McLennan Companies, Inc. is 1166 Avenue of the Americas, New York, New York 10036.

May 16, 2009: Panelist, "Distinguished Alumni," New York City Urban Fellows Program, New York, New York. Notes supplied.

May 8, 2009: Panelist, "Regulation by Prosecution," New York University Law School Center for the Administration of Criminal Law, New York, New York. I have no notes, transcript, or recording. The address of the New York University Law School is 40 Washington Square South, New York, New York 10012. Press coverage supplied.

March 6, 2009: Speaker, Brown Bag Lunch: Clerking on the District Court, Stanford Law School, Palo Alto, California. Notes supplied.

March 5, 2009: Guest Lecturer, Internet Business Law, Stanford Law School, Palo Alto, California. I have no notes, transcript, or recording. The address of Stanford Law School is 559 Nathan Abbott Way, Stanford, California 94305.

January 16, 2009: Keynote Speaker, New York American Inn of Court, New York, New York. Notes supplied.

November 21, 2008: Panelist, "E-Discovery from the Judge's Perspective," Georgetown E-Discovery Institute, Washington, D.C. I have no notes from this panel. The address of the Georgetown University Law Center is 600 New Jersey Avenue N.W., Washington, D.C. 20001.

November 9, 2008: Judge, Wormser Memorial Moot Court Competition, Fordham University School of Law, New York, New York. I have no notes from this panel. The address for Fordham University School of Law is 150 West 62nd Street, New York, New York 10023.

October 30, 2008: Panelist, "How to Reduce Federal Litigation Costs," New York City Bar Association and Atlantic Legal Foundation, New York, New York. I have no notes from this panel. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

October 27, 2008: Speaker, "American Hero Awards Ceremony," Federal Drug Agents Foundation, New York, New York. Notes and PowerPoint supplied.

October 25, 2008: Moderator, "Federal Rules Jeopardy," Federal Bar Council, Fall Retreat, Lenox, Massachusetts. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

September 8, 2008: Panelist, "Federal Rules Update," Federal Bar Council, New York, New York. I have no note, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038.

June 11, 2008: Speaker: United Jewish Appeal Lawyers Division. New York, New York. Notes supplied.

November 11, 2007: Speaker: Visiting Judges Series. St. John's University School of Law, Jamaica, New York. Notes supplied.

In addition to the above, I have officiated weddings on several occasions since becoming a Judge (for example, the weddings of former law clerks and former students).

Pre-2007

I have reproduced copies of the presentations and notes that were provided as part of my Senate Questionnaire in 2007, when I was nominated to be a District Judge on the United States District Court for the Southern District of New York. I have no other materials beyond what I previously provided for the period before July 2007.

May 6, 2006: Sentencing Guidelines Panel, Federal Criminal Practice Institute, New York, New York. The sponsoring organizations were the Federal Bar Council and New York County Lawyers Association. I have no notes, transcript or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038. The address of the New York County Lawyers Association is 14 Vesey Street, New York, New York 10007.

December 6, 2005: "What Every Criminal & Corporate Lawyer Needs To Know About Monitors," New York City Bar & International Association of Independent Private Sector Inspector Generals (IAIPSIG). I have no notes, transcript, or recording. The address of the New York City Bar Association is 42 West 44th Street, New York, New York 10036. The address of the IAIPSIG is Post Office Box 5017, New York, New York 10185.

July 25, 2005: "Fundamental Principles of the American Legal System: Federalism and Separation of Powers," New York County Lawyers Association, American Law Academy. I have no notes, transcript, or recording. The address of the New York County Lawyers Association is 14 Vesey Street, New York, New York 10007.

March 10, 2005: "Money Laundering, Terrorist Financing and the USA PATRIOT Act," Anti-Money Laundering Conference, Quito, Ecuador, sponsored by the Ecuadorian Association of Private Banks and the U.S. Department of State. Presentation supplied.

January 6, 2005: "Foreign Wiretaps and Other International Issues," Title III Seminar, U.S. Department of Justice - National Advocacy Center, Columbia, South Carolina. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue N.W., Washington, D.C. 20530.

December 2, 2004: "Privacy, Crime and Security in the 21st Century," Practising Law Institute, Privacy Law 2004: New Developments & Compliance Issues in a Security-Conscious World. PowerPoint supplied.

October 27, 2004: "Witness Preparation and Trial Testimony in an Adversarial Judicial System," Colombian National Police Academy, Bogotá, Colombia, sponsored by U.S. Department of Justice (OPDAT). PowerPoint supplied.

October 26, 2004: "The Patriot Act and the International War Against Money Laundering," Colombian Banking Superintendency, Bogotá, Colombia, sponsored by the Colombian Banking Association and the U.S. Department of State. PowerPoint supplied.

October 16, 2004: Sentencing Guidelines Panel, Federal Criminal Practice Institute, New York, New York, sponsored by the Federal Bar Council and New York County Lawyers Association. I have no notes, transcript, or recording. The address of the Federal Bar Council is 150 Broadway, Suite 505, New York, New York 10038. The address of the New York County Lawyers Association is 14 Vesey Street, New York, New York 10007.

July 29, 2004: "Operation White Dollar and The Black Market Peso Exchange," Pan-American Congress on the Prevention of Money Laundering Activities, Cartagena, Colombia, sponsored by the Latin American Federation of Banks, the Colombian Ministry of Justice, the Colombian Banking Association, and the U.S. Department of Justice, Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT). I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue N.W., Washington, D.C. 20530.

June 3, 2004: "The Strike Force Model for Narcotics and Money Laundering Enforcement," New England OCDETF Conference, Newport, Rhode Island. PowerPoint supplied.

November 20, 2003: "International Evidence Gathering," Colombian National Police Headquarters, Bogotá, Colombia, sponsored by U.S. Department of State and U.S. Department of Justice. PowerPoint supplied.

May 27, 2003: Remarks on Receiving the Henry L. Stimson Medal from the New York City Bar Association, New York, New York. Notes supplied.

March 19, 2003: "International Narco-Trafficking and Money Laundering," Council on Foreign Relations, New York, New York. PowerPoint 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.

Jillian Hewitt, *Fifty Shades of Gray: Sentencing Trends in Major White-Collar Cases*, 125 Yale L.J. 1018 (2016). Copy supplied.

Matthew Van Meter, *One Judge Makes the Case for Judgment*, Atlantic Online, Feb. 25, 2016. Copy supplied.

Benjamin Weiser, *Faced with Legal Puzzles, Judges Often Turn to Fellow Jurists*, N.Y. Times, May 19, 2015. Copy supplied. Reprinted in multiple outlets.

Benjamin Weiser, *A New York Prosecutor with Worldwide Reach*, N.Y. Times, Mar. 27, 2011. Copy supplied. Reprinted in multiple outlets.

Duff McDonald, *The Man Following the Money*, NYU Law Magazine (approximately 2010). Copy supplied.

In addition, in 2007, I sat for an interview as part of a documentary on the United States Attorney's Office for the Southern District of New York. Video 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.

Since 2007, I have served as a United States District Judge for the Southern District of New York in Manhattan. The United States District Court for the Southern District of New York is a trial court of limited jurisdiction.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 90

- i. Of these, approximately what percent were:

jury trials:	<u>90%</u>
bench trials:	<u>10%</u> [total 100%]
civil proceedings:	<u>60%</u>
criminal proceedings:	<u>40%</u> [total 100%]

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

Please see the attached list of citations for all published opinions available on Westlaw and Lexis.

- 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).

1. *Tiffany v. eBay*, 576 F. Supp. 2d 463 (S.D.N.Y. 2008).

This was a trademark infringement, trademark dilution, and false advertising case brought by the jeweler Tiffany against eBay concerning liability for the sale of counterfeit goods sold on eBay's auction site. After a three-week bench trial, I concluded that eBay had not infringed or contributorily infringed on Tiffany's trademarks. On appeal, the Second Circuit affirmed the judgment in all significant respects, but remanded the case for further findings of fact on the plaintiff's false advertising claim.

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Counsel for Defendant

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2. *United States v. Vilar*, 05-cr-521, 2010 WL 1491859 (S.D.N.Y. Apr. 7, 2010).

This case culminated in a four-week criminal trial that resulted in the conviction of two financial advisors on charges of securities fraud, mail fraud, and financial advisor fraud.

Counsel for the Government

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3. *Dinler v. City of New York*, No. 04-cv-7921, 2012 WL 4513352 (S.D.N.Y. Sept. 30, 2012), 2014 WL 3858319 (S.D.N.Y. Aug. 5, 2014)

This was a consolidated civil rights actions brought by more than 3,000 protestors arrested during the 2004 Republican National Convention in New York City. The Court granted summary judgment in favor of Plaintiffs, concluding that, although officers may arrest groups of individuals acting unlawfully in concert, the Constitution nonetheless requires individualized probable cause for each person arrested. The Court also granted summary judgment in favor of the City with respect to certain other causes of action, with the remaining counts being tried to a jury before ultimately settling.

Counsel for Plaintiffs

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Counsel for Defendants

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4. *United States v. Contorinis*, No. 0911-cr-1083 (S.D.N.Y. 2012).

This was a two-week criminal trial that resulted in the conviction of a hedge fund portfolio manager on insider trading charges. The conviction was affirmed on appeal, though the case was remanded for further findings on forfeiture. A copy of the judgment is attached.

Government Counsel

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5. *United States v. Reed*, No. 11-cr-487

This case was a narcotics-related robbery and murder prosecution that culminated in a three-week trial resulting in the conviction of all three defendants. A copy of the judgment is attached.

Government Counsel

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Defendant's Counsel

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6. *Merck Eprova AG v. Gnosis S.P.A.*, 901 F. Supp. 2d 436 (S.D.N.Y. 2012).

In this case, a manufacturer of nutritional supplements brought false advertising and deceptive trade practices claims against a competitor. After a bench trial, the

Court found for plaintiffs and awarded damages amounting to three times defendants' profits, as well as injunctive relief and attorney's fees.

Plaintiff's Counsel

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7. *United States v. Goffer*, 10-cr-56 (S.D.N.Y. 2013).

This was a complex insider trading case involving hedge fund managers and attorneys alleged to have traded on material non-public information stolen from clients of the Ropes & Gray law firm. After numerous guilty pleas, the case culminated in a six-week criminal trial of three defendants, who were convicted on all charges.

Government Counsel

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8. *Johnson & Johnson v. Guidant*, 06 cv-7685, 2014 WL 3728598 (S.D.N.Y. Jul. 22, 2014).

The plaintiff sued the defendant for breaching the terms of a merger agreement, and sought damages in excess of \$300 million. After denying summary judgment, the Court presided over a three-week bench trial that ultimately resulted in a settlement.

Counsel for Plaintiff

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9. *United States v. Newman* and *United States v. Steinberg*, 12-cr-212, 21 F. Supp. 3d 309 (S.D.N.Y. 2014).

In this insider trading case, hedge fund analysts and portfolio managers were accused of trading on material nonpublic information provided by insiders at Dell and Nvidia. Following the guilty pleas of ten coconspirators, three defendants went to trial and were convicted on all counts. Although the convictions were reversed on appeal in *United States v. Newman*, 773 F.3d 438 (2014), that decision was subsequently abrogated by the Supreme Court in *Salman v. United States*, 137 S. Ct. 420 (2016).

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10. *United States v. Nina*, 12-cr-322, 607 F. App'x 33, 2015 WL 1810749 (S.D.N.Y. Apr. 22, 2015).

This was a prosecution of Bronx heroin organization responsible for the distribution of large quantities of narcotics and the shooting death of a 20-year-old bystander. The Court presided over two trials, which resulted in guilty verdicts and the imposition of a life sentence for the organization's leader.

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- 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.

1. *Tiffany v. eBay*, 576 F. Supp. 2d 463 (S.D.N.Y. 2008), affirmed in all respects with the exception of a remand on one peripheral claim, 600 F.3d 93 (2d Cir. 2010).

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2. *Capitol Records v. Redigi*, 934 F. Supp. 2d 640 (S.D.N.Y. 2013).

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3. *Dinler v. City of New York*, No. 04-cv-7921, 2012 WL 4513352 (S.D.N.Y. Sept. 30, 2012), 2014 WL 3858319 (S.D.N.Y. Aug. 5, 2014).

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I have listed here principal counsel for the parties in this consolidated action;
other attorneys were involved at various points in the case.

4. *United States v. Steinberg*, 21 F. Supp. 3d 309 (S.D.N.Y. 2014), *rev'd*,
United States v. Newman, 773 F.3d 438 (2d Cir. 2014), *abrogated by Salman v.*
United States, 137 S.Ct. 420 (2016); *abrogation recognized by United States v.*
Martoma, 869 F.3d 58 (2d Cir. 2017), *opinion amended and superseded by*, 2017
WL 9620394 (2d Cir. June 25, 2018).

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5. *Lederman v. New York City Dep't of Parks and Recreation*, 901 F. Supp. 2d 464 (S.D.N.Y. 2012).

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6. *In re Wachovia Equity Secs. Litig.*, 753 F. Supp. 2d 326 (S.D.N.Y. 2011).

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7. *SEC v. Straub*, 921 F. Supp. 2d 244 (S.D.N.Y. 2013).

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8. *Lehman Bros. Holdings Inc. v. JPMorgan Chase Bank*, 541 B.R. 179 (S.D.N.Y. 2015).

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9. *Freund v. Republic of France*, 592 F. Supp. 2d 540 (S.D.N.Y. 2008).

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Andreas Lowefeld (deceased)

10. *Gucci Am. v. Weixing Li*, 135 F. Supp. 3d 87 (S.D.N.Y. 2015).

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- e. Provide a list of all cases in which certiorari was requested or granted.

Certiorari granted:

Nike, Inc. v. Already, LLC, No. 09-cv-6366, 2011 WL 310321 (S.D.N.Y. Jan. 20, 2011), *aff'd*, 663 F.3d 89 (2d Cir. 2011), *cert. granted*, 567 U.S. 933 (2012), *aff'd*, 568 U.S. 85 (2013).

Certiorari requested and denied:

Centaury Shipping v. Western Bulk Carriers, 2007 WL 6970478 (S.D.N.Y. 2007), 528 F. Supp. 2d 186 (S.D.N.Y. 2007), *aff'd*, 323 F. App'x 36 (2d Cir. 2009), *cert. denied*, 558 U.S. 1136 (2010).

Tiffany (NJ) Inc. v. eBay Inc., 576 F. Supp. 2d 463 (S.D.N.Y. 2008), *aff'd in part and rev'd in part*, 600 F.3d 93 (2010), *cert. denied*, 562 U.S. 1082 (2010).

United States v. Peirce, No. 06-cr-1032 (S.D.N.Y. 2011), *aff'd*, 357 F. App'x 319 (2d Cir. 2009), *cert. denied*, 559 U.S. 1082 (2010).

Freund v. Republic of France, 592 F. Supp. 2d 540 (S.D.N.Y. 2008), *aff'd*, 391 F. App'x 939 (2d Cir. 2010), *cert. denied*, 565 U.S. 816 (2011).

Guirlando v. T.C. Ziraat Bankasi, A.S., 2008 WL 5272195 (S.D.N.Y. 2008), 2009 WL 159705 (S.D.N.Y. 2009), *aff'd*, 602 F.3d 69 (2d Cir. 2010), *cert. denied*, 562 U.S. 1250 (2011).

MIG, Inc. v. Paul, Weiss, Rifkind, Wharton & Garrison LLP, 701 F. Supp. 2d 518 (S.D.N.Y. 2010), *aff'd*, 410 F. App'x 408 (2d Cir. 2011), *cert. denied*, 565 U.S. 878 (2011).

United States v. Sanchez, No. 08-cr-789 (Doc. No. 140), *aff'd*, 419 F. App'x 27 (2d Cir. 2011), *cert. denied*, 565 U.S. 886 (2011).

Zheng v. Liberty Apparel Co., 2009 WL 1383488 (S.D.N.Y. 2009), *aff'd*, 617 F.3d 182 (2d Cir. 2010), 389 F. App'x 63 (2d Cir. 2010), *cert. denied*, 563 U.S. 975 (2011).

United States v. Vilar, No. 05-cr-621 (Doc. Nos. 421, 425), *aff'd in part and*

remanded in part, 729 F.3d 62 (2013), *cert. denied*, 134 S. Ct. 2684 (2014).

Gearren v. McGraw-Hill Cos., 690 F. Supp. 2d 254 (S.D.N.Y. 2010), *aff'd*, 660 F.3d 605 (2d Cir. 2011), *cert. denied*, 568 U.S. 962 (2012).

RSL Commc'ns v. Bildirici, 649 F. Supp. 2d 184 (S.D.N.Y. 2009), *aff'd*, 412 F. App'x 337 (2d Cir. 2011), *cert. denied*, 565 U.S. 816 (2011).

Marcavage v. City of New York, 2010 WL 3910355 (S.D.N.Y. 2010), *aff'd*, 689 F.3d 98 (2d Cir. 2012), *cert. denied*, 568 U.S. 1212 (2013).

United States v. Goffer, 756 F. Supp.2d 588 (S.D.N.Y. 2011), *aff'd*, 721 F.3d 113 (2d Cir. 2013), 531 F. App'x 8 (2d Cir. 2013), *cert. denied*, 135 S. Ct. 63 (2014).

United States v. Goffer, No. 10-cr-56 (Doc. Nos. 179, 270, 271), 756 F.Supp.2d 588 (S.D.N.Y. 2010), *aff'd in part, vacated in part, and remanded*, 529 F. App'x 17 (2013), *cert. denied*, 135 S. Ct. 63 (2014).

United States v. Carrasquillo, 08-cr-1295 (S.D.N.Y. 2010), *aff'd*, 487 F. App'x 66 (2d Cir. 2012), *cert. denied*, 568 U.S. 1185 (2013).

United States v. Murphy, 10-cr-107 (S.D.N.Y. 2010), *aff'd*, 506 F. App'x. 2 (2d Cir. 2012), *cert. denied*, 569 U.S. 953 (2013).

Gordon v. McGinley, 2011 WL 3648606 (S.D.N.Y. 2011), *aff'd in part, vacated and remanded in part*, 502 F. App'x 89 (2d Cir. 2012), *cert. denied*, 569 U.S. 1008 (2013).

SEC v. Contorinis, 2012 WL 512626 (S.D.N.Y. 2012), *aff'd*, 743 F.3d 296 (2d Cir. 2014), *cert. denied*, 136 S. Ct. 531 (2015).

United States v. Komar, 11-cr-68 (S.D.N.Y. 2012), *aff'd*, 529 F. App'x 28 (2d Cir. 2013), *cert. denied*, 571 U.S. 1031 (2013).

Lederman v. New York City Dep't of Parks and Recreation, 901 F. Supp. 2d 464 (S.D.N.Y. 2012), *aff'd*, 731 F.3d 199 (2d Cir. 2013), *cert. denied*, 134 S. Ct. 1510 (2014).

Kreisler v. Second Ave. Diner Corp., No. 10-cv-7592, 2012 WL 3961304 (S.D.N.Y. Sept. 11, 2012), *aff'd*, 731 F.3d 184 (2d Cir. 2013), *cert. denied*, 134 S. Ct. 2295 (2014).

United States v. Reed, 2012 WL 2053758 (S.D.N.Y. 2012), *aff'd*, 756 F.3d 184 (2014), 570 F. App'x 104 (2014), *cert. denied*, 135 S. Ct. 463, 135 S. Ct. 465 (2014).

Liu v. Mount Sinai School of Med., 2012 WL 4561003 (S.D.N.Y. 2012), 2013 WL 950761 (S.D.N.Y. 2013), *aff'd*, 559 F. App'x 106 (2d Cir. 2014), *cert. denied*, 135 S. Ct. 721 (2014).

Miniframe Ltd. v. Microsoft Corp., No. 11-cv-7419, 2013 WL 13857045 (S.D.N.Y. Mar. 28, 2013), *aff'd*, 51 F. App'x 1 (2013), *cert. denied*, 135 S. Ct. 223 (2014).

United States v. Dore, Nos. No. 12-cr-45 (S.D.N.Y.), *aff'd*, 586 F. App'x 42 (2014), *cert. denied*, 135 S. Ct. 505 (2014).

United States v. Antomattei, No. 12-cr-322 (S.D.N.Y. 2014), *aff'd*, 607 F. App'x 33 (2015), *cert. denied*, 136 S. Ct. 797 (2016).

SEC v. Amerindo Inv. Advisors, 2013 WL 1385013 (S.D.N.Y. 2014), 2014 WL 405339 (S.D.N.Y. 2014), 2014 WL 2112032 (S.D.N.Y. 2014), *aff'd*, 639 F. App'x 752 (2016), *cert. denied*, 136 S. Ct. 2429 (2016).

United States v. Newman, No. 12-cr-121 (S.D.N.Y.), *rev'd*, 773 F.3d 438 (2d Cir. 2014), *cert. denied*, 136 S. Ct. 242 (2015).

United States v. Nicholson, 2014 WL 4693615 (S.D.N.Y. Sept. 22, 2014), *aff'd*, 638 F. App'x 40 (2d Cir. 2016), *cert. denied*, 136 S. Ct. 2032 (2016).

United States v. Washington, No. 11-cr-605 (S.D.N.Y. 2014), *aff'd*, 654 F. App'x 11 (2d Cir. 2016), *cert. denied*, 137 S. Ct. 698 (2017).

Azkour v. Little Rest Twelve, Inc., 2015 WL 631377 (S.D.N.Y. Feb. 11, 2015), *aff'd*, 645 F. App'x 98 (2016), *cert. denied*, 137 S. Ct. 390 (2016), *reh'g denied*, 137 S. Ct. 716 (2017).

Smith v. New York Presbyterian Hosp., 05-cv-7729 (S.D.N.Y. 2015), *appeal defaulted*, 14-475 (2d Cir. 2015), *cert denied*, 136 S. Ct. 1528 (2016).

United States v. Awulye, 13-cr-875 (S.D.N.Y. 2015), *aff'd*, 662 F. App'x 15 (2016), *cert denied*, 137 S. Ct. 705 (2017).

United States v. Epskamp, 12-cr-120 (Doc. No. 219), *aff'd*, 2016 WL 4191126 (2016), *cert. denied*, 137 S. Ct. 1122 (2017).

I have one case for which a petition for certiorari is currently pending:

Deutsche Bank Trust Co. v. Robert R. McCormick Found., No. 16-317. Case below: *In re Tribune Co. Fraudulent Conveyance Litig.*, 499 B.R. 310 (S.D.N.Y. 2013), *aff'd*, 818 F.3d 98 (2d Cir. 2016)).

- 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.

Reversed/Vacated/Remanded

1. *MacNamara v. City of New York*, 2009 WL 4789421 (S.D.N.Y. Dec. 14, 2009), *mandamus granted and order vacated by In re City of New York*, 607 F.3d 923 (2d Cir. 2010). This case involved claims brought by individuals who were arrested during the 2004 Republican National Convention in New York. The case was originally assigned to another judge, who referred the matter to a magistrate judge for pre-trial supervision. During the course of discovery, the magistrate judge directed the City of New York to disclose undercover police reports (in redacted form) relating to security at the Convention. The City appealed to the District Court, and I affirmed the magistrate judge's ruling in what the Second Circuit later described as "a careful and conscientious memorandum and order." The City thereafter appealed to the Second Circuit, which reversed the Court's order, finding that the reports were protected by the law enforcement privilege and that plaintiffs had failed to demonstrate a compelling need for their disclosure.

2. *Bonnant v. Merrill Lynch*, 2009 WL 1809980 (S.D.N.Y. June 25, 2009), *rev'd*, 467 F. App'x 4 (2d Cir. 2012). Plaintiff sought to enjoin an arbitration commenced by defendants related to plaintiff's delinquent investment account. I granted summary judgment for defendants, finding that plaintiff was bound by the arbitration provision in the account opening documents, which plaintiff had signed twice – once in his capacity as officer and director of the shell corporation in whose name the funds were being invested, and once in his own name. The Second Circuit reversed and remanded, concluding that plaintiff's second signature did not unambiguously identify him either as an account holder or as a party to the agreement. The case ultimately settled on remand.

3. *Toliver v. City of New York*, 2012 WL 914948 (S.D.N.Y. Mar. 19, 2012), *rev'd*, 530 F. App'x 90 (2d Cir. 2013). Pro se inmate brought claims against corrections officers and the City of New York for retaliation resulting from his prior commencement of numerous cases alleging civil rights violations. I adopted the report and recommendation of the magistrate judge, who concluded that plaintiff had failed to allege a cognizable injury beyond verbal threats. I nevertheless granted plaintiff leave to amend his complaint, or to amend one of his other pending cases to include retaliation claims. The Court of Appeals reversed, finding that "[a]gainst the broader factual background sketched by [plaintiff's] complaint and related filings," a reasonable jury could find that the officers' allegedly retaliatory conduct on September 4, 2010 "would deter a similarly situated individual of ordinary firmness from exercising his or her

constitutional rights.” Following the appointment of pro bono counsel by the Court, the parties settled this action before going to trial in a related action, which resulted in a verdict in favor of defendants.

4. *Scarangella v. Group Health, Inc.*, 877 F. Supp. 2d 78 (S.D.N.Y. 2012), *vacated and remanded*, 731 F.3d 146 (2d Cir. 2013). Plaintiff brought claims against his former employer and the employer’s insurance company under ERISA. After protracted discovery and motion practice, the parties eventually settled the action. Thereafter, the employer requested that the insurer be ordered to pay reasonable attorney’s fees incurred by the employer. Recognizing that, under ERISA, “the [district] court in its discretion may allow a reasonable attorney’s fee and costs of action to either party,” I nevertheless concluded that the employer did not obtain sufficient success on the merits to justify an award of attorney’s fees and denied the motion. On appeal, the Second Circuit remanded for further findings on the issue. On remand, I applied and considered the factors identified by the Circuit and again concluded that an award of attorneys’ fees was not warranted. The Circuit subsequently affirmed my denial of attorney’s fees.

5. *United States v. Newman*, 21 F. Supp. 3d 309 (S.D.N.Y. 2014), *rev’d*, *United States v. Newman*, 773 F.3d 438 (2d Cir. 2014), *abrogated by Salman v. United States*, 137 S. Ct. 420 (2016); *abrogation recognized by United States v. Martoma*, 869 F.3d 58 (2d Cir. 2017), *opinion amended and superseded by*, 2017 WL 9620394 (2d Cir. June 25, 2018). This was an insider trading case in which hedge fund analysts and portfolio managers were accused of trading on material nonpublic information provided by insiders at Dell and Nvidia. Following the guilty pleas of ten coconspirators, three defendants went to trial and were convicted on all counts. Although the convictions were reversed on appeal in *United States v. Newman*, 773 F.3d 438 (2014), that decision was subsequently abrogated by the Supreme Court in *Salman v. United States*, 137 S. Ct. 420 (2016).

6. *Michaels v. Comm’r of Soc. Sec.*, 2014 WL 929323 (S.D.N.Y. 2014), *vacated and remanded*, 621 F. App’x 35 (2d Cir. 2015). After Plaintiff’s application for social security benefits was denied by the Commissioner of Social Security, he appealed to the District Court. I referred the matter to a magistrate judge for a report and recommendation, and the magistrate judge recommended that judgment be granted in favor of the Commissioner in light of the deferential standard of review, which merely required the court “to determin[e] whether the [Commissioner’s] conclusions were supported by substantial evidence in the record and were based on a correct legal standard.” Although Plaintiff was given the opportunity to object to the report and recommendation, he did not do so. Citing the standard of review for a report and recommendation (“when no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record”), I concluded that the “reasoning and conclusions set forth” in the magistrate judge’s “thorough and well-written forty-four page Report . . . [were] not facially erroneous,” and that

there was substantial evidence in the record to support the Commissioner's denial of benefits. On appeal, the Second Circuit disagreed and remanded to the Commissioner for further factual findings.

7. *Gomez v. City of New York*, 12-cv-6409 (S.D.N.Y. 2014), *vacated and remanded*, 805 F.3d 419 (2015). Plaintiff, a former police officer, filed a complaint alleging that the City of New York and the New York City Police Department deprived him of various constitutional rights. Several months later, Plaintiff, through his attorney, signed a stipulation voluntarily dismissing most of Plaintiff's claims. Shortly thereafter, Plaintiff wrote a letter to the Court stating that his attorney did not have authority to sign the stipulation and requesting that the Court reopen his case. In light of the fact that Plaintiff was present in court when his attorney stated his intention to dismiss the claims, and given the Second Circuit's precedent "presum[ing] that an attorney-of-record who enters into a settlement agreement . . . had authority to do so," I denied Plaintiff's request. On appeal, the Second Circuit relied on out-of-circuit authority to conclude that an evidentiary hearing was required to determine whether Plaintiff's counsel had authority to enter into the stipulation. On remand, I conducted an evidentiary hearing that included testimony from Plaintiff and his former counsel; I thereafter concluded that Plaintiff had not rebutted the presumption that his lawyer had authority to sign the stipulation. Although Plaintiff again appealed, the Circuit subsequently affirmed my ruling.

8. *United States v. Hussain*, 2012 WL 12857452 (S.D.N.Y. June 27, 2012), *rev'd*, 835 F.3d 307 (2d Cir. 2016). This case involved a Bronx robbery crew that engaged in multiple gunpoint robberies, including one that resulted in a murder. In all, eight defendants were convicted, including several who went to trial. Following the trial of the main defendants, one defendant was apprehended and moved to suppress evidence – including a handgun – seized from his car following a traffic stop. After the motion to suppress evidence was denied, the case proceeded to trial, whereupon a jury convicted the defendant on charges of robbery conspiracy and using a firearm during and in relation to the robbery. I sentenced him to 11 years' imprisonment. On appeal, the Second Circuit (1) concluded that the search of the vehicle was not supported by reasonable suspicion, (2) suppressed the evidence seized from the car, and (3) remanded for a new trial. On remand, the defendant pleaded guilty to robbery conspiracy and stipulated to an enhancement under the Sentencing Guidelines for possession of a firearm, resulting in a Guidelines range of 78 to 97 months. The Court ultimately imposed a sentence of 96 months (8 years).

9. *William v. City of New York*, 16-cv-5208 (S.D.N.Y. 2016), *vacated and remanded*, ___ F. App'x ___, 2018 WL 3031415 (2d Cir. June 19, 2018). After Plaintiff failed to serve any of the defendants within 90 days of the filing of his complaint, I issued a standard order indicating that the action would be dismissed for failure to prosecute unless, within two weeks, plaintiff filed proof of service with the clerk of the court or showed cause why a further extension of time for

service was warranted, in accordance with Federal Rule of Civil Procedure 4(m). When plaintiff failed to respond to the Court's order, I dismissed the case without prejudice. Nearly 11 months later, plaintiff belatedly filed proofs of service on the docket and requested that I vacate the dismissal order pursuant to Rule 60(b)(1). I denied the motion, noting that plaintiff's failure to respond to court orders or to check the docket sheet of his own case for nearly a year was not the equivalent of missing a filing deadline and did not constitute the kind of mistake, inadvertence, excusable neglect, or other exceptional circumstance that warranted relief under Rule 60. Although I cited several Second Circuit precedents upholding denials of Rule 60 motions under similar circumstances, the Second Circuit concluded that my failure to expressly reference the four-factor balancing standard articulated in *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380 (1993) warranted a remand for further explanation.

Affirmed in Part, Reversed/Remanded/Vacated in Part

1. *Tiffany (NJ) Inc v. eBay Inc.*, 576 F. Supp. 2d 463 (S.D.N.Y. 2008), *aff'd in all respects with the exception of remand on one peripheral claim*, 600 F.3d 93 (2d Cir. 2010). In this case, the Second Circuit affirmed my findings of fact and conclusions of law with respect to Tiffany's claims for direct trademark infringement, contributory infringement, unfair competition, and trademark dilution. With respect to Tiffany's ancillary claim of false advertising, the Court of Appeals affirmed my ruling in all respects except one, and remanded for the limited purpose of making further findings regarding whether Tiffany had established that eBay's advertisements were "likely to mislead or confuse consumers." On remand, Tiffany conceded that it had introduced no such evidence at trial; accordingly, I again found for eBay on Tiffany's false advertising claim. *See* 2010 WL 3733894. Tiffany did not appeal from this ruling.

2. *Harris v. City of New York*, No. 07-cv-7894 (Doc. No. 26), *aff'd in part, vacated in part*, 607 F.3d 18 (2d Cir. 2010). Prisoner plaintiff brought an action under § 1983, alleging that he was assaulted by corrections officers. I dismissed plaintiff's complaint on the grounds that he had accumulated four strikes under the Prison Litigation Reform Act (PLRA), was not entitled to *in forma pauperis* status, and had not paid any filing fees. Plaintiff, who by then had been released from prison, thereafter appealed. After clarifying the Circuit's interpretation of the "three strikes rule" for *in forma pauperis* filers under the PLRA, the Second Circuit affirmed my dismissal of the complaint, but vacated my order of dismissal and remanded to allow for the issuance of a new order that expressly permitted plaintiff to apply for *in forma pauperis* status as a non-incarcerated plaintiff.

3. *Nnebe v. Daus*, 655 F. Supp. 2d 311 (S.D.N.Y. 2009), *aff'd in part, remanded in part*, 644 F.3d 147 (2d Cir. 2011). Plaintiff taxicab drivers brought this putative class action against City of New York, city officials, and others, alleging that the City's policy of suspending drivers' taxicab licenses upon notification of

arrest, without a hearing, violated the federal constitution, state law, and city law. I granted summary judgment in favor of the City. The Second Circuit affirmed my conclusion that the due process clause did not require a pre-suspension hearing; however, in light of representations made by counsel for the City during oral argument, the Circuit remanded for additional fact-finding concerning the scope of the post-suspension hearings afforded to drivers. On remand, *see* 184 F. Supp. 3d 54 (S.D.N.Y. 2016), I made findings as to the scope of the hearings and concluded that the post-suspension hearings did not violate procedural or substantive due process. An appeal of that ruling is pending.

4. *Taveras v. UBS AG*, No. 08-cv-6696, 2011 WL 1344734 (S.D.N.Y. Mar. 24, 2011), 2012 WL 1034445 (S.D.N.Y. Mar. 23, 2012), *aff'd in part, and remanded in part*, 708 F.3d 436 (2d Cir. 2013), 513 F. App'x 19 (2d Cir. 2013). Participants in two retirement savings plans brought a putative class action, alleging that plan fiduciaries breached their duties under the Employee Retirement Income Security Act (ERISA). I granted fiduciaries' motion to dismiss and denied plaintiffs' motion to alter or amend the judgment and for leave to file an amended complaint. On appeal, the Second Circuit affirmed my rulings with respect to plaintiffs' failure to state a claim for breach of the duty of prudence, breach of the duty of candor, and a conflicts-of-interest claim under ERISA, but concluded that plaintiffs could amend their complaint to shorten the alleged class period. The Circuit also concluded that although the presumption of prudence applied to one of the two plans at issue in the case, it did not apply to the other.

5. *United States v. Contorinis*, No. 09-cr-1083 (Doc. 94), *aff'd in part, vacated in part*, 692 F.3d 136 (2d Cir. 2012). Defendant was convicted following a jury trial on charges of conspiracy to commit securities fraud and insider trading. Although the Second Circuit affirmed the convictions, the 72-month sentence, and my evidentiary rulings and jury instructions, the Circuit concluded that the profits realized by defendant's hedge fund (of which defendant was an equity holder) could not be attributed to defendant and therefore were not properly subject to forfeiture. Accordingly, the Circuit remanded for further proceedings to determine the proper forfeiture amount.

6. *Gordon v. McGinley*, No. 11-cv-1001, 2011 WL 3648606, (S.D.N.Y., Aug. 18, 2011), *aff'd in part, remanded in part*, 502 F. App'x. 89 (2d Cir. 2012). Plaintiff, a photographer, brought copyright infringement claims against a rival photographer and various advertisers who utilized the rival's photos in their ad campaigns. The Court dismissed plaintiff's federal claims for failure to state a claim and declined to exercise supplemental jurisdiction on plaintiff's remaining state law claims. Plaintiff appealed the dismissal and defendants cross appealed, arguing that the Court should have dismissed plaintiff's state law claims (rather than merely declining to exercise supplemental jurisdiction over them) because they were completely preempted by the federal Copyright Act. On appeal, the Second Circuit affirmed dismissal of plaintiff's federal claims, but remanded for further findings as to whether plaintiff's state law claims were completely

preempted. The parties ultimately settled the case before the Court ruled on the preemption issue.

7. *United States v. Goffer*, No. 10-cr-56 (Doc. Nos. 179, 270, 271), 756 F. Supp. 2d 588 (S.D.N.Y. 2011), *aff'd* 721 F.3d 113 (2d Cir. 2013); *aff'd in part, vacated in part*, 529 F. App'x 17 (2d Cir. 2013); *aff'd*, 531 F. App'x 8 (2d Cir. 2013). In this multi-defendant insider trading case, several defendants appealed the Court's evidentiary rulings, their convictions, and their sentences. Across multiple appeals, the Second Circuit affirmed my rulings in all respects but one: specifically, the Court of Appeals noted that "in light of [a Second Circuit decision issued after judgment in this case], the Government concedes that the forfeiture order should not account for gains realized by [the defendant's] employers." Accordingly, as in *Contorinis*, the Second Circuit remanded for findings regarding how much of defendant's "interest in salaries, bonuses, dividends, or enhanced value of equity . . . can be said to be money 'acquired' by the defendant through the illegal transactions resulting in the forfeiture."

8. *United States v. Vilar*, No. 05-cr-621 (Doc. Nos. 421, 438, 439), *aff'd in part, remanded in part*, 729 F.3d 62 (2d Cir. 2013), *cert. denied*, 729 S. Ct. 62 (2014). Defendants Vilar and Tanaka were convicted after a nine-week trial in 2008 on charges of conspiracy, securities fraud, and investment advisor fraud. On appeal, the Second Circuit affirmed the convictions and all my rulings across a range of issues, but remanded for further findings with respect to calculating the sentencing guidelines range and restitution amount in light of the Supreme Court's decisions in *Morrison v. Nat'l Australia Bank Ltd.*, 561 U.S. 247 (2010), and *Kiobel v. Royal Dutch Petroleum Co.*, 569 U.S. 108 (2013). Specifically, the Second Circuit relied on those later-decided cases to conclude that the federal securities fraud statute does not apply to extraterritorial conduct; consequently, the Circuit directed the district court to recalculate the amount of loss and restitution applicable to each defendant, considering only domestic transactions. On remand, these calculations remained largely unchanged and I resentenced defendants, who again appealed. The Second Circuit thereafter affirmed the sentence in all material respects, but remanded with respect to the imposition of a fine. *See* 644 F. App'x 36 (2d Cir. 2016). In light of the substantial forfeiture and restitution orders already imposed, the parties subsequently requested that the Court not impose a fine, and no fine was imposed.

9. *Streeteasy v. Chertok*, 2013 WL 1385213 (S.D.N.Y. Mar. 18, 2013), *rev'd in part and remanded in part*, 752 F.3d 298 (2d Cir. 2014). After settling their dispute before a magistrate judge in 2012, the parties subsequently filed cross-motions regarding enforcement of the settlement agreement and for sanctions. I ultimately denied defendant's motion to vacate the settlement, granted plaintiff's motion to compel compliance with the settlement, and sanctioned defendant for his failure to comply with the settlement agreement and court orders. On appeal, the Second Circuit reversed, finding that the district court lacked jurisdiction to enforce the agreement since the order of dismissal before the magistrate judge

failed to expressly retain jurisdiction for that purpose. As a result, the Second Circuit vacated a portion of the court's orders, but affirmed my sanctions order in part, with instructions to reconsider the appropriate amount of monetary sanctions in light of the Circuit's ruling. On remand, I imposed sanctions of approximately \$20,000. The defendant again appealed to the Second Circuit, which affirmed my ruling in its entirety. *See* 651 F. App'x 37 (2d Cir. 2016).

10. *Gucci Am., Inc. v. Weixing Li*, 135 F. Supp. 3d 87 (S.D.N.Y. 2015), *aff'd in part, rev'd and remanded in part*, 768 F.3d 122 (2d Cir. 2014). Gucci and other luxury brand manufacturers initiated this trademark infringement action against the owners and operators of a Chinese website dedicated to the sale of imitation handbags and other counterfeit items bearing plaintiffs' trademarks. After enjoining defendants from manufacturing, selling, or marketing counterfeit goods over its websites, I ordered the Bank of China to freeze defendants' assets and produce documents relating to defendants' identities. When the Bank of China refused to comply with the Court's orders, I held the Bank in contempt. On appeal, the Second Circuit affirmed the Court's preliminary injunction, but vacated its orders against the Bank in light of the Supreme Court's opinion on general personal jurisdiction in *Daimler AG v. Bauman*, 134 S. Ct. 746 (2014), which postdated my orders against the Bank. Nevertheless, the Second Circuit remanded the case and directed the Court to consider whether it had specific personal jurisdiction over the Bank of China, and, if so, whether exercising such jurisdiction was consistent with principles of international comity. On remand, I concluded that the Court did indeed have specific personal jurisdiction over the Bank and that exercising such jurisdiction comported with due process and principles of comity. Accordingly, I granted plaintiffs' motion to compel the Bank to comply with plaintiff's subpoenas. The case ultimately settled.

11. *16 Casa Duse, LLC v. Merkin*, No. 12-cv-3492, 2013 WL 5510770 (S.D.N.Y. Sept. 27, 2013), *aff'd in part, vacated and remanded in part*, 791 F.3d 247 (2d Cir. 2015). Plaintiff, the producer of a film, sued the film's director for copyright infringement. I granted summary judgment to plaintiff on its copyright and state-law claims, dismissed defendant's copyright counterclaims, and awarded plaintiff costs and attorney's fees. The Second Circuit agreed as to all but one of the state law claims, and remanded for the district court to reexamine its award of costs and attorney's fees in light thereof.

12. *Loreley Fin. v. Wells Fargo*, 12-cv-3723, No. 2013 WL 1294668 (S.D.N.Y. Mar. 28, 2013), *aff'd in part, rev'd in part, vacated in part*, 797 F.3d 160 (2d Cir. 2015). Investors brought a state court action against offerors and managers of three failed collateralized debt obligations (CDOs), alleging fraud in connection with disclosures about how CDOs were constructed. After the action was removed to federal court, I granted defendants' motion to dismiss, concluding that plaintiffs failed to establish personal jurisdiction over one of the defendants, that plaintiffs' fraud claims were time barred, and that plaintiffs had failed to allege facts that plausibly supported the elements of their remaining claims. I also

denied plaintiffs' request to amend their pleadings in light of their prior failures to amend. On appeal, the Second Circuit agreed that plaintiff had failed to plead sufficient facts with respect to one of the three defendants, but disagreed as to the two others; the Second Circuit also directed that plaintiffs be given leave to amend their complaint in light of the deficiencies identified in the Circuit's opinion.

13. *Lola v. Skadden, Arps, Slate, Meagher & Flom, LLP*, 13-cv-5008, 2014 WL 4626228 (S.D.N.Y. Sept. 16, 2014), *rev'd in part*, 620 F. App'x 37 (2d Cir. 2015). Plaintiff, a contract attorney who performed document review for a law firm, filed a putative class action against the firm and his staffing company, alleging violation of the overtime provision of the Fair Labor Standards Act (FLSA). I dismissed plaintiff's complaint for failure to state a claim on the grounds that plaintiff, a licensed attorney, was exempt from the overtime provisions of the FLSA. On appeal, the Second Circuit agreed with my finding that state rather than federal law applied in determining the meaning of the term "engaged in the practice of law," and that under federal common law choice-of-law principles, the law of North Carolina applied. However, the Second Circuit concluded that plaintiff alleged sufficient facts to survive the pleading stage. On remand, the case ultimately settled.

14. *United States v. Bennett*, No. 14-cr-203 (S.D.N.Y. Dec. 19, 2014), *aff'd in part, remanded for resentencing*, 839 F. 3d 153 (2016). Defendant pleaded guilty to possession of child pornography. At sentencing, I concluded that Defendant was subject to a five-level enhancement under the United States Sentencing Guidelines because his use of file-sharing software constituted "distribution [of child pornography] for the receipt . . . of a thing of value." Although this resulted in a Guidelines range that would ordinarily have been 135 to 168 months, the count of conviction carried a maximum sentence of 10 years. In light of Defendant's lack of criminal history and his other personal characteristics, I sentenced Defendant to a term of imprisonment of seven years. On appeal, the Second Circuit affirmed my calculation of the Sentencing Guidelines and the imposition of the five-level enhancement. However, notwithstanding my express acknowledgment that the statutory maximum sentence was 10 years, the Circuit concluded that I "incorrectly calculated the applicable Guidelines range" because I did not expressly state that the Guidelines range was reduced to the statutory maximum of 10 years. On remand, I made clear that I was, in fact, "fully aware at the time of sentencing that Defendant's Guidelines range and statutory maximum were the same: ten years" and noted that the Presentence Investigation Report and Defendant's submission – which I had specifically referenced at the sentencing hearing – clearly stated that the applicable Guidelines range was capped at 120 months' imprisonment by virtue of § 5G1.1 of the Guidelines. Nevertheless, in light of Defendant's positive conduct in the two years since his original sentencing, I imposed a sentence of 66 months' incarceration.

15. *Broadspring v. Nashed*, No. 13-cv-1866, 2016 WL 817449 (S.D.N.Y. Feb. 24, 2016), *aff'd in part, reversed in part, and remanded*, 683 F. App'x 13 (2d Cir. 2017). The operator of an online advertising network alleged that defendants had engaged in a campaign to spread false and defamatory information about plaintiff in violation of California's defamation law and Section 43(a) of the Lanham Act. After a two-week trial, the jury found that defendants were not liable on plaintiff's Lanham Act claim but were liable for certain defamatory statements. However, notwithstanding plaintiff's request for millions of dollars in damages, the jury awarded plaintiff just \$157 in actual damages and \$1 in assumed damages, as well as punitive damages totaling \$40,000. Following trial, I denied plaintiff's motion for a new trial on damages and granted in part and denied in part each party's motion for costs. On appeal, the Second Circuit affirmed the jury's findings and my post-trial rulings, but reversed with respect to the reimbursement of costs associated with the deposition of plaintiff's expert. On remand, the parties agreed to an adjustment of costs, which resulted in a net change of approximately \$4,000.

Affirmed On Different Grounds

1. *In re Tribune Co. Fraudulent Conveyance Litig.*, 499 B.R. 310, 313 (S.D.N.Y. 2013), *aff'd on other grounds*, 818 F.3d 98 (2d Cir. 2016) (hereinafter "*Deutsche Bank*"), *mandate subsequently withdrawn*. This case is part of a massive multi-district litigation involving the bankruptcy of the Tribune Corporation. On September 23, 2013, I granted Defendants' motion to dismiss the individual creditors' state-law fraudulent conveyance claims, finding that Section 362(a)(1) of the Bankruptcy Code deprives individual creditors of standing to challenge the same transactions that the Trustee is simultaneously seeking to avoid. More than two and half years later, on March 29, 2016, the Second Circuit affirmed my decision on different grounds, holding that the individual creditors' state-law fraudulent conveyance claims were preempted by the Section 546(e) safe-harbor provision of the Bankruptcy Code – an argument that I had rejected in my September 23, 2013 opinion. On September 9, 2016, Plaintiffs filed a petition for a writ of certiorari with the United States Supreme Court. *See Deutsche Bank Tr. Co. Ams. v. Robert R. McCormick Found.*, No. 16-317.

Around the same time, the Supreme Court granted certiorari in the case of *Merit Mgmt't Grp., LP v. FTI Consulting, Inc.* – a Seventh Circuit case which rejected the Second Circuit's interpretation of Section 546(e) and held that "the section 546(e) safe harbor [does not] protect[] transfers that are simply conducted *through* financial institutions (or the other entities named in section 546(e)), where the entity is neither the debtor nor the transferee but only the conduit." *FTI Consulting, Inc. v. Merit Mgmt. Grp., LP*, 830 F.3d 690, 691 (7th Cir. 2016). On February 27, 2018, the Supreme Court unanimously affirmed the Seventh Circuit's decision in *Merit Management*. *See Merit Mgmt. Grp., LP v. FTI Consulting, Inc.*, 138 S. Ct. 883 (2018).

On April 3, 2018, Justice Kennedy and Justice Thomas issued a “statement” respecting the petition for certiorari in *Deutsche Bank*, advising the parties that “consideration of the petition for certiorari [would] be deferred for an additional period of time . . . [to] allow the Court of Appeals or the District Court to consider whether to recall the mandate, entertain a Federal Rule of Civil Procedure 60(b) motion to vacate the earlier judgment, or provide any other available relief in light of [the Supreme Court’s] decision in *Merit Management* . . . given that there might not be a quorum in the [Supreme] Court.” Accordingly, on May 15, 2018, the Second Circuit recalled the mandate in *Deutsche Bank* “in anticipation of further panel review.” (See Doc. Nos. 7432–33.)

- 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.

All my opinions, memoranda, and orders are publicly docketed on the Court’s Electronic Case Filing System (ECF).

Some of my opinions are available through electronic databases including Westlaw and LEXIS. A search of Westlaw conducted June 26, 2018 lists 942 opinions, 137 (approximately 13%) of which are reported. A search of LEXIS conducted June 25, 2018 lists 1,209 opinions, 147 (approximately 12%) of which are reported. This list does not include opinions I authored while sitting by designation on the Second Circuit, which are listed below.

- 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.

Dinler v. City of New York, No. 04-cv-7921, 2012 WL 4513352 (S.D.N.Y. Sept. 30, 2012), 2014 WL 3858319 (S.D.N.Y. Aug. 5, 2014).

Lederman v. New York City Dep’t of Parks and Recreation, 901 F. Supp. 2d 464 (S.D.N.Y. 2012), *aff’d*, 731 F.3d 199 (2d Cir. 2013), *cert. denied*, 134 S. Ct. 1510 (2014).

United States v. Pena Ontiveros, 547 F. Supp. 2d 323 (S.D.N.Y. 2008), *aff’d*, 409 F. App’x 441 (2d Cir. 2011).

Pugh v. Goord, 571 F. Supp. 2d 477 (S.D.N.Y. 2008).

New York Civil Liberties Union v. New York City Transit Auth., 675 F. Supp. 2d. 411 (S.D.N.Y. 2009), *aff’d*, 684 F.3d 286 (2d Cir. 2012).

United States v. Goffer, 756 F. Supp. 2d. 588 (S.D.N.Y. 2011), *aff’d*, 721 F.3d 113 (2d Cir. 2013), *cert. denied*, 135 S. Ct. 63 (2014) (additional opinions at 529

F. App'x 17 and 531 F. App'x 8).

United States v. Scott, 919 F. Supp. 2d 423 (S.D.N.Y. 2013).

United States v. Ortiz, 943 F. Supp. 2d 447 (S.D.N.Y. 2013).

Nnebe v. Daus, 655 F. Supp. 2d 311 (2009), *aff'd in part and remanded in part*, 644 F.3d 147 (2d Cir. 2011); 184 F. Supp. 3d 54 (S.D.N.Y. 2016) (decision on remand).

- 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.

United Transp. Union v. Nat'l R.R. Passenger Corp., 588 F.3d 805 (2d Cir. 2009) (I authored the opinion of the Court): In this case, a railroad conductor appealed a labor board decision that Amtrak could terminate the conductor for conduct taken in the conductor's capacity as a union representative. The district court set aside the board decision. In my opinion for the Court reversing the district court, I concluded that the governing federal statute permitted the discipline and that the Board had not acted outside its jurisdiction in imposing it.

Bryant v. N.Y. State Educ. Dep't, 692 F.3d 202 (2d Cir. 2012) (I issued a separate opinion concurring in part and dissenting in part): In this case, the appellants claimed that a New York regulation prohibiting the use of aversive interventions violated the Individuals with Disabilities Education Act (IDEA), and the Rehabilitation Act as well as principles of due process, and equal protection. The panel majority affirmed dismissal of all appellants' claims. I dissented from the majority's decision to dismiss the IDEA claims (concluding that appellants' complaint had alleged facts sufficient to withstand a motion to dismiss), but concurred in the majority's dismissal of the remaining claims.

Mohamed v. Sessions, 15-3996-ag (2d Cir. June 20, 2018) (I issued a separate opinion dissenting from the summary order remanding the case): Petitioner, a citizen of Guyana and legal permanent resident who was convicted of an aggravated felony and controlled substance offense, appealed the Board of Immigration Affairs' refusal to stay his removal pending the appeal of his criminal conviction. The majority concluded that the BIA's decision was based on an erroneous understanding of Second Circuit precedent and remanded for further findings, including an interpretation of the word "conviction" under the removal statute. Because I saw nothing in the BIA's decision to suggest that it misconstrued Second Circuit precedent, and because I found the removal statute – which defines the term "conviction" to mean "a formal judgment of guilt of the alien entered by a court" – to be unambiguous on its face, I dissented.

Vayani v. Pohani, ___ F. App'x ___, 17-2767 (2d Cir. June 7, 2018)

Silverman v. Teamster Local 210, __ F. App'x __, 17-1184, 17-1480 (2d Cir. June 7, 2018)
Tucillo v. County of Nassau, __ F. App'x __, 17-2300-cv (2d Cir. May 25, 2018)
HOP Energy, LLC v. Local 553 Pension Fund, 678 F.3d 158 (2d Cir. 2011)
United States v. Leon, 663 F.2d 552 (2d Cir. 2011)
Ndrecaj v. Holder, 445 F. App'x 428 (2d Cir. 2011)
United States v. Prince, 445 F. App'x 419 (2d Cir. 2011), *cert. denied*, 565 U.S. 1240 (2012)
Skalafuris v. City of New York, Dep't of Corr., 437 F. App'x 54 (2d Cir. 2011)
United States v. Spivack, 376 F. App'x 144 (2d Cir. 2010)
Kinneary v. City of New York, 601 F.3d 151 (2d Cir. 2010)
Stengel v. Black, 368 F. App'x 164 (2d Cir. 2010)
United States v. Bloom, 366 F. App'x 285 (2d Cir. 2010)
DEF v. ABC, 366 F. App'x 250 (2d Cir. 2010), *cert. denied*, 561 U.S. 1038 (2010)
Wing Qing Wang v. Holder, 365 F. App'x 239 (2d Cir. 2010)
Bhatia v. City of Shelton, 362 F. App'x 220 (2d Cir. 2010)
SEC v. Dorozhko, 574 F.3d 42 (2d Cir. 2009)
Oriska Ins. Co. v. Am. Textile Maint., 322 F. App'x 36 (2d Cir. 2009)
Friedman v. Coldwater Creek, Inc., 321 F. App'x 36 (2d Cir. 2009)
United States v. Brown, 320 F. App'x 58 (2d Cir. 2009)
United States v. Ashraf, 320 F. App'x 26 (2d Cir. 2009)

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

As a federal district judge, I have sought to comply with 28 U.S.C. § 455, disqualifying myself in specific circumstances commanded by the statute and in any case where my impartiality might reasonably be questioned.

As with all federal judges, my court employs an “automatic” electronic recusal system by which my docket is monitored daily to assess whether any of the cases assigned to me involves a party with which I have a financial or personal relationship. Because I have not worked at a law firm in over 20 years, own virtually no stock, and have no immediate relatives who are lawyers, I have had few cases that require recusal. The cases in which I have recused myself are as follows:

1. *Gilman v. Spitzer*, No. 11-cv-5843 (S.D.N.Y. 2011). This case was brought by a former employee of Marsh Inc. and involved subject matter with which I was highly familiar as a result of my previous position as General Counsel of Marsh Inc. Accordingly, I advised the parties and counsel of this connection and *sua sponte* recused myself from the case, which was then assigned to another judge.
2. *Belnick v. Twin City Fire Ins. Co.*, No. 06-cv-6355 (S.D.N.Y. 2007); *Walsh v. Twin City Fire Ins. Co.*, No. 06-cv-6356 (S.D.N.Y. 2007); *Estate of Herbert Gerald Kaup v. Met Life Ins. Co.*, No. 06-cv-13499 (S.D.N.Y. 2007); *Guruswamy v. Marsh & McLennan Cos.*, No. 13-cv-7598 (S.D.N.Y. 2013). Each of these cases involved Marsh & McLennan or its subsidiaries as defendants or potential defendants. At the time these cases were assigned to me, I still owned stock in Marsh & McLennan Cos., Inc. Accordingly, I promptly recused myself from these actions, which were then assigned to another judge. I later sold all my shares in the company.
3. *Castillo v. United States*, No. 07-cv-836 (S.D.N.Y. 2009). This case was reassigned to me in 2009 following the death of Judge John Sprizzo. However, because I previously supervised the investigation and prosecution of this plaintiff while I was an Assistant United States Attorney, I promptly recused myself and the case was reassigned to another judge.
4. *Luperon v. North Jersey Truck Center, Inc.*, No. 07-cv-9630 (S.D.N.Y. 2008). This case was randomly assigned to me. However, upon learning that one of the parties was previously a criminal defendant in a case that I supervised while I was an Assistant United States Attorney, I promptly recused myself, and the case was assigned to another judge.
5. *Hicks v. Ercole*, No. 09-cv-2531 (S.D.N.Y. 2014). This case was reassigned to me in 2014 following the death of Judge Harold Baer. However, because I previously represented the plaintiff in his state court criminal appeal while I was in private practice, I promptly recused myself and the case was reassigned to a different judge.
6. *Ping v. Warden William Willingham*, No. 09-cv-9154 (S.D.N.Y. 2009). Because I participated in the investigation and prosecution of the plaintiff while I was an Assistant United States Attorney, I promptly recused myself from this case, which was reassigned to another judge.

7. *Webb v. Harrison*, No. 14-cv-5366 (S.D.N.Y. 2015) & *The Board Administration, LLC v. Webb*, No. 14-cv-5879 (S.D.N.Y. 2015). One of the parties in these related cases had been my tax preparer approximately 15 years before the commencement of this litigation. I promptly advised the parties of the potential conflict, referred the matters to the assigned magistrate judge for pre-trial procedures, and then requested that the Court's assignment committee reassign the case to another judge. The request was granted, and the case was reassigned.

8. *Roskin-Frazee v. Columbia University*, No. 17-cv-2032 (S.D.N.Y. 2017); *Thomas v. Teachers Coll. Columbia Univ.*, No. 17-cv-605 (S.D.N.Y. 2017); *Emmer v. Columbia University*, No. 12-cv-5061 (S.D.N.Y. 2012); *Jacobowitz v. Columbia University*, No. 12-cv-5652 (S.D.N.Y. 2012). Because I am an adjunct professor of law at Columbia University's law school, I sua sponte recused myself from these actions, which were brought against the University and its Teachers College. Before recusing myself, I first discussed the issue with the Court's chief judge, its assignment committee, and the Assistant General Counsel of the Administrative Office of United States Courts.

I have also declined to recuse myself in several cases in which counsel or parties sought my recusal based merely on my religion, my prior experience as a federal prosecutor, or my adverse rulings in the case. These include the following cases:

1. *United States v. Vilar*, No. 05-cv-621 (Doc. Nos. 621, 623), 2013 WL 12219248 (S.D.N.Y. Nov. 19, 2013). Defendants Vilar and Tanaka moved for my recusal following their conviction and sentencing in this securities and investment adviser fraud case. Because the motion was based on defendants' displeasure with my prior rulings, which is an impermissible basis for recusal, I denied the motion.

2. *SEC v. Amerindo Inv. Advisors Inc.*, No. 05-cv-5231 (Doc. No. 555). This case involved a parallel proceeding brought by the SEC against Vilar and Tanaka and the companies they controlled. Once again, the recusal motion was based on defendants' displeasure with my prior rulings. Accordingly, the motion was denied.

3. *McLean v. United States*, No. 08-cr-789, 2016 WL 3910664 (S.D.N.Y. July 13, 2016), *certificate of appealability denied* (Nov. 30, 2016), *appeal dismissed*, No. 16-2702, 2016 WL 9447127 (2d Cir. Dec. 5, 2016). Defendant moved for my recusal following his conviction and sentencing in this narcotics conspiracy case, alleging "bias and/or prejudice toward Jamaicans" based on my prior experience as a federal prosecutor. Finding defendant's allegations to be conclusory, without merit, and speculative, I denied the motion.

4. *Murphy v. United States*, No. 10-cr-107 (Doc. No. 31), 2016 WL 6601554 (S.D.N.Y. Nov. 4, 2016). Defendant was convicted of theft of federal funds related to two construction projects involving a pair of Catholic elementary schools in the Bronx. In his habeas petition, defendant moved for my recusal based on my religious affiliation and the fact that I taught as an adjunct professor at Fordham Law School; he also requested that the case be reassigned to “any other judge without Catholic Church affiliation.” Because defendant “failed to articulate any bias or prejudice on the part of the undersigned with respect to this case – indeed, there is none – and merely makes conclusory assertions designed to disparage the Court and the judicial process,” I denied the recusal request.

5. *United States v. Mendoza*, No. 07-cr-756 (Doc. No. 35). Defense counsel moved for my recusal based on my previous experience as an Assistant United States Attorney. Defendant ultimately withdrew his motion.

6. *Liu v. Mount Sinai School of Medicine*, No. 09-cv-9663 (Doc. Nos. 65, 66), *aff’d*, 559 F. App’x 106 (2d Cir. 2014). Pro se plaintiff moved for my recusal prior to the commencement of an evidentiary hearing regarding her entitlement to equitable tolling of her otherwise time-barred claims. Because the motion was based exclusively on plaintiff’s dissatisfaction with the Court’s prior rulings, the motion was denied.

7. *Gordon v. McGinley*, No. 11-cv-1001 (Doc. Nos. 73, 79, 86). Pro se plaintiff moved for my recusal based on (1) the alleged relationship between defendant Levi Strauss and a law firm where I had worked 20 years earlier, (2) the alleged relationship between Levi Strauss and Marsh Inc., where I had served as general counsel before becoming a judge, and (3) my prior rulings in the case, which plaintiff alleged reflected bias toward her and “fine art.” Finding plaintiff’s alleged conflicts to be far too attenuated and her allegations of bias to be based merely on her disappointment with the Court’s adverse rulings, the Court denied the motion.

8. *United States v. Williams*, No. 14-cr-784 (Doc. Nos. 243, 244, 245, 257). Following his conviction and sentencing for wire fraud, defendant – then proceeding pro se – moved for my recusal based on his dissatisfaction with my prior rulings in the case, which he asserted could only be explained as a “personal favor” for the United States Attorney. Deeming the motion to be baseless and conclusory, the Court denied the motion.

9. *Azkour v. Little Rest Twelve*, No. 11-cv-5780 (Doc. Nos. 297, 300, 302). Pro se plaintiff moved for recusal on the eve of trial, following the Court’s rulings on a number of pre-trial evidentiary issues. Finding that most of plaintiff’s assertions of bias were untimely and the others based exclusively on the Court’s pre-trial rulings in this case, the Court denied the motion.

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;

I served as a clerk to the Honorable David M. Ebel, United States Court of Appeals for the Tenth Circuit, from September 1990 to September 1991.

- 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.

1990

McCutchen Doyle Brown & Enersen
3 Embarcadero Center
San Francisco, California 94111
Summer Associate

1990

Gibson Dunn & Crutcher
200 Park Avenue
New York, New York 10166

Summer Associate

1991 – 1994
Wachtell Lipton Rosen & Katz
51 West 52nd Street
New York, New York 10019
Associate

1994 – 2005
United States Attorney's Office for the Southern District of New York
1 Saint Andrew's Plaza
New York, New York 10007
Assistant United States Attorney

2005 – 2007
Marsh & McLennan Companies, Inc.,
1166 Avenue of the Americas
New York, New York 10026
Deputy General Counsel – Litigation

2006 – 2007
Marsh Inc.
1166 Avenue of the Americas
New York, New York 10036
General Counsel

- 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.

At Wachtell Lipton, I was a litigation associate specializing in securities litigation, white collar criminal defense, commercial litigation, and internal corporate investigations.

At the United States Attorney's Office, I was a criminal prosecutor assigned at various times to the Office's General Crimes, Narcotics, and Violent Gangs Units. In 1999, I became a supervisor in charge of the Office's General Crimes Unit. Thereafter, I became chief of the Narcotics Unit, where I supervised more than 30 Assistant United States Attorneys

and hundreds of federal, state and local law enforcement officers in the investigation and prosecution of narcotics cases involving some of the largest and most sophisticated national and international criminal enterprises. In 2002, I was named as the founding chief of the Office's newly created International Narcotics Trafficking Unit, a senior unit dedicated to investigating and prosecuting the world's largest narcotics trafficking and money-laundering organizations. From 2002 to 2005, I also served as Director of the New York/New Jersey Organized Crime Drug Enforcement Task Force, where I managed the activities of more than 350 federal, state and local law enforcement officers engaged in investigations and prosecutions under the auspices of the federal Organized Crime Drug Enforcement Task Force (OCDETF) Program.

In 2005, I joined Marsh & McLennan Companies, Inc. ("MMC") as Deputy General Counsel for Litigation. In that capacity, I oversaw and directed all litigation and regulatory matters involving MMC, a global professional services firm with 55,000 employees and annual revenues of approximately \$11 billion. MMC was then the parent company of Marsh (the world's largest insurance broker and risk specialist), Guy Carpenter (the world's leading reinsurance specialist), Kroll (then the world's leading investigative and risk consulting company), Putnam Investments (one of the nation's largest investment management companies), and Mercer (a major global provider of pension, human resources and business consulting services).

In 2006, I became the General Counsel and a Managing Director of Marsh Inc., the world's largest insurance broker and risk management firm, with more than 25,000 employees and annual revenues of approximately \$5 billion. In that capacity, I advised senior management on all legal matters and supervised the activities of approximately 70 attorneys in 21 countries. I continued to act as Deputy General Counsel for Litigation for MMC until I became a judge in 2007.

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

In private practice, my typical clients included corporations, investment banks, financial institutions, and individual officers and employees of such institutions. As an Assistant United States Attorney, my client was the United States of America. At MMC, my clients were the corporation and the subsidiaries of the corporation.

- 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.

Following my clerkship in 1991 and up until I became a judge in 2007, I served as a litigator for my entire career (though as General Counsel of Marsh I also handled non-litigation matters).

While at Wachtell Lipton, I rarely appeared as counsel of record in court.

As an Assistant United States Attorney in the Southern District of New York, I appeared in court frequently, averaging 5 or more appearances a week between 1994 and 1999, and approximately 5 or more a month between 2000 and 2005 (when I was a supervisor).

As an in-house lawyer at MMC, I supervised 70 in-house lawyers and dozens of outside law firms that represented the company in court. Due to the nature of my practice and responsibilities, I did not make appearances in court during that period.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|------|
| 1. federal courts: | 100% |
| 2. state courts of record: | 0% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 10% |
| 2. criminal proceedings: | 90% |

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.

At least 19 trials – 14 as sole or chief counsel; 5 as supervising second chair

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 95% |
| 2. non-jury: | 5% |

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.

For each of the cases described below, I served as the principal Assistant United States Attorney (or one of the principal Assistant United States Attorneys) responsible for all phases of the investigation and prosecution

1. *United States v. Herbert*, 03-cr-211 (SHS); 2005 WL 106909 (S.D.N.Y. Jan. 19, 2005).

Investigation, extradition, prosecution and trial of a Belizean national responsible for transporting more than 30 tons of cocaine from Colombia to Belize en route to the United States. Defendant was convicted at trial and sentenced to 33 years imprisonment.

Judge: Honorable Sydney H. Stein

Co-Counsel

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Opposing Counsel

George Santangelo
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New York, New York 10006
(212) 269-4488

2. *United States v. Martinez*, 99-cr-1048 (DC); 464 F.3d 184 (2d Cir. 2006).

Investigation, prosecution, extradition, and trial of defendant for his participation in a 1997 contract murder and heroin conspiracy. Following his extradition from

the Dominican Republic, defendant was convicted at trial and sentenced to life imprisonment.

Judge: Honorable Denny Chin

Co-Counsel

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200 Park Avenue
New York, New York 10166
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Opposing Counsel

Bobbi C. Sternheim
33 West 19th Street, Floor 4
New York, New York 10011
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3. *United States v. Magana*, No. 01-cr-021 (GEL), 322 F. Supp. 2d 359 (S.D.N.Y. 2004), *aff'd in part and remanded*, 147 F. App'x 200 (2d Cir. 2005).

Investigation and prosecution of leaders of Mexico's Southeast Cartel, who were responsible for transporting more than 200 tons of cocaine from Colombia to the United States via Mexico. One defendant pleaded guilty to narcotics conspiracy and weapons charges two weeks before trial while the remaining two defendants pled guilty on the first day of trial to all counts of the indictment, which included narcotics conspiracy and weapons charges. A hearing to resolve disputed factual issues related to sentencing for all three defendants was held in March 2004, after which the defendants were sentenced to lengthy terms of imprisonment.

Judge: Honorable Gerard E. Lynch.

Co-Counsel

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New York, New York 10007
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4. *United States v. Madrid*, No. 02-cr-416, 302 F. Supp. 2d 187 (S.D.N.Y. 2003).

Investigation and prosecution of former Mexican Governor Mario Villanueva Madrid and others, including a Lehman Brothers Vice President, for their participation in a scheme to launder more than \$20 million in narcotics proceeds through U.S. financial markets. Villanueva Madrid was ultimately extradited to the United States, where he pleaded guilty to money laundering charges and was sentenced to 11 years in prison. All other defendants, including the Lehman Brothers officer, also pleaded guilty to multiple counts of money laundering and bank fraud and were sentenced.

Judge: Honorable Naomi Reice Buchwald.

Co-Counsel

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New York, New York 10022
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5. *United States v. Banks*, 99-cr-1048 (S.D.N.Y.), 112 F. App'x 779 (2d Cir. 2004).

Investigation, prosecution and trial of narcotics trafficking organization responsible for distributing over 300 kilograms of heroin and murder in aid of racketeering. Four defendants pleaded guilty to narcotics trafficking, weapons, and/or murder charges and received sentences ranging from 17 to 31 years' imprisonment. Three other defendants were convicted at trial and were sentenced to life imprisonment.

Judge: Honorable Denny Chin

Co-Counsel

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Opposing Counsel

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Cozen O'Connor
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Sabrina P. Shroff
Federal Defenders of New York
300 Quarropas Street
White Plains, New York 10601
(212) 417-8700

Lynne F. Stewart (deceased)

Valerie Amsterdam (disbarred following criminal conviction)

6. *United States v. Maisonet*, 97-cr-817, 213 F.3d 627 (2d Cir. 2000), 28 F. App'x 34 (2d Cir. 2001); 1998 WL 355414 (S.D.N.Y. Jul.1, 1998).

Investigation, prosecution and trial of 25-member racketeering organization responsible for numerous murders and for distributing more than \$100,000 worth of heroin per day in the Hunt's Point section of the Bronx. The leaders of the organization pleaded guilty before trial and received sentences of 45 years, 40 years, life imprisonment, and 35 years. Three other leaders of the organization were convicted at trial and received sentences of life imprisonment, life imprisonment, and 30 years, respectively. Another defendant was convicted at trial and sentenced to 188 months imprisonment for his participation in the brutal assault of a government witness in retaliation for the witness' testimony in the racketeering prosecution. Another defendant – a Bronx defense attorney – pleaded guilty two weeks before trial to narcotics trafficking, money laundering and obstruction of justice charges and was sentenced to 87 months imprisonment. The remaining narcotics defendants pleaded guilty before or during trial and received sentences ranging from 10-30 years imprisonment.

Judge: Honorable Denny Chin.

Co-Counsel

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Martin Siegel

Retired from the Practice of Law.

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Labe Richman
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John Jacobs (deceased)

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New York, New York 10020
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Thomas Fitzpatrick
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New York, New York 10110
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7. *United States v. Walker*, 96-cr-736 (HB), 191 F.3d 326 (2d Cir. 1999).

Prosecution and trial of New York attorney and others responsible for a massive immigration fraud involving the filing of thousands of fraudulent asylum applications to the INS. The two defendants were convicted at trial and sentenced to 42 months and five months, respectively.

Judge: Honorable Harold Baer (deceased).

Co-Counsel

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Opposing Counsel

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212-336-2000

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8. *United States v. Salvador*, Nos. 98-cr-484, 98-cr-197, 205 F.3d 1327, 2000 WL 232286 (Table) (2d Cir. Feb.28, 2000), and 2006 WL 2034637 (S.D.N.Y. Jul. 19, 2006).

Investigation, prosecution, extradition and trial of a 30-member narcotics organization responsible for distributing hundreds of kilograms of heroin in the New York Metropolitan area. One defendant was convicted at trial and sentenced to 20 years imprisonment while another was arrested as a fugitive in the Dominican Republic and extradited to the United States; he thereafter pleaded guilty to narcotics trafficking charges and, after a lengthy sentencing hearing, was sentenced to a term of 270 months. All other defendants pleaded guilty to various indictments before trial and received sentences ranging from 5 to 30 years.

Judges: Honorable Lawrence McKenna, Honorable Dominic DiCarlo (deceased).

Co-Counsel

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Opposing Counsel:

Dan Nobel
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New York, New York

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Bruce Kaye
Barasch McGarry Salzman & Penson
11 Park Place
New York, New York
(888) 746-8212

Lisa Cahill
Lisa Cahill PLLC
(current contact information unavailable)

I have listed here several of the principal counsel for particular defendants. There were many defendants in this action, and some had more than one attorney over the course of this trial; many of the attorneys have since retired or passed away.

9. *United States v. Schreiber*, 91-cr-990 (LAP), 191 F.3d 103 (2d Cir. 1999).

Investigation, prosecution and trial of 21-member narcotics organization responsible for distributing ton quantities of marijuana across the United States. One defendant was convicted at trial and was sentenced to a non-custodial sentence pursuant to a downward departure under the sentencing guidelines; all other defendants pleaded guilty before trial and received sentences ranging from probation to 10 years imprisonment.

Judge: Honorable Loretta A. Preska

Opposing Counsel

John Jacobs (deceased)

Ann Moorman
308 South School Street
Ukiah, California
(707) 462-1844

Valerie Amsterdam (disbarred following criminal conviction)

Benjamin Brafman
767 Third Avenue
New York, New York 10017
(212) 750-7800

Vince Lacsamana
455 West Paseo Redondo
Tucson, Arizona 85701

(520) 620-6222

I have listed here several of the principal counsel for particular defendants. There were more than 20 defendants in this action, and many defendants had more than one attorney over the course of this trial; many of the attorneys have since retired or passed away.

10. *United States v. Zhang*, 96-cr-44, 165 F.3d 16, 1998 WL 802071 (Table) (2d Cir. Nov. 12, 1998).

Investigation, prosecution and trial of Chinese criminal organization responsible for alien-smuggling, kidnaping and hostage-taking. The two defendants were convicted at trial and were sentenced to terms of 135 and 33 months imprisonment, respectively.

Judge: Honorable Deborah A. Batts

Co-Counsel

Patrick Smith
Smith Villazor LLP
1700 Broadway
New York, New York 10019
(212) 582-4400

Opposing Counsel

Irving Cohen
233 Broadway
New York, New York 10279
(212) 964-2544

Paul McAllister
401 Broadway
New York, New York
(212) 226-2105

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.)

International Narcotics Trafficking Unit: In 2002, I was instrumental in creating a

senior unit at the United States Attorney's Office dedicated to investigating and prosecuting the world's largest narcotics trafficking and money-laundering organizations. Recognizing the changing nature of narcotics enforcement, in which kingpin targets in Colombia and elsewhere were now, for the first time, vulnerable to extradition from abroad, I spearheaded the creation of the International Narcotics Trafficking Unit, which focused on these large, multi-national organizations. I served as chief of the Unit for more than three years, and supervised numerous successful prosecutions involving domestic and foreign law enforcement officers.

New York/New Jersey Organized Crime Drug Enforcement Task Force: From 2002 to 2005, I served as Director of the New York/New Jersey Organized Crime Drug Enforcement Task Force, where I oversaw the activities of more than 350 federal, state and local law enforcement officers engaged in investigations and prosecutions under the auspices of the federal Organized Crime Drug Enforcement Task Force (OCDETF) Program. In 2004, I helped launch the New York City OCDETF Strike Force, a first of its kind, anti-narcotics task force comprised of more than 200 law enforcement officers from nine different federal, state and local agencies dedicated to investigating and prosecuting kingpin targets primarily responsible for the nation's illicit drug supply.

In Re Leasehold Interests in Various Boeing 767 Aircraft, No. 04-cv-8199 (S.D.N.Y.): From 2004 to 2005, I supervised the investigation and resulting civil settlement with Avianca Airlines following the seizure of narcotics and other contraband aboard U.S.-bound flights from Colombia. As part of the settlement, Avianca consented to the imposition of an outside monitor, selected by the United States Attorney's Office, to oversee security for all U.S.-bound flights for a period of two years.

United States v. Bin Laden, 397 F. Supp. 2d 465 (S.D.N.Y. 2005): In 2005, I served as the Government's lead counsel in a successful four-day hearing in opposition to defendant Wadhi El-Hage's motion for a new trial following his conviction and life-sentence for his role in the terrorist bombings of the United States Embassies in Kenya and Tanzania.

Marsh & McLennan Companies Inc.: In late 2004, Marsh & McLennan Companies Inc. ("MMC") was rocked by allegations of serious misconduct by a small group of employees working in the company's Global Broking unit. This misconduct included allegations of bid rigging, steering, and other criminal antitrust violations, which resulted in the filing of a suit by the New York Attorney General and the New York Superintendent of Insurance. In the aftermath of these actions, MMC's stock plummeted 50%, and the company was forced to terminate its senior management and to layoff approximately 7,000 employees worldwide. In February 2005, the company executed a settlement with the New York Attorney General that provided for the establishment of an \$850 million settlement fund payable to MMC's insurance brokerage clients. Against this backdrop, I was hired by the company's new management team in the Spring of 2005 to serve as Deputy General Counsel responsible for overseeing all litigation and regulatory matters affecting the company worldwide. In this capacity, and in my subsequent position as General Counsel of Marsh Inc., I directed a number of significant

matters that were central to the company's revival, including dozens of state regulatory investigations, a massive class action securities litigation, a multi-district litigation (MDL) action involving antitrust claims, and a variety of criminal actions brought against former employees.

General Counsel of Marsh, Inc. – Realignment of Marsh Legal Department: In May 2006, I was named General Counsel of Marsh Inc., where I assumed responsibility for all legal matters at the world's largest insurance broker and risk specialist. In that capacity, I undertook a global realignment of Marsh's legal department, which included approximately 70 lawyers in 21 countries worldwide. In addition to naming chief legal officers for each of the company's three regions, I also assigned lawyers to each of the company's principal practice groups and geographical subdivisions, thus enhancing accountability among the attorneys and ensuring that the Legal Department was better integrated into the company's core businesses.

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.

White Collar Crime Seminar, Fordham Law School – 2008, 2009, 2010. Syllabi supplied.

Trial Advocacy, Fordham Law School – 2009, 2010, 2011, 2011, 2012, 2013, 2014. Syllabi supplied.

Judicial Externship Seminar, Fordham Law School – 2010, 2011, 2012, 2013, 2014. Syllabi supplied.

Federal Sentencing Seminar, Columbia Law School – 2012, 2013, 2014, 2015, 2016, 2017, 2018. Syllabi supplied.

American Jurisprudence Seminar, Columbia Law School – 2016, 2017. Syllabi supplied.

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

As a result of my service as an Assistant United States Attorney, I will be eligible for a pension when I turn 65.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your

service with the court? If so, explain.

I expect to continue teaching as an Adjunct Professor at Columbia Law School.

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).

Please see my attached financial disclosure report.

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

Please see attached my financial 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.

Having served on the District Court for the last decade, I expect to have few conflicts, other than my wife's employer, the law school(s) at which I teach, and the one public stock that I own. In the event that any of those entities is a party in litigation pending before me, I would likely recuse myself consistent with the Code of Conduct for United States Judges and all relevant statutes, including 28 U.S.C. § 455.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will continue to 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 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 at Yale Law School, I participated in the Jerome N. Frank Legal Services Program, where I provided legal services to homeless individuals and families in landlord-tenant

disputes and other housing-related administrative proceedings. I participated in this clinical program for two semesters, averaging approximately 10 to 15 hours per week.

During my clerkship, I participated in an outreach program sponsored by the Denver United Way in which I provided advice and assistance to an elderly blind couple living on Social Security and Medicaid. I participated in this program for approximately 1 year, averaging approximately 5 to 10 hours per month.

While at Wachtell Lipton, I dedicated approximately 100 hours to various pro bono projects, including a landlord-tenant dispute, a small claims commercial dispute, a dispute over insurance coverage, and research in connection with a civil appeal.

From 1994 to 2005, I returned to full-time public service as an Assistant United States Attorney in the Southern District of New York. Nevertheless, while at the United States Attorney's Office, I volunteered one night per week (approximately three hours each Monday night) in the Children's Playroom at Memorial Sloan Kettering Cancer Center. Although non-legal in nature (I typically oversaw the Monday night bingo and black jack games for children and teens receiving in-patient treatment at the hospital), I assisted some of the families in matters relating to benefits and insurance coverage. I participated in this program from 1995 until 2002.

While at Marsh & McLennan, I participated in the Association of Corporate Counsel's Pro Bono Coordinators program, which was dedicated to identifying appropriate pro bono projects for in-house legal departments. I also participated in the Legal Aid Society's Criminal Appeals Bureau Volunteer Program, where I handled the appeal of an indigent appellant convicted of manslaughter in New York State Supreme Court. Because the appeal was still pending when I took the bench in 2007, I arranged for another colleague to take over the representation.

I have not engaged in the practice of law since 2007.

26. Selection Process:

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

In March 2017, I received a call from the White House Counsel's Office requesting that I come to Washington for an interview regarding a vacancy on the Second Circuit. That month, I met with representatives from the White House

Counsel's Office and the Department of Justice. After receiving a status update in July and October, I was asked to complete a Senate Questionnaire and other documentation in November 2017. I have since been periodically in touch with representatives of the Department of Justice and the White House Counsel's Office.

- 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.