

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Eric Chunyee Tung

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

United States Court of Appeals Judge for the Ninth 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.

Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA 90071

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

1984; Woodland Hills, California

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2007 – 2010, The University of Chicago Law School; Juris Doctor (*with high honors; order of the coif*), 2010

2006 – 2007, Peking University (language study abroad)

2002 – 2006, Yale University; Bachelor of Arts, 2006

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.

2019 – present

Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA 90071
Partner (2023 – present)
Associate (2019 – 2022)

2017 – 2018
The Honorable Neil McGill Gorsuch
Supreme Court of the United States
One First Street NE
Washington, DC 20543
Law Clerk

2017
The Department of Justice of the United States, Office of Legal Policy
950 Pennsylvania Avenue NW
Washington, DC 20530
Counsel

2016 – 2017
The United States Attorney's Office for the Central District of California
312 North Spring Street
Los Angeles, CA 90012
Assistant United States Attorney

2014 – 2016
Munger, Tolles & Olson LLP
350 South Grand Avenue, 50th Floor, Los Angeles, CA 90071
[formerly 355 South Grand Avenue, Los Angeles, CA 90071]
Associate

2012 – 2013
The Honorable Antonin Gregory Scalia
Supreme Court of the United States
One First Street NE
Washington, DC 20543
Law Clerk

2011 – 2012
The Department of Justice of the United States, Office of the Solicitor General
950 Pennsylvania Avenue NW
Washington, DC 20530
Bristow Fellow

2010 – 2011

The Honorable Neil McGill Gorsuch
United States Court of Appeals for the Tenth Circuit
Byron White Court House
1823 Stout Street
Denver, CO 80257

2009
Munger, Tolles & Olson LLP
355 South Grand Avenue
Los Angeles, CA 90071
Summer Associate

2009
The University of Chicago Law School
1111 East 60th Street
Chicago, IL 60637
Part-time Research Assistant

2008
The United States Attorney's Office for the Central District of California
312 North Spring Street
Los Angeles, CA 90012
Extern in the Tax Division

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 U.S. military. I am registered for selective service.

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.

Los Angeles Business Journal, Leaders of Influence: Thriving in Their Forties (2025)

Best Lawyers in America, Ones to Watch – Appellate (2021)

The Attorney General's Distinguished Service Award (2017)

Bristow Fellowship, Department of Justice, Office of the Solicitor General (2011 – 2012)

The University of Chicago Law School
High Honors (2010)
Order of the Coif (2010)
Kirkland and Ellis Scholar (2008 – 2010)

Joseph Henry Beale Prize (best overall performance in legal writing section)
Bell, Boyd & Lloyd Award (best brief in legal writing section)

Yung Wing Scholarship (2006 – 2007)

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.

Association of Business Trial Lawyers (2023 – present)

Appellate Indigent Defense Oversight Advisory Committee, civil appellate practitioner member (2024 – present)

10. **Bar and Court Admission:**

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

California, 2011

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

Supreme Court of the United States, 2016
U.S. Court of Appeals for the Second Circuit, 2025
U.S. Court of Appeals for the Third Circuit, 2024
U.S. Court of Appeals for the Fifth Circuit, 2019
U.S. Court of Appeals for the Sixth Circuit, 2019
U.S. Court of Appeals for the Seventh Circuit, 2020
U.S. Court of Appeals for the Ninth Circuit, 2016
U.S. Court of Appeals for the Tenth Circuit, 2011
U.S. Court of Appeals for the Eleventh Circuit, 2023
U.S. Court of Appeals for the District of Columbia Circuit, 2011
U.S. District Court for the Central District of California, 2015
U.S. District Court for the Southern District of California, 2021
U.S. District Court for the Northern District of California, 2021

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working

groups, advisory or editorial boards, panels, committees, conferences, or publications.

The California Club (2022 – present)

The Leonine Forum Fellowship (2022 – 2023)

The International Defensive Pistol Association (2020 – present)

The City Club (2019 – 2023)

The Federalist Society

Member (2014 – 2016, 2024 – 2025)

Student member (2010 – 2011)

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 on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies. To the best of my knowledge, neither the Leonine Forum, the International Defensive Pistol Association, the City Club, nor the Federalist Society formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies, and in 1987, the by-laws of the California Club were changed to admit women as regular members with full use of the Club.

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 copies of all published material to the Committee.

As a managing editor of *The University of Chicago Law Review*, I helped edit several law review articles published in Volume 77 of the *Law Review*. The authors of those articles were responsible for their substantive contents.

Otherwise, to the best of my recollection after conducting a thorough search, I wrote or substantively edited the following published works:

Immutable Code Is Not Property: Fifth Circuit Reverses Tornado Cash Sanctions Ruling,

Jones Day (Client Alert), Dec. 4, 2024. Copy supplied.

With Daniel McMillan and Michael McCauley, *California Supreme Court says goodbye to Saint Agnes: Prejudice no longer required to waive arbitration*, Los Angeles Daily Journal, Aug. 2, 2024. Copy supplied.

Business Organizations Challenge California's Climate Change Disclosure Requirements as Unconstitutional, Jones Day (Client Alert), Feb. 2, 2024. Copy supplied.

ONE Connection | 50 Years in Los Angeles, Jones Day (Newsletters), Sept. 29, 2023. Copy supplied.

California Emissions Bills: What Your Company Needs to Know, Jones Day (Commentary), Sept. 27, 2023. Copy supplied.

Grayscale Scores Win Against the SEC, but the Agency's Significant Market Test Remains Unaddressed, Jones Day (Client Alert), Sept. 5, 2023. Copy supplied.

With Michael McCauley and Daniel McMillan, *Goodbye Saint Agnes? High Court revisits precedent requiring prejudice to show arbitration waiver*, Los Angeles Daily Journal, Nov. 10, 2022. Copy supplied.

Eighth Circuit Requires But-For Causation for False Claims Act Suits Alleging Kickbacks, Jones Day (Commentary), Aug. 4, 2022. Copy supplied.

California Supreme Court Rules for Employers in Pair of Prevailing Wage Law Cases, Jones Day (Client Alert), Aug. 19, 2021. Copy supplied.

A discredited objection to originalism is renewed in a misguided hit piece, Townhall, Nov. 1, 2019. Copy supplied.

With Michael Kenneally and Matthew Owen, *A Principled and Courageous Choice*, U.S. News & World Report, Feb. 13, 2017. Copy supplied.

If we don't look to original meaning, what else is there?, Los Angeles Daily Journal, Sept. 15, 2015. Copy supplied.

Does the Prior Conviction Exception Apply to a Criminal Defendant's Supervised Release Status?, 76 U. Chi. L. Rev. 1323 (2009). Copy supplied.

Engage China with Western thought, Yale Daily News, Op-Ed, Oct. 21, 2005. Copy supplied.

Letters to the Editor Re: Seeing the Forest for the Trees, Yale Free Press, Nov. 2004. Copy supplied.

With Benjamin Darrington, *Give Me Liberty, or Give Me Peace?*, Yale Free Press, Nov. 2004. Copy supplied.

Seeing the Forest for the Trees, Yale Free Press, Oct. 2004. Copy supplied.

Coming Out Conservative, Yale Free Press, Apr. 2004. Copy supplied.

Oppressing Me Softly, Yale Free Press, Apr. 2003. Copy supplied.

China's other problem: AIDS, Yale Free Press, Apr. 23, 2003. Copy supplied.

Meritocracy questioned, Yale Free Press, Apr. 3, 2003. Copy supplied.

Photoshop Magic, Yale Free Press, Apr. 2, 2003. Copy supplied.

Post about Hong Kong's Basic Law, Yale Free Press, Mar. 26, 2003. Copy supplied.

Post linking an article by Josh Chafetz, Yale Free Press, Feb. 19, 2003. Copy supplied.

Iraq and Old Europe, Yale Free Press, Feb. 11, 2003. Copy supplied.

Response to David Corn's article in *The Nation*, Yale Free Press, Feb. 9, 2003. Copy supplied.

Post about New Jersey's cloning bill, Yale Free Press, Feb. 4, 2003. Copy supplied.

Disappointing, Yale Free Press, Jan. 24, 2003. Copy supplied.

Post about the draft, Yale Free Press, January 19, 2003. Copy supplied.

b. Supply copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

c. Supply 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.

To the best of my recollection:

Letter to Members of the Judiciary Committee of the United States Senate (with several Jones Day partners), Mar. 20, 2025. Copy supplied.

Letter to Sens. Durbin and Grassley (with several former Supreme Court clerks), July 26, 2022. Copy supplied.

Letter to Sens. Schumer, McConnell, Durbin, and Grassley (with several Supreme Court practitioners), Sept. 3, 2021. Copy supplied.

Letter to Sens. Grassley and Durbin (with several former Tenth Circuit clerks), Oct. 23, 2019. Copy supplied.

Letter to Sens. Grassley and Durbin (with several former clerks of Justice Gorsuch), Oct. 8, 2018. Copy supplied.

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

The public speaking engagements I can recall, after conducting a thorough search, are as follows:

Mar. 29, 2025: Panelist, "Has the Right Lost the Argument for Small Government?" Federalist Society, Simi Valley, CA. Notes supplied.

Mar. 5, 2025: Panelist, "Constitutional Crossroads: A Debate on Interpreting the Law." Federalist Society, UCLA School of Law, Los Angeles, CA. Notes supplied.

Dec. 4, 2024: Moderator, "California Supreme Court Justice Interview with Hon. Tani Cantil-Sakauye." The USC Gould School of Law 2024 Institute for Corporate Counsel, Los Angeles, CA. Notes supplied.

Apr. 11, 2024: Moderator, "Can States Regulate Social Media? The Supreme Court's Road to *Netchoice*." Federalist Society, Los Angeles, CA. Notes supplied.

Nov. 8, 2023: Speaker, "The Art of Legal Writing." Beverly Hills Bar Association, Beverly Hills, CA. Notes supplied.

Sept. 26, 2023: Speaker, "The Impact of Friendship." USC Caruso Catholic Executive Mentorship Program. I spoke to a group of college students about the importance of friendship and discussed examples from Thomas More, Justice Scalia, and Justice

Ginsburg. I have no notes, transcripts, or recording. The address of the USC Caruso Center is 844 West 32nd Street, Los Angeles, CA 90007.

June 10, 2023: Panelist, "Law: Respect, Obedience, Filial Piety, & Religion." The Leonine Forum Summit, Washington, DC. Notes supplied.

Sept. 8, 2022: Speaker, Discussion of Supreme Court Jurisprudence, Wilson High School, Los Angeles, CA. Notes supplied.

May 21, 2022: Speaker, Discussion with high school students about being a lawyer and working with judges, Tilden Study Center, Los Angeles, CA. Notes supplied.

Feb. 19, 2021: Panelist, Federal Judicial Clerkship Panel, Pepperdine School of Law. I addressed students (virtually) about the experience of clerking in the federal courts. I have no notes, transcript, or recording. The address of Pepperdine School of Law is 24255 Pacific Coast Highway, Malibu, CA 90263.

Sept. 3, 2019: Speaker, "Working with Supreme Court Justices Scalia and Gorsuch: Lessons Learned." Windsor Speaker Series. I addressed young professionals about the experience of clerking for Justices Scalia and Gorsuch. I have no notes, transcript, or recording. The address at which the Windsor Speaker Series took place is 770 South Windsor Boulevard, Los Angeles, CA 90005.

Apr. 3, 2019: Panelist, "*SFFA v. Harvard*: How does Affirmative Action affect Asian Americans?" Federalist Society at UC Berkeley Law School. I spoke to UC Berkeley law students about the arguments made in the *SFFA v. Harvard* trial litigation. I have no notes, transcript, or recording. The address of the UC Berkeley Law School is 2763-2719 Bancroft Way, Berkeley, CA 94704.

Jan. 22, 2019: Speaker, Lecture on Developments in the Federal Courts. I spoke to the Carmelite Sisters of the Most Sacred Heart of Los Angeles about religious-liberty issues considered by the federal courts. I have no notes, transcript, or recording. The address of the Carmelite Sisters of the Most Sacred Heart of Los Angeles is 920 East Alhambra Road, Alhambra, CA 91801.

Nov. 28, 2018: Speaker, Discussion and Q&A with college students at Loyola Marymount University about clerking on the Supreme Court. I have no notes, transcript, or recording. The address of the Loyola Marymount University is 1 LMU Drive, Los Angeles, CA 90045.

Nov. 1, 2018: Speaker, "Sabbath Showdown on the Supreme Court?" I spoke to an audience at the School of Religion at Loma Linda University about a recent case at the Supreme Court involving a company's firing of an Adventist pharmacy trainer for refusing to work on the Sabbath. I have no notes, transcript, or recording. The address of the School of Religion at Loma Linda University is Centennial Complex, 24760 Stewart Street, Loma Linda, CA 92350.

Apr. 25, 2017: Speaker, "Before and Behind the Bench: Reflections on the U.S. Judiciary Nomination Process, the Role of the Judiciary, and Effective Lawyering." Soochow University College of Law, Taipei, Taiwan. I addressed university students about the federal judiciary and lawyering in the United States. I have no notes, transcript, or recording. The address of the school is Number 56, Section 1, Guiyang Street, Zhongzheng District, Taipei City 100, Taiwan.

Apr. 24, 2017: Speaker, Ministry of Justice, Taipei, Taiwan. I discussed with Taiwanese prosecutors about the criminal discovery process in the United States and the scope of a federal prosecutor's investigative powers. I have no notes, transcript, or recording. The address of the Ministry of Justice in Taiwan is Number 130, Section 1, Chongqing South Road, Zhongzheng District, Taipei City, 100204, Taiwan.

Feb. 24, 2017: Panelist, "Get to Know Judge Gorsuch." Federalist Society Columbus Lawyers Chapter, Columbus Ohio. I addressed members of the Columbus Lawyers Chapter about then-Judge Gorsuch's jurisprudence and my time clerking for him on the Tenth Circuit. I have no notes, transcripts, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, DC 20006.

Apr. 28, 2015: Panelist, "Salute to a Legal Giant." Orange County Bar Association and UC Irvine School of Law. Notes supplied.

May 6, 2014: Panelist, Discussion of Supreme Court cases affecting business, Mortgage Bankers Association Conference, San Diego, CA. I addressed members of the Mortgage Bankers Association about recent cases at the Supreme Court that would have an effect on the business community. I have no notes, transcript, or recording. The address of the Mortgage Bankers Association is 1919 M Street NW, 5th Floor, Washington, DC 20036.

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 copies of the clips or transcripts of these interviews where they are available to you.

Fox 11 Los Angeles, *Angelenos commemorate Pope Francis*, Apr. 21, 2025. Available at <https://www.youtube.com/watch?v=zUWttLGgigQ>.

Jones Day, *Jones Day in Los Angeles*, Sept. 5, 2023. Available at <https://www.youtube.com/watch?v=ncfHK-0rPbw>.

Jones Day, *Invest in Your Career*, June 27, 2023. Available at <https://www.youtube.com/watch?v=plP9lkAaPnM>.

Daily Journal, *Justice Liu urges Asian Americans to seek clerkships*, Apr. 25, 2022. Copy supplied.

Becky Beaupre Gillespie, *Duty and Tradition*, Law School Record, Spring 2018. Copy

supplied.

James Warrick-Alexander, *Vigil mourns soldiers*, Yale Daily News, Oct. 27, 2005. Copy supplied.

Andy Bromage, *2,000th death spurs antiwar protests in city*, New Haven Register, Oct. 27, 2005. Copy supplied.

Allen Bristow, *Labor Day Glorifies Union Perfidy: Defending Free Trade in the Job Market*, Yale Free Press, Oct. 2004 (interview provided Sept. 6, 2004). Copy supplied.

Susie Poppick, *Speaker calls for renewed women's rights movement*, Yale Daily News, Feb. 18, 2004. Copy supplied.

Catharine Livingston, *Forum links war, labor situations*, Yale Daily News, Mar. 6, 2003. Copy supplied.

Golkoo Mohammadzadeh, *Merits of retaliation discussed*, Orange County Register, Oct. 11, 2001. Copy supplied.

Golkoo Mohammadzadeh, *Campus Makeover – Troy gets paint, pavement, flowers, fountains*, Orange County Register, Sept. 13, 2001. Copy supplied.

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

I have not held judicial office.

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

i. Of these cases, approximately what percent were:

jury trials: _____%

bench trials: _____%

ii. Of these cases, approximately what percent were:

civil proceedings: _____%

criminal proceedings: _____%

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a

capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

I have not held judicial office.

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

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

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

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

I have never been a candidate for or held an elected or appointed public office.

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

I have never held a position or played a role in a political party or election committee, nor in any political campaign.

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 law clerk to a judge on three separate occasions:

From 2010 to 2011, I served as a law clerk to the Honorable Neil M. Gorsuch, U.S. Court of Appeals for the Tenth Circuit.

From 2012 to 2013, I served as a law clerk to the Honorable Antonin G. Scalia, Supreme Court of the United States.

From 2017 to 2018, I served as a law clerk to the Honorable Neil M. Gorsuch, Supreme Court of the United States.

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

I have never practiced law alone.

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

2011 – 2012

The Department of Justice of the United States, Office of the Solicitor General
950 Pennsylvania Avenue NW
Washington, DC 20530
Bristow Fellow

2014 – 2016

Munger, Tolles & Olson LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071
[formerly 355 South Grand Avenue, Los Angeles, CA 90071]
Associate

2016 – 2017

The United States Attorney's Office for the Central District of California
312 North Spring Street
Los Angeles, CA 90012
Assistant United States Attorney

2017

The Department of Justice of the United States, Office of Legal Policy
950 Pennsylvania Avenue NW
Washington, DC 20530
Counsel

2019 – present

Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA 90071
Partner (2023 – present)
Associate (2019 – 2022)

- 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 in alternative dispute resolution proceedings.

- b. Describe:

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

I have practiced in the areas of commercial litigation, administrative law, constitutional law, and criminal law. As a Bristow Fellow in the Department of Justice, Office of the Solicitor General, from 2011 to 2012, I worked on matters before the federal courts of appeals and the Supreme Court of the United States, including briefing and delivering oral argument in the U.S. Court of Appeals for the District of Columbia Circuit. My work also consisted of drafting appeal recommendations and briefs-in-opposition on criminal and civil matters, conducting legal research for cert-stage and merits-stage briefs filed in the Court, and assisting the Solicitor General and the Assistants to the Solicitor General with oral-argument preparation.

As an associate at Munger, Tolles & Olson from 2014 to 2016, I worked on a wide-range of cases involving statutory-interpretation disputes, breach of contract, torts, entertainment, trade secrets, telecommunications, and energy. I practiced before state and federal courts, including in the Supreme Court of the United States. My work consisted of drafting briefs and dispositive motions, conducting legal research and drafting analytical memoranda, managing and drafting discovery, interviewing witnesses, taking and defending civil depositions, drafting proposed jury instructions, preparing witnesses for trial, and delivering oral argument.

When I left the firm in 2016 and joined the United States Attorney's Office in the Central District of California as an Assistant United States Attorney, the general character of my practice changed from having a primarily civil focus to an exclusive practice of federal criminal law. I prosecuted various federal crimes, including felon-in-possession, mail fraud, credit-card fraud, and possession and distribution of controlled substances—appearing in court on multiple occasions for detention hearings, motions to suppress (including preparing and putting on witnesses), and sentencing. I also worked on federal habeas issues, reviewed commutation and pardon requests, and assisted in a trial prosecution of a public official. At the start of 2017, President Trump nominated Judge Neil Gorsuch to serve on the Supreme Court, and I was detailed from the United States Attorney's Office to the Office of Legal Policy to serve as counsel to assist with the confirmation process.

Since joining Jones Day in 2019, I have focused on appeals, motions, and writs as part of the Firm's Issues and Appeals practice group—including delivering oral arguments in the federal and state courts at both the trial and appellate levels. The general character of my practice has generally been civil commercial litigation with a handful criminal matters that I have handled. I have also assisted teams in preparing for trial by drafting motions in limine and ensuring preservation of issues for appeal.

- ii. your typical clients and the areas at each period of your legal career, if

any, in which you have specialized.

In my legal career, I have had a broad range of clients. In my capacity as a prosecutor, I represented the United States in criminal matters. In private practice, I have represented mostly commercial clients, including publicly traded companies, but also public utilities and public entities. I have also represented individuals, including in criminal matters, before federal and state courts.

Over the years, I have specialized in different areas of law. Early in my career in private practice, I handled breach-of-contract litigation, trade-secret cases, and statutory-interpretation and constitutional matters, including cases in the Supreme Court of the United States involving the First Amendment and the Speedy Trial Clause. I also worked on a number of entertainment-law cases, representing music producers and founders of an entertainment company. During my time as a federal prosecutor, I developed an expertise in habeas, sentencing, and Fourth Amendment law. And in my most recent stage of private practice, I have focused on various practice areas—labor and employment, trade secrets, healthcare, insurance recovery, financial technology, and qui tam litigation under the False Claims Act.

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

My practice has focused on litigation, and I appear in court occasionally to argue appeals and trial-level motions.

i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 55% |
| 2. | state courts of record: | 40% |
| 3. | other courts: | 0% |
| 4. | administrative agencies: | 5% |

ii. Indicate the percentage of your practice in:

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

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.

While I have not served as sole or chief counsel in any case tried to verdict or judgment, I have been involved in cases tried to verdict by a jury, as a legal strategist to ensure the preservation of potential appellate arguments and in the preparation of witnesses.

i. What percentage of these trials were:

- | | | |
|----|-----------|------|
| 1. | jury: | ___% |
| 2. | non-jury: | ___% |

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

As a Bristow Fellow in the Office of the Solicitor General, I worked on numerous matters before the Supreme Court of the United States in October Term 2011 in which the United States was a party. My work consisted of assisting the Solicitor General and the Assistants to the Solicitor General with legal research, brief writing, and oral argument.

I have served as lead counsel of record for *amicus curiae* in the following cases in the Supreme Court:

Pivotal Software, Inc. v. Superior Court of California, 141 S. Ct. 2884 (2021) (No. 20-1541) (cert. amicus, 2021 WL 3809651). Brief supplied.

Jackson v. Hudson, 141 S. Ct. 2753 (2021) (No. 20-911) (cert. amicus, 2021 WL 1925546). Brief supplied.

I have been listed as counsel for either a party or *amicus curiae* in the following cases in the Supreme Court:

Harper v. O'Donnell (No. 24-922) (cert. amicus, 2025 WL 1298100). Brief supplied.

Moore v. Harper, 600 U.S. 1 (2023) (No. 21-1271) (amicus brief in support of petitioners, 2022 WL 4096710). Brief supplied.

Betterman v. Montana, 578 U.S. 437 (2016) (No. 14-1457) (brief of petitioner, 2016 WL 322583; reply of petitioner, 2016 WL 1019441). Briefs supplied.

Heffernan v. City of Paterson, 578 U.S. 266 (2016) (No. 14-1280) (brief of petitioner, 2015 WL 7294862; reply of petitioner, 2016 WL 74989). Briefs supplied.

Mujica v. Occidental Petroleum Corp., 577 U.S. 1049 (2015) (No. 15-283) (brief in opposition to cert., 2015 WL 6774549). Brief supplied.

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

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *GigaCloud Technology Inc. v. Linon Home Décor Products, Inc.*, No. 24-cv-4308 (C.D. Cal.) (representation 2024 – present). Case citation: *GigaCloud Technology Inc. v. Linon Home Décor Products, Inc.*, No. 24-cv-4308 (C.D. Cal. May 23, 2024) (Marshall, J.) (case initiated); *GigaCloud Technology Inc. v. Linon Home Décor Products, Inc.*, No. 24-cv-4308 (C.D. Cal. Sept. 9, 2024) (Marshall, J.) (denying preliminary injunction); *GigaCloud Technology Inc. v. Linon Home Décor Products, Inc.*, No. 24-cv-4308 (C.D. Cal. Feb. 20, 2025) (Marshall, J.) (denying motion to dismiss).

I serve as lead counsel for GigaCloud Technology, a publicly traded company, in an action in federal district court alleging trade-secret misappropriation under the Defend Trade Secrets Act and other related claims against a competitor in the home and outdoor furnishing business. My role consisted of managing all aspects of the case, including developing legal strategy and factual evidence (e.g., interviewing witnesses); drafting the complaint, preliminary injunction papers, and responsive briefing to a motion to dismiss; supervising discovery; and presenting oral argument in the district court.

Co-counsel

Andrea Weiss Jeffries
Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA 90071
(213) 243-2176

Joshua M. Mester
Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA 90071
(213) 243-2508

Ann T. Rossum
Jones Day
3161 Michelson Drive
Suite 800
Irvine, CA 92612

(949) 553-7530

Counsel for Defendants

Jordan D. Grotzinger
Greenberg Traurig LLP
1840 Century Park E
Suite 1900
Los Angeles, CA 90067
(310) 586-7713

2. *Martirosyan v. UPS*, No. 23-55814 (9th Cir.) (representation 2024 – 2025). Case citation: *Martirosyan v. UPS*, No. 23-55814 (9th Cir. Feb. 12, 2025) (Rawlinson, Christen, Johnstone, JJ.) (affirming grant of summary judgment).

I served as lead appellate counsel for UPS in an action in which the plaintiff employee brought against UPS a variety of employment claims, including the alleged failure to provide a reasonable accommodation for his disability and to participate in an interactive process pursuant to the Fair Employment and Housing Act (Cal. Gov't Code § 12940). The federal district court had granted summary judgment in UPS's favor, holding that UPS provided evidence that it sought to accommodate the employee due to his disability, that it did not find any positions that would fit the employee's work restrictions and preferred locations, and that it offered him a part-time, non-union supervisor position. The employee appealed. I led the appellate briefing and strategy in the Ninth Circuit. The Ninth Circuit submitted the case on the briefs and affirmed the district court's order.

Co-counsel

Liat Yamini
Jones Day
555 South Flower Street
50th Floor
Los Angeles, CA 90071
(213) 243-2317

Counsel for Appellant

Sharon JoEllen Arkin
The Arkin Law Firm
1010 Wilshire Boulevard
Suite 112
Los Angeles, CA 90017
(541) 469-2892

3. *Beneficiary A v. Hunn*, No. G063923 (Cal. Ct. App. 4th Dist.) (representation 2024). Case citations: *Beneficiary A v. Hunn*, 2024 WL 4448670 (Cal. Ct. App. Oct. 9, 2024)

(Goethals, O'Leary, Moore, JJ.) (affirming denial of preliminary injunction); *Beneficiary A v. Hunn*, No. 30-2024-01375928 (Cal. Super. Ct.) (Steiner, J.) (denying preliminary injunction).

I served as lead appellate counsel for Medi-Cal beneficiaries in an action against the Orange County Health Authority (CalOptima) and its executive director. CalOptima operates Medi-Cal and Medicare programs in Orange County and provides services through its contracted provider network of over 30 local hospitals. In February 2024, CalOptima terminated its hospital services contracts with four of those hospitals. As a result, the Medi-Cal beneficiaries for whom I represented could no longer receive non-emergency medical treatment at those hospitals. The beneficiaries filed a petition for a writ of mandate and sought a preliminary injunction in the state trial court requiring CalOptima to retain or restore the provider contracts. My role involved developing strategy as to the legal claims and factual evidence to submit to the trial court and drafting the reply papers in support of a preliminary injunction. I presented oral argument at the trial court on the preliminary-injunction motion. After the trial court denied the motion, I led the appellate briefing and served as lead appellate counsel in the California Court of Appeal for the Fourth District. I presented oral argument before that court. The Court of Appeal affirmed.

Co-counsel

Sarah G. Conway
555 South Flower Street
50th Floor
Los Angeles, CA 90071
(213) 243-2567

Jeremy R. Kauffman
555 South Flower Street
50th Floor
Los Angeles, CA 90071
(213) 243-2544

Lloyd A. Bookman
Hooper Lundy Bookman
1875 Century Park East
Suite 1600
Los Angeles, CA 90067
(310) 551-8111

Counsel for Appellees

Paul Andrew Tyrell
Procopio Cory Hargreaves & Savitch LLP
525 B Street

Suite 2200
San Diego, CA 92101
(619) 515-3237

4. *California Hospital Association v. City of Inglewood*, No. 23-cv-6187 (C.D. Cal.) (representation 2023 – 2024). Case citation: *California Hospital Association v. City of Inglewood*, No. 23-cv-6187, 2024 WL 2208923 (C.D. Cal.) (Fischer, J.) (granting in part and denying in part motion for summary judgment).

I served as counsel for the California Hospital Association in an action challenging an ordinance passed by the City of Inglewood and sponsored by the Service Employees International Union – United Healthcare Workers West (SEIU). That ordinance imposed a \$25 minimum wage for “health care workers” and also prohibited an employer from responding to the increased minimum wage in a variety of ordinary ways. For example, the ordinance prohibited an employer from (1) reducing premium pay rates or shift differentials; (2) reducing vacation, healthcare, or other non-wage benefits; (3) reducing hours of work or laying off workers; and (4) increasing parking charges—if the minimum wage requirements served as a “motivating factor in the employer’s decision to take any of the actions” just described. My work consisted of developing legal and factual arguments to challenge the ordinance and helping to draft the complaint and the motion for summary judgment filed in the federal district court. The challenge sought to facially invalidate the ordinance’s “handcuff” provisions (described above) but not the minimum wage itself. The district court granted in part the motion for summary judgment (resulting in the invalidation of the handcuff provisions) and denied the motion to the degree the California Hospital Association sought to preempt the entire ordinance.

Co-counsel

Matthew J. Silveira
Jones Day
555 California Street
26th Floor
San Francisco, California 94104
(415) 875-5715

Kelsey Israel-Tummel
Jones Day
555 California Street
26th Floor
San Francisco, California 94104
(415) 875-5831

Elizabeth McClure Burnside
[Then at Jones Day]
Children’s Hospital Los Angeles
4650 West Sunset Boulevard, Stop 5

Los Angeles, CA 90027
(323) 361-2302

Margaret Adema Maloy
Jones Day
4655 Executive Drive
Suite 1500
San Diego, CA 92121
(858) 314-1146

Counsel for Defendant City of Inglewood

Terence Joseph Gallagher
Olivarez Madruga Law Organization LLP
500 South Grand Avenue
12th Floor
Los Angeles, CA 90071
(714) 309-6072

Counsel for Intervenor SEIU

Maximillian D. Casillas
Weinberg, Roger & Rosenfeld
800 Wilshire Boulevard
Suite 1020
Los Angeles, CA 90017
(213) 380-2344

5. *Busker v. Wabtec Corp.*, No. S251135 (Cal. Supreme Ct.) (representation 2019 – 2021). Case citations: *Busker v. Wabtec Corp.*, 11 Cal. 5th 1147 (2021) (Corrigan, J.; Cantil-Sakauye, C.J., Kruger, Groban, Jenkins, JJ., concurring); *id.* at 1172 (Liu and Cuellar, JJ., dissenting).

I served as counsel for Wabtec Corp. in a case addressing the scope of California's prevailing wage law (Cal. Labor Code § 1720 et seq.). Wabtec hired Plaintiff Busker to install system components on locomotives and railcars that were part of the Metrolink train system in Southern California. Plaintiff contended that he was entitled to a prevailing wage for such work because he engaged in "public works" under the Labor Code. Wabtec contended that Plaintiff did not engage in "public works" and was entitled only to the contracted wage, not the prevailing wage. Plaintiff brought a putative class action against Wabtec in state court, and the case was removed to federal district court. The federal district court granted Wabtec's motion for summary judgment, and Plaintiff appealed to the Ninth Circuit, which certified two questions to the California Supreme Court: (1) Does publicly funded work on rolling stock, like train cars, fall under the statutory definition of "public works"? (2) Alternatively, does the work on rolling stock qualify as "public work" because it is integral to other activity that itself qualifies as

public work? The California Supreme Court answered both questions in the negative. I led the appellate briefing efforts in the California Supreme Court, developed the legal theory and arguments, and drafted the briefs in this case (the answering brief and the response to *amici curiae*). I also coordinated with *amici curiae* in support of Wabtec's position and assisted in the preparation of oral argument.

Co-counsel

Craig Stewart
Jones Day
555 California Street
26th Floor
San Francisco, CA 94104
(415) 626-3939

Shay Dvoretzky
[Then at Jones Day]
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue NW
Washington, DC 20005
(202) 371-7370

Todd L. Nunn
K&L Gates LLP
925 Fourth Avenue
Suite 2900
Seattle, WA 98104
(206) 623-7580

Counsel for Appellant

Richard E. Donahoo
Donahoo & Associates, PC
440 West First Street
Suite 101
Tustin, CA 92780
(714) 953-1010

6. *C.N. v. I.G.C.*, No. SC20-505 (Fla.) (representation 2019 – 2021). Case citations: *C.N. v. I.G.C.*, 316 So.3d 287 (Fla. 2021) (Muniz, J.; Canady, C.J., and Polston, Labarga, Lawson, Courier, and Grosshans, JJ.); *C.N. v. I.G.C.*, 291 So.3d 204 (Fla. 5th DCA 2020) (Sasso, Orfinger, Edwards, JJ.).

I served as lead counsel for C.N. (mother) in a challenge to a parental modification order that compelled her to undergo indefinite therapy and that lacked concrete steps to enable her to restore custodial time with her child. I led the strategy and the briefing in this

matter, first in the Florida Fifth District Court of Appeal and then in the Florida Supreme Court. My work involved interfacing with the client, conducting legal research, drafting the opening brief and reply brief in the Fifth District Court of Appeal, drafting the petition for review (which the Florida Supreme Court granted), drafting the opening brief and reply brief in the Florida Supreme Court, and coordinating with *amicus curiae*. I presented oral argument in the Fifth District Court of Appeal and in the Florida Supreme Court. The Fifth District Court of Appeal held that the provision of concrete steps to restore lost time-sharing and return to the pre-modification status quo was not required under Florida law. Resolving a split among the District Courts of Appeal, the Florida Supreme Court affirmed, while noting the father's position that C.N. had already complied with the therapy requirement and that C.N.'s time-sharing is not contingent on her participation in therapy.

Co-counsel

Ana María Cristina Pérez Soto
Jones Day
Brickell World Plaza
600 Brickwell Avenue
Suite 3300
Miami, FL 33131
(305) 714-9733

C. Kevin Marshall
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3851

Alexandra Drobnick
Domestic Violence Legal Empowerment and Appeals Project
1215 31st Street NW #3729
Washington, DC 20007
(202) 742-1727

Counsel for Respondent

Wade P. Luther
The Law Office of Wade P. Luther
P.O. Box 560039
Montverde, FL 34756
(407) 835-9900

7. *Monster LLC v. Beats Electronics LLC*, No. BC595235 (Cal. Sup. Ct.) (representation 2015 – 2016). Case citations: *Monster LLC v. Beats Electronics LLC*, No. BC5952325 (Cal. Sup. Ct. Mar. 8, 2016) (Fahey, J.) (granting demurrer in part); *Monster LLC v.*

Beats Electronics LLC, No. BC5952325 (Cal. Super. Ct. Aug. 30, 2016) (Fahey, J.) (granting summary judgment).

I served as counsel to the founders of Beats Electronics LLC (Jimmy Iovine, Andre Young, and Paul Wachter) in an action brought by Plaintiffs Monster LLC and Noel Lee against the founders, Beats, and HTC. The complaint alleged causes of action for fraud and deceit, breach of fiduciary duty, violations of various provisions of the California Corporations Code, and other related claims—in connection with Plaintiff's sale of his interest in Beats prior to Apple's acquisition of Beats for \$3 billion in 2014. My role involved drafting motions at the demurrer and at the summary-judgment stages, managing discovery, interviewing witnesses, taking and defending depositions, drafting proposed jury instructions, preparing witnesses for trial, preparing trial exhibits, and participating in mock jury exercises. I presented oral argument at the hearing on the demurrer, which the court sustained as to Messrs. Iovine and Young. After discovery, the court granted Mr. Wachter's motion for summary judgment.

Co-counsel

Robert L. Dell Angelo
[Then at Munger, Tolles & Olson]
350 South Grand Avenue
50th Floor
Los Angeles, CA 90071
(213) 683-9100

Allison B. Stein
[Then at Munger, Tolles & Olson]
1827 North Sierra Bonita Avenue
Los Angeles, CA 90046
(213) 219-9142

Counsel for Beats Electronics LLC

William Isaacson
[Then at Boies Schiller Flexner LLP]
Dunn Isaacson Rhee LLP
(202) 223-7313

Counsel for Defendant HTC

David J. Burman
Perkins Coie LLP
1301 Second Avenue, Suite 4200
Seattle, WA 98101
(206) 359-8426

Counsel for Plaintiffs Monster LLC and Noel Lee

Joseph W. Cotchett
Cotchett, Pitre & McCarthy, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
(650) 697-6000

8. *Betterman v. Montana*, No. 14-1457 (U.S. Sup. Ct.) (representation 2016). Case citation: *Betterman v. Montana*, 578 U.S. 437 (2016).

I served as counsel for petitioner Brandon Thomas Betterman in an action addressing whether the Sixth Amendment's Speedy Trial Clause applies to the sentencing phase of a criminal prosecution, thereby protecting a criminal defendant from inordinate delay in the final disposition of his case. My role involved conducting legal research, helping to draft the opening brief and the reply brief in the Supreme Court of the United States, and assisting with oral-argument preparation. The Supreme Court held that the Sixth Amendment's speedy trial guarantee does not apply once a defendant has been found guilty at trial or has pleaded guilty to criminal charges.

Co-counsel

Fred A. Rowley, Jr.
[Then at Munger, Tolles & Olson]
Wilson Sonsini Goodrich & Rosati
953 East Third Street
Suite 100
Los Angeles, CA 90013
(323) 210-2902

Daniel B. Levin
Munger, Tolles & Olson
350 South Grand Avenue
50th Floor
Los Angeles, CA 90071
(213) 683-9135

Thane M. Rehn
[Then at Munger, Tolles & Olson]
United States Attorney's Office for the Southern District of New York
1 Saint Andrews Plaza
New York, NY 10007
(212) 637-2200

Cathleen H. Hartge
[Then at Munger, Tolles & Olson]

228 Park Ave South, PMB 483254
New York, NY 10003
(347) 836-3971

Stuart Banner
UCLA School of Law
385 Charles E. Young Drive E
Los Angeles, CA 90095
(310) 206-8506

Chad Wright
[Then at Office of the Appellate Defender]
Great Northern Town Center
50 West 14th Street
Suite 1
Helena, MT 59601
(406) 449-8381

Counsel for Respondent

Dale Schowengerdt
[Then Solicitor General of Montana]
Landmark Law, PLLC
7 West 6th Avenue, Suite 518
Helena, MT 59601
(406) 457-5496

9. *Heffernan v. City of Paterson*, No. 14-1280 (U.S. Sup. Ct.) (representation 2015 – 2016).
Case citation: *Heffernan v. City of Paterson*, 578 U.S. 266 (2016).

I served as counsel for petitioner Jeffrey Heffernan in an action challenging, on First Amendment grounds, his demotion as a public employee based on his supervisor's perception that he supported a political candidate. My role involved conducting legal research, helping to draft the opening brief and the reply brief in the Supreme Court of the United States, and assisting with oral-argument preparation. The Supreme Court held that the petitioner was not barred from seeking relief on First Amendment grounds (under 42 U.S.C. § 1983), even though his supervisor was mistaken about petitioner's support for the political candidate (the petitioner did not in fact support that candidate).

Co-counsel

Fred A. Rowley, Jr.
[Then at Munger, Tolles & Olson]
Wilson Sonsini Goodrich & Rosati
953 East Third Street
Suite 100

Los Angeles, CA 90013
(323) 210-2902

Grant A. Davis-Denny
Munger, Tolles & Olson
350 South Grand Avenue
50th Floor
Los Angeles, CA 90071
(213) 683-9225

Andrew G. Prout
[Then at Munger, Tolles & Olson]
Ross, Wolcott, Teinert & Prout LLP
3151 Airway Avenue, Building E
Costa Mesa, CA 92626
(714) 444-3900

Stuart Banner
UCLA School of Law
385 Charles E. Young Dr. E
Los Angeles, CA 90095
(310) 206-8506

Eugene Volokh
UCLA School of Law
385 Charles E. Young Dr. E
Los Angeles, CA 90095
(310) 206-3926

Mark Frost
Mark B. Frost & Associates
1515 Market Street
Suite 1300
Philadelphia, PA 19102
(215) 351-3333

Counsel for Respondents

Thomas C. Goldstein
[Then at Goldstein & Russell, P.C.]
7475 Wisconsin Avenue
Suite 850
Bethesda, MD 20814
(202) 362-0636

10. *United States v. Bigesby*, No. 09-3134 (D.C. Cir.) (representation 2011 – 2012). Case

citation: *United States v. Bigesby*, 685 F.3d 1060 (D.C. Cir. 2012) (Brown, Griffith, Ginsburg, JJ.) (affirming judgment of conviction and sentence).

I served as lead appellate counsel for the United States in an appeal from a criminal conviction and sentence. The appellant was sentenced to ten years' imprisonment for various drug-related offenses, and on appeal, she contended that her convictions should be vacated because the district court erroneously excluded evidence critical to her defense. The appellant claimed, alternatively, that her sentence should be reduced under the Fair Sentencing Act, which increased the quantity of controlled substances needed to trigger the ten-year mandatory minimum in 21 U.S.C. § 841(b)(1)(A). My work involved drafting the answering brief and presenting oral argument. The D.C. Circuit affirmed the judgment of conviction and sentence, holding that the district court did not abuse its discretion in its evidentiary rulings and that the appellant could not benefit from the Fair Sentencing Act because it was enacted after her sentencing, and it was not retroactive.

Co-counsel

Ronald C. Machen Jr.
[Then United States Attorney for the District of Columbia]
Wilmer Cutler Pickering Hale and Dorr LLP
2100 Pennsylvania Avenue NW
Washington, DC 20037
(202) 663-6881

Roy W. McLeese III
[Then Assistant United States Attorney]
District of Columbia Court of Appeals
430 East Street NW
Washington, DC 20001
(202) 879-2762

Courtney Denise Spivey
[Then Assistant United States Attorney]
Department of Justice, Criminal Division
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 616-2492

Counsel for Appellant

Neil H. Jaffee
Federal Public Defender
625 Indiana Avenue NW
Suite 550
Washington, DC 20004
(202) 208-7500

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

In addition to focusing on the types of litigation described above, I was appointed by the Chief Justice of the California Supreme Court to serve on the Appellate Indigent Defense Oversight Advisory Committee—a special committee of the Chief Justice consisting of appellate court justices from each of the six appellate districts in the State, two appellate project directors, one criminal appellate practitioner, and one civil appellate practitioner (myself). The committee provides the California Supreme Court with policy recommendations and performs audits related to funding for appointed attorneys.

I have not performed any lobbying activities.

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

I taught a one-day class on July 15, 2022, as part of a summer course in Padua, Italy, organized by the National Security Institute at George Mason University's Antonin Scalia Law School. The course is titled "Interbranch and Federalism Conflicts in National Security Law." The particular class I taught was an introduction to conflicts over surveillance, and I focused on the Fourth Amendment and separation of powers principles. A copy of the syllabus is 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.

I have a 401K plan with my former employer, Munger Tolles & Olson, and another 401K plan with my current employer, Jones Day. As a partner at my law firm, I am also eligible for retirement benefits under the firm's qualified benefit plan. I also have a plan under the federal government's Thrift Savings Plan.

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 do not have any plans, commitments, or agreements to pursue outside employment.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation where I have ever played a role. For a period of time, I anticipate recusing in all cases where my current firm, Jones Day, represents a party. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case by case basis and determine appropriate action with the advice of parties and their counsel including recusal where necessary.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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

I have engaged in pro bono work, including as lead counsel in the following cases:

Thomas v. Martija, No. 19-1767 (7th Cir.) (representation 2020 – 2021). Case citation: *Thomas v. Martija*, 991 F.3d 763 (7th Cir. 2021) (Ripple, Wood, Brennan, JJ.). The U.S. Court of Appeals for the Seventh Circuit appointed me to represent an individual in a case challenging a physician's failure to provide him with proper medical treatment while in prison. The district

court had granted summary judgment against my client. On appeal, I successfully argued that genuine issues of material fact existed as to whether my client could pursue his claim under 42 U.S.C. § 1983, and the Seventh Circuit reversed the district court's order.

C.N. v. I.G.C., No. SC20-505 (Fla.) (representation 2019 – 2021). Case citations: *C.N. v. I.G.C.*, 316 So.3d 287 (Fla. 2021) (Muniz, J.; Canady, C.J., and Polston, Labarga, Lawson, Courier, and Grosshans, JJ.); *C.N. v. I.G.C.*, 291 So.3d 204 (Fla. 5th DCA 2020) (Sasso, Orfinger, Edwards, JJ.). As described in more detail above, I served as pro bono counsel for a mother in a challenge to a parental modification order that compelled her to undergo indefinite therapy and that lacked concrete steps to enable her to restore custodial time with her child. I briefed and argued the case in the Florida Fifth District Court of Appeal and then in the Florida Supreme Court.

United States v. Bates, No. 18-6103 (6th Cir.) (representation 2019 – 2020). Case citation: *United States v. Bates*, 804 F. App'x. 345 (6th Cir. 2020) (Daughtrey, Clay, Griffin, JJ.). I was appointed by the U.S. Court of Appeals for the Sixth Circuit to represent an individual whose supervised release was revoked by the district court on the basis that he possessed a firearm as a felon in violation of federal law. On appeal, I successfully argued that the government offered no proof that the firearm that my client was charged with possessing had traveled in or affected interstate commerce. Although this argument was not raised below, the Sixth Circuit found plain error. It vacated the district court's judgment and reinstated my client's supervised release.

Deyou v. Garland, No. 18-72220 (9th Cir.) (representation 2019 – 2021). Case citation: *Deyou v. Garland*, No. 18-72220 (9th Cir. Mar. 17, 2021) (McKeown, Ikuta, Bress, JJ.). The U.S. Court of Appeals for the Ninth Circuit appointed me to represent an individual on a petition for review of an order of the Board of Immigration Appeals denying the individual's application for asylum. I briefed the matter and presented oral argument, contending that my client suffered past persecution and had a well-founded fear of future persecution if he returned to Congo. The Ninth Circuit denied the petition.

26. **Selection Process:**

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

On March 28, 2025, I was contacted by the White House Counsel's Office and was asked if I would be interested in being considered as a candidate for nomination to the U.S. Court of Appeals for the Ninth Circuit. I answered in the affirmative and, upon request, I provided the White House Counsel's Office with basic biographical information. The White House Counsel's Office scheduled an interview for April 8, 2025. On that day, I

interviewed with attorneys from the White House and the Department of Justice in Washington, District of Columbia. On May 19, 2025, Senator Alex Padilla's staff reached out to me to schedule an interview. On May 21, 2025, I interviewed (virtually) with two members of Senator Padilla's staff and provided them with biographical information upon their request. On June 3, 2025, Senator Padilla's staff informed me that it planned to share my materials with Senator Adam Schiff's office, which was conducting a review of my candidacy. Asked if I had any concerns about that, I said no. On June 5, 2025, Senator Padilla's staff informed me that Senator Padilla would like to interview me. On June 10, 2025, I interviewed with Senator Padilla over Zoom. On June 19, 2025, the White House Counsel's Office informed me that it would like to arrange a meeting between President Donald Trump and me regarding the nomination. On July 2, 2025, I met with President Donald Trump about my potential nomination. Throughout this period, I have been in contact with officials from the White House Counsel's Office and the Department of Justice's Office of Legal Policy.

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.

AFFIDAVIT

I, Eric Chunyee Tung, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

June 27, 2025
(DATE)

[Signature]
(NAME)
Eric Chunyee Tung

See CA Jurat Below
(NOTARY)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 27th day

of June, 2025, by Eric Chunyee Tung

[Signature], proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature [Signature] (Seal)

