

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Paul Jeffrey Watford

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

United States Circuit 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.

Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071

Residence: Pasadena, California

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

1967; Garden Grove, 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.

1991 – 1994, UCLA School of Law; J.D., 1994

1985 – 1987, 1988 – 1989, University of California, Berkeley; B.A., 1989

Fall 1987, Georgetown University; No degree received

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.

2001 – present
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071
Partner (2003 – present)
Associate (2001 – 2002)

Fall 2007, 2008, 2009
University of Southern California
Gould School of Law
699 Exposition Boulevard
Los Angeles, California 90089
Lecturer-in-Law

2000 – 2001
Sidley & Austin LLP
555 West Fifth Street
Los Angeles, California 90013
Associate

1997 – 2000
United States Attorney's Office for the Central District of California
312 North Spring Street
Los Angeles, California 90012
Assistant United States Attorney

1996 – 1997
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071
Associate

1995 – 1996
Hon. Ruth Bader Ginsburg
United States Supreme Court
One First Street, N.E.
Washington, D.C. 20543
Law Clerk

1994 – 1995
Hon. Alex Kozinski
United States Court of Appeals for the Ninth Circuit
125 South Grand Avenue
Pasadena, California 91105
Law Clerk

Summer 1993
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071
Summer Associate

Summer 1993
Gibson Dunn & Crutcher
333 South Grand Avenue
Los Angeles, California 90071
Summer Associate

Summer 1992
Hughes, Hubbard & Reed
350 South Grand Avenue, Suite 3600
Los Angeles, California 90071
Summer Associate

1989 – 1990; 1990 – 1991
Bar Association of San Francisco
Lawyer Referral Service
685 Market Street, Suite 700
San Francisco, California 94105
Legal Interviewer

Summer 1990
Bantam Doubleday Dell Publishing Group
666 Fifth Avenue
New York, New York 10103
Contracts Assistant

Other Affiliations (uncompensated):

2007 – present
Neighborhood Legal Services of Los Angeles County
1102 Chevy Chase Drive
Glendale, California 91205
Board Member (2007 – present)
Treasurer (2010 – present)

2005 – 2007
Federal Bar Association, Los Angeles Chapter
210 North Glenoaks Boulevard, Suite C
Burbank, California 91502
Board Member

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 have not served in the military. I have 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.

Southern California Rising Stars (2005 – 2007)

Order of the Coif, UCLA School of Law (1994)

Editor, UCLA Law Review (1992 – 1994)

Joseph P. Drown Scholar (1992)

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 Bar Association (2005 – present)

Co-Chair, Section of Litigation, Appellate Practice Committee (2005 – 2008)

Amicus Curiae Committee (2007 – 2010)

Standing Committee on the Federal Judiciary, Practitioners' Reading Group (2009, 2010)

Federal Bar Association, Board Member, Los Angeles Chapter (2005 – 2007)

Los Angeles County Bar Association (2009, 2011 – present)

State Appellate Judicial Evaluation Committee (2011 – present)

Magistrate Judge Merit Selection Panel (C.D. Cal.) (2005 – 2011)

Ninth Circuit Judicial Conference, Appellate Lawyer Representative (2009 – 2011)

State Bar of California (1996 – present)

Committee on Appellate Courts (2004 – 2006)

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, 1996

There have been no lapses in membership.

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

Supreme Court of the United States, 2001

United States Court of Appeals for the Second Circuit, 2004

United States Court of Appeals for the Third Circuit, 2011

United States Court of Appeals for the Ninth Circuit, 1996

United States Court of Appeals for the Eleventh Circuit, 2007

United States Court of Appeals for the Federal Circuit, 2002

United States District Court for the Central District of California, 1996

United States District Court for the Northern District of California, 2000

There have been no lapses in membership.

11. **Memberships:**

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

Break the Cycle

Host Committee, Savor the Season fundraiser (2009 – 2010)

California Academy of Appellate Lawyers (2010 – present)

Diversity Committee of Munger, Tolles & Olson LLP (2002 – 2007)

Chair (2005 – 2007)

Neighborhood Legal Services of Los Angeles County (2007 – present)

Board Member (2007 – present)

Treasurer (2010 – present)

Chair, Finance Committee (2010 – present)

Development Committee (2009 – present)

Recruiting Committee of Munger, Tolles & Olson LLP (2001 – 2008)

Co-Chair (2007 – 2008)

- 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 discriminates or previously 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.

Paul J. Watford & Todd A. Holleman, *A Message from the Co-Chairs*, APPELLATE PRACTICE JOURNAL (Winter 2008). Copy supplied.

Paul J. Watford & Larry Rosenberg, *A Message From the Co-Chairs*, APPELLATE PRACTICE JOURNAL (Summer 2007). Copy supplied.

Paul J. Watford & Larry Rosenberg, *A Message From the Co-Chairs*, APPELLATE PRACTICE JOURNAL (Winter 2007). Copy supplied.

Paul J. Watford & Daniel L. Geyser, *Key Developments in the Law – 2005*, CALIFORNIA LITIGATION REVIEW (July 2006). Copy supplied.

Paul J. Watford & Larry Rosenberg, *A Message From the Co-Chairs*, APPELLATE PRACTICE JOURNAL (Spring 2006). Copy supplied.

Paul J. Watford & Larry Rosenberg, *A Message From the Co-Chairs*, APPELLATE PRACTICE JOURNAL (Winter 2006). Copy supplied.

State Lines: Redefining the Reach of the Commerce Clause May Be One of the Important Legacies of the Rehnquist Court, LOS ANGELES LAWYER (Nov. 2005) [re-printed in multiple outlets]. Copy supplied.

Blakely's Promise for Federal Sentencing Reform, LOS ANGELES LAWYER (Oct. 2004). Copy supplied.

The Watch List, SIDLEY & AUSTIN'S SUPREME COURT BUSINESS REPORT (Feb. 2001). Copy supplied.

The Watch List, SIDLEY & AUSTIN'S SUPREME COURT BUSINESS REPORT (Dec. 2000). Copy supplied.

Contractual Liability in Intellectual Property Disputes – A Case Study: Buchwald v. Paramount Pictures Corp., 18 COLUM.-VLA J. L. & ARTS 269 (1994). 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.

I served on the Practitioners' Reading Group for the ABA's Standing Committee on the Federal Judiciary during 2009 and 2010. Members of this reading group review writings of U.S. Supreme Court nominees and draft confidential memoranda for the Standing Committee regarding these nominees.

- 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.

Letter to Hon. Ellen Corbett, Chair, Senate Judiciary Committee, California State Senate re: AB 2764 (Aug. 30, 2010). Copy supplied.

Letter to Hon. Arnold Schwarzenegger, Governor, State of California re: AB 590 (Oct. 7, 2009). Copy supplied.

Letter to Hon. Peter G. McCabe, Secretary of the Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts re: Proposed Federal Rule of Appellate Procedure 32.1 (Jan. 8, 2004). Copy supplied.

Letter to the UCLA Academic Senate Committee on Teaching in support of Professor Julian Eule's nomination for the Distinguished Teaching Award (Jan. 7, 1997). Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or

recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

July 20, 2011 – Brown bag lunch discussion on law firm practice with judicial externs at the Ninth Circuit courthouse in Pasadena, California. I have no notes, transcript, or recording. The address of the courthouse is 125 South Grand Avenue, Pasadena, California 91105.

June 21, 2011 – Panel discussion on brief writing at the Federal Bar Association, Los Angeles Chapter's Ninth Circuit Appellate Practice Workshop in Pasadena, California. I have no notes, transcript, or recording. The address of the Los Angeles Chapter is 210 North Glenoaks Boulevard, Suite C, Burbank, California 91502.

April 30, 2011 – Panel discussion on law firm practice as part of the UCLA Law Fellows Program, a program sponsored by the UCLA School of Law that assists minority undergraduates in applying to law school. I have no notes, transcript, or recording. The address of the law school is P.O. Box 951476, Los Angeles, California 90095.

March 24, 2011 – Panel discussion entitled "Best Practices in the Federal Court" sponsored by the Asian Pacific American Bar Association, among other organizations. The panel offered tips to young lawyers on practicing in federal court. I have no notes, transcript, or recording. The address of the Asian Pacific American Bar Association is 1145 Wilshire Boulevard, Second Floor, Los Angeles, California 90017.

March 8, 2011 – Guest lecturer for Professor Jean Rosenbluth's Appellate Advocacy class at the University of Southern California's Gould School of Law. Former California Court of Appeal Justice Margaret Grignon and I discussed civil appellate practice at our respective firms and answered student questions. I gave similar remarks as a guest lecturer for Professor Rosenbluth's class on March 8, 2008, March 19, 2007, and February 27, 2006. I have no notes, transcript, or recording. The address of the law school is 699 Exposition Boulevard, Los Angeles, California 90089.

February 5, 2011 – Presentation entitled "Challenging and Defending Decisions of the California Public Utilities Commission: The Arcane World of CPUC Appellate Practice" at the winter meeting of the California Academy of Appellate Lawyers in San Francisco, California. A copy of my outline is supplied.

October 26, 2010 – I moderated a panel discussion entitled "The Future of the California Judiciary: The Potential Effects of a New Justice and a New Governor"

at a lunch meeting of the Federalist Society's Los Angeles Lawyers Chapter. A copy of my notes is supplied.

October 14, 2010 – Presentation entitled “Justice Kagan’s Expected Impact on the Supreme Court” at a lunch meeting of the Greater Inland Empire Municipal Law Association in Colton, California. A copy of my notes is supplied.

August 6, 2010 – Mock argument and panel discussion entitled “Celebrating Women on the Appellate Bench: A Mock Argument Examining Potential Gender Influences on Decision Making” at the American Bar Association’s Annual Meeting in San Francisco, California. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

July 14, 2010 – Presentation on the status of litigation challenging the constitutionality of Arizona’s SB 1070 at a lunch meeting of Neighborhood Legal Services of Los Angeles County in Pacoima, California. A copy of my notes is supplied.

February 8, 2010 – Panel discussion entitled “Strategies for Success at Big Law: First Hand Experiences of Women and People of Color” at UCLA School of Law. The panel provided tips to law students on achieving professional success at large law firms. I have no notes, transcript, or recording. The address of the law school is P.O. Box 951476, Los Angeles, California 90095.

December 10, 2009 – Presentation entitled “Justice Sotomayor’s Expected Impact on the Supreme Court” at a lunch meeting of the Greater Inland Empire Municipal Law Association in Colton, California. A copy of my notes is supplied.

April 13, 2007 – Panel discussion entitled “Writing a Winning Legal Argument” at the American Bar Association’s Section of Litigation Annual Conference in San Antonio, Texas. The panel provided tips on writing persuasive briefs. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

July 13, 2006 – Presentation entitled “Justice Alito’s Impact on the Supreme Court: A First Term Assessment” at a weekly firm lunch for Munger, Tolles & Olson attorneys and summer associates. A copy of the PowerPoint slides for the presentation is supplied.

June 6, 2006 – I moderated a panel discussion on judicial clerkships at an orientation for the Los Angeles participants in the American Bar Association’s Judicial Intern Opportunity Program. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

January 12, 2006 – I gave a presentation on the impact then-Judge Alito might have on the Supreme Court, were he to be confirmed, at a lunch meeting of the Litigation Section of the Riverside County Bar Association in Riverside, California. I have no notes, transcript, or recording. The address of the Riverside County Bar Association is 4129 Main Street, Suite 100, Riverside, California 92501.

October 26, 2005 – Panel discussion on brief writing at the Federal Bar Association's Ninth Circuit Court of Appeals Appellate Practice Workshop in Pasadena, California. I have no notes, transcript, or recording. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

February 21, 2004 – Panel discussion on federal appellate practice as part of the Federal Bar Association's "Taking the Step to Federal Court" program in Los Angeles, California. A copy of my outline is provided. I participated on the same panel as part of the program in 2002 and 2003 but have been unable to locate any records relating to those presentations. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

November 13, 2003 – Presentation entitled "Supreme Court Review: 2002-2003 Term" at an informal lunch for in-house attorneys at Mattel, Inc. in El Segundo, California. A copy of the PowerPoint slides for the presentation is supplied.

July 8, 2003 – Presentation entitled "Business Law Highlights from the 2002-2003 Supreme Court Term and Beyond" at an informal lunch for in-house attorneys at 20th Century Fox in Los Angeles, California. A copy of the PowerPoint slides for the presentation is supplied.

January 2, 2003 – Panel discussion with former law clerks at the Judicial Clerkship Institute of Pepperdine University's School of Law. The panel provided tips to law students who had accepted clerkships with federal judges. I have no notes, transcript, or recording. The address of the law school is Pepperdine University, School of Law, Malibu, California 90263.

- 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.

Lawrence Hurley, *Call for Court Consensus Builder May Be Overrated*, LOS ANGELES DAILY JOURNAL (May 7, 2010). Copy supplied.

Lawrence Hurley, *Former Clerks Are Sitting Pretty*, LOS ANGELES DAILY JOURNAL (Jan. 4, 2010) [quote published in multiple outlets]. Copy supplied.

Lawrence Hurley, *Prosecutors May Lose Some Immunity*, LOS ANGELES DAILY JOURNAL (Nov. 5, 2009). Copy supplied.

Appellate Lawyers' Roundtable, LOS ANGELES DAILY JOURNAL (Oct. 5, 2009). Copy supplied.

Polly Moore, *The Vondjidis View of Holder Due Diligence*, KEANOTES (Keane's Unclaimed Property Services Division) (Spring 2009). Copy supplied.

Emily Heller, *Gibson Dunn Keeps Its Eye on the Horizon*, NATIONAL LAW JOURNAL (Apr. 7, 2008). A version of this article also appeared in the RECORDER on April 17, 2008. Copies provided.

Correy E. Stephenson, *The Verdict Is Only the Beginning*, LAWYERS WEEKLY USA (Apr. 10, 2006). Copy supplied.

William F. Stute, *Movement to Divide Ninth Circuit Gains Momentum*, LITIGATION NEWS (Mar. 2006). Copy supplied.

Mary S. Diemer, *Unpublished Federal Opinions May Become Uniformly Citable*, LITIGATION NEWS (Nov. 2005) [quote published in multiple outlets]. Copy supplied.

David F. Pike, *Ginsburg: Collegiality, Moderation, Tradition*, LOS ANGELES DAILY JOURNAL (July 21, 2003). Copy supplied.

Judy Peres, *Top Court to Revisit Key Affirmative-Action Case*, CHICAGO TRIBUNE (Oct. 31, 2001). Copy supplied.

Greg Stohr, *High Court to Hear Case on Minority Contracting*, MILWAUKEE JOURNAL SENTINEL (Oct. 29, 2001). Copy supplied.

Jeremy Harrell, *Supreme Court to Decide Fate of Affirmative Action*, DAILY REPORTER (Oct. 1, 2001). Copy supplied.

Tamara Scott, *Judge Has Grit, Lawyering Genes*, LOS ANGELES DAILY JOURNAL (Aug. 29, 2001). Copy supplied.

David Houston, *Watford Joins Sidley & Austin's Appellate Group*, LOS ANGELES DAILY JOURNAL (Oct. 10, 2000). Copy supplied.

Tax Evasion, CITY NEWS SERVICE (Apr. 17, 2000). Copy supplied.

Gail Diane Cox, *Online Auction Fraud Brings Federal Prison Sentence in California*, LEGAL INTELLIGENCER (Nov. 5, 1999). Copy supplied.

eBay Sentencing, CITY NEWS SERVICE (Nov. 1, 1999). Copy supplied.

Stuart Pfeifer & Leslie Gornstein, *Ex-Anaheim Man Bilks E-Bidders*, ORANGE COUNTY REGISTER (July 15, 1999). Copy supplied.

Christina Binkley, *Ex-Director Wohl of Koo Koo Roo Indicted By Jury*, WALL STREET JOURNAL (June 24, 1999). Copy supplied.

Edmund Sanders, *SEC Cracks Down on Insider Trading in State*, LOS ANGELES TIMES (June 24, 1999). Copy supplied.

Former Koo Koo Roo Inc. Director Indicted on Securities Fraud Charges, ASSOCIATED PRESS (June 24, 1999). Copy supplied.

David Houston, *Insider Trading Charges Filed Against Ex-Koo Koo Roo Director*, CITY NEWS SERVICE (June 23, 1999). Copy supplied.

Aaron Brown, *A Closer Look – Affirmative Action*, ABC WORLD NEWS TONIGHT (June 12, 1997). I do not have a video recording of this broadcast but have provided the transcript I was able to locate online.

Cassandra Smith, *Peter L. Arenella*, LOS ANGELES DAILY JOURNAL (Aug. 22, 1994). 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 a judicial office.

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

- i. Of these, approximately what percent were:

jury trials: _____ %
bench trials: _____ % [total 100%]

civil proceedings: _____ %
criminal proceedings: _____ % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name

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

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

I have not served as a judge.

- 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 had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office. I have not held any elective office, or any appointed office as I understand that term to be used in this question.

- 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 do not recall holding any position or playing any role in a political campaign, political party, or election committee.

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 Judge Alex Kozinski, United States Court of Appeals for the Ninth Circuit, from 1994 to 1995.

I served as a law clerk to Justice Ruth Bader Ginsburg, United States Supreme Court, from 1995 to 1996.

- 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.

1996 – 1997

Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071
Associate

1997 – 2000

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

2000 – 2001

Sidley & Austin LLP
555 West Fifth Street
Los Angeles, California 90013
Associate

2001 – present

Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071
Partner (2003 – present)
Associate (2001 – 2002)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

After completing my clerkships, I began private practice in September 1996 at Munger, Tolles & Olson LLP in Los Angeles. As an associate in the Litigation Department, I worked on a mix of trial court and appellate matters. I spent most of my time on those matters performing legal research and drafting briefs.

In June 1997, I joined the United States Attorney's Office in Los Angeles as an Assistant United States Attorney in the Criminal Division. I handled a wide range of criminal prosecutions during my service in the office, including immigration and drug offenses, firearms trafficking, bank robbery, computer fraud, mail and wire fraud, and securities fraud. I was eventually assigned to the Major Frauds Section where I focused on white-collar crime, although I spent nearly a year conducting an investigation into the shooting death of Tyisha Miller by officers of the Riverside Police Department.

In October 2000, I left the United States Attorney's Office and returned to private practice at Sidley & Austin LLP in Los Angeles. I was a member of the firm's appellate practice group and focused primarily on Supreme Court and appellate litigation.

I rejoined Munger, Tolles & Olson in May 2001. My practice focuses primarily on appellate litigation, with some trial-level work involving briefing of significant legal issues. Virtually all of the matters I handle are civil, and most involve business or commercial disputes.

- 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 clients are typically large companies. I have also represented law firms, individual lawyers and business executives, municipal government agencies, and non-profit organizations. My work has involved a wide range of subject matters, including administrative law, antitrust law, arbitration, business torts, consumer class actions, state and federal constitutional issues, insurance coverage issues, land use law, products liability, professional liability, and federal securities law.

At the United States Attorney's Office, I represented the United States in criminal prosecutions and handled cases involving a variety of federal criminal offenses. For example, the cases I tried to verdict involved alien smuggling, assault on a federal officer, bank robbery, drug trafficking, firearms trafficking, and theft of government property.

- 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.

The entirety of my practice has been in litigation. As an associate at Munger, Tolles & Olson (1996 – 1997, 2001 – 2002) and Sidley & Austin (2000 – 2001), I appeared in court infrequently, on perhaps two or three occasions. As a partner at Munger Tolles (2003 – present), I have appeared in court typically three or four times per year, usually for appellate oral arguments. As an Assistant United

States Attorney (1997 – 2000), I appeared in court frequently, typically several times per week and, when in trial, every day.

i. Indicate the percentage of your practice in:

1. federal courts: 60%
2. state courts of record: 40%
3. other courts:
4. administrative agencies:

ii. Indicate the percentage of your practice in:

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

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried seven cases to verdict as an Assistant United States Attorney, one of which involved a retrial of several counts on which the jury hung during the first trial. All of those were jury trials; I was sole counsel in five of them and co-lead counsel in the other two. I have also tried one civil case to verdict. That was a bench trial in which I was sole counsel.

i. What percentage of these trials were:

1. jury: 87%
2. non-jury: 13%

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

I have not argued before the United States Supreme Court but have appeared as counsel in the following cases:

Mohamed v. Jeppesen DataPlan, Inc., No. 10-778 (Apr. 13, 2011) (brief in opposition). Copy provided.

Banjo v. Ayers, No. 10-803 (Dec. 14, 2010) (petition for certiorari and reply brief). Copies provided.

Schwarzenegger v. Entertainment Merchants Ass'n, No. 08-1448 (Sept. 17, 2010) (amicus brief on behalf of Activision Blizzard, Inc. in support of respondents). Copy provided.

Von Saher v. Norton Simon Museum of Art, No. 09-1254 (June 16, 2010) (brief in opposition). Copy provided.

Palmer v. Valdez, No. 09-6429 (Jan. 6, 2010) (reply brief in support of petition for certiorari). Copy provided.

Travelers Indem. Co. v. Bailey, 129 S. Ct. 2195 (2009) (Feb. 2, 2009) (amicus brief on behalf of Resolute Management Inc. in support of petitioners). Copy provided.

Baze v. Rees, 553 U.S. 35 (2008) (amicus brief on behalf of Critical Care Providers and Clinical Ethicists in support of petitioners). Copy provided.

Bolin v. McDaniel, No. 07-688 (Nov. 19, 2007) (petition for certiorari). Copy provided.

Crown Paper Liquidating Trust v. PricewaterhouseCoopers, No. 06-870 (Jan. 22, 2007) (brief in opposition). Copy provided.

Fuller-Austin Insulation Co. v. Highlands Ins. Co., No. 06-94 (Aug. 21, 2006) (brief in opposition). Copy provided.

Kelava v. Gonzales, No. 05-1312 (Apr. 12, 2006) (petition for certiorari and reply brief). Copies provided.

Texaco Inc. v. Dagher, 547 U.S. 1 (2006) (petition for certiorari and reply brief; petitioner's brief and reply brief). Copies provided.

Cleveland v. Viacom Inc., No. 03-917 (Jan. 29, 2004) (brief in opposition). Copy provided.

Kayser v. Roadway Package System, Inc., No. 01-422 (Sept. 4, 2001) (petition for certiorari and reply brief). Copies provided.

Moore v. AFTRA Health & Retirement Funds, No. 00-1539 (May 29, 2001) (brief in opposition). Copy provided.

Adarand Constructors, Inc. v. Mineta, 534 U.S. 103 (2001) (amicus brief on behalf of the Minority Business Enterprise Legal Defense and Education Fund, Inc., *et al.* in support of respondents). Copy provided.

Buckhannon Bd. & Care Home, Inc. v. West Virginia Dep't of Health and Human Resources, 532 U.S. 598 (2001) (amicus brief on behalf of the National Conference of State Legislatures *et al.* in support of respondents). Copy provided.

United States v. Hatter, 532 U.S. 557 (2001) (amicus brief on behalf of the Los Angeles County Bar Association *et al.* in support of respondents). Copy provided.

Haggar Apparel Co. v. United States, No. 00-1171 (Jan. 17, 2001) (petition for certiorari). Copy provided.

Levi Strauss & Co. v. United States, No. 00-1156 (Jan. 17, 2001) (petition for certiorari). Copy provided.

Also, as noted in question 9 above, I served on the ABA's Amicus Curiae Committee from 2007 to 2010. This is not technically part of my practice, as the briefs considered by this Committee are drafted by outside counsel and Committee members' names are not listed on the briefs. Members of this Committee review and edit Supreme Court briefs filed by the ABA to assure that they are consistent with ABA policy.

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.

I have listed the cases below in reverse chronological order.

1. *Mohamed v. Jeppesen DataPlan, Inc.*, 614 F.3d 1070 (9th Cir. 2010) (en banc), *cert. denied*, 131 S. Ct. 2442 (2011). We represented Jeppesen in a tort action brought by subjects of the U.S. government's extraordinary rendition program. The plaintiffs alleged that Jeppesen provided flight planning and logistical support to the Central Intelligence Agency in connection with the rendition flights on which they were transported. The United States intervened and moved to dismiss the action on the basis of the state secrets privilege. The district court granted that motion and dismissed the action with prejudice. The Ninth Circuit affirmed the district court's ruling in a 6-to-5 decision, and the U.S. Supreme Court denied the plaintiffs' petition for certiorari. I assisted in preparing Jeppesen's briefs in the Ninth Circuit and the Supreme Court.

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2. *Lewis v. Verizon Communications, Inc.*, 627 F.3d 395 (9th Cir. 2010). We represent Verizon in an ongoing consumer class action seeking recovery of allegedly unauthorized charges for services rendered by third parties. Verizon removed the case to federal court under the Class Action Fairness Act of 2005 (CAFA), but the district court remanded on the ground that CAFA's amount-in-controversy requirement had not been satisfied. I drafted the briefs and argued Verizon's appeal. The Ninth Circuit held that Verizon had met CAFA's jurisdictional threshold by showing that the total charges generated by the billing practices at issue exceeded \$5 million, and that there was no need for Verizon to show that more than \$5 million in charges were in fact unauthorized, as the district court had held. Judge Schroeder wrote the opinion, which Judges Tallman and Milan Smith joined.

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3. *Taylor v. Elliott Turbomachinery Co.*, 171 Cal. App. 4th 564 (2009). We represented Leslie Controls Inc., a manufacturer of valves used on Navy ships, in a products liability action brought by a former Navy sailor injured by exposure to asbestos. The trial court granted summary judgment to Leslie and several co-defendants, holding that the defendants owed no duty to warn about the hazards posed by asbestos-containing products manufactured by others which were used in conjunction with the defendants' own products. I drafted Leslie's appellate brief defending the trial court's ruling. The California Court of Appeal affirmed in an opinion written by Justice Dondero and joined by Justices Simons and Needham. (I briefed and argued the same issue in *Merrill v. Leslie Controls, Inc.*, formerly published at 179 Cal. App. 4th 262 (2009), *review granted*, 105 Cal. Rptr. 3d 181 (Cal. 2010), where a different division of the Court of Appeal also ruled in Leslie's favor on the same issue. That case is currently pending before the California Supreme Court; oral argument in a related case is set for November 2011.)

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4. *United States v. Berger*, 587 F.3d 1038 (9th Cir. 2009). We represented Berger in an appeal challenging the eight-year prison sentence imposed for bank and securities fraud convictions. I briefed and argued the appeal in the Ninth Circuit. The appeal challenged the standard of proof applicable to large sentencing enhancements and the causation requirement necessary to support shareholder loss findings in criminal securities fraud cases. The Ninth Circuit remanded the case for recalculation of the loss amount on the securities fraud counts but affirmed the district court's use of a preponderance of the evidence standard. Judge Milan Smith wrote the opinion, which Judges William Fletcher and Clifton joined.

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5. *Samsung Electronics Co. v. Rambus Inc.*, 523 F.3d 1374 (Fed. Cir.), *cert. denied*, 129 S. Ct. 279 (2008). We represented Rambus in a patent infringement action against Samsung. After the district court denied Rambus's motion to transfer the action to the Northern District of California, Rambus voluntarily dismissed its claims against Samsung. In response to Samsung's motion for attorneys' fees, Rambus also offered to pay Samsung's fee request in full. The district court held that Rambus's offer did not moot the attorneys' fees motion and, in the course of disposing of that motion, rendered factual findings adverse to Rambus on issues relevant in other pending actions. I was substantially involved in drafting Rambus's appellate briefs in the Federal Circuit. The court of appeals held that the district court lacked subject-matter jurisdiction to issue the challenged order because Rambus's offer to pay Samsung's attorneys' fees in full rendered the fee motion moot. Judge Rader wrote the opinion, which Judges Schall and Farnan (D. Del.) joined.

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6. *Mendoza v. State of California*, 149 Cal. App. 4th 1034 (2007). We represented parents of Los Angeles Unified School District (LAUSD) students who sought to defend the constitutionality of a state statute that altered the governance structure of the LAUSD by transferring greater power to the mayor of Los Angeles. The case raised novel issues under the California Constitution concerning the scope of the Legislature's authority to control administration of the public schools. I was substantially involved in drafting the briefs defending the statute in both the trial court and on appeal. Superior Court Judge Janavs ruled against our clients and invalidated the statute on various state constitutional grounds. The California Court of Appeal affirmed in an opinion authored by Justice Croskey and joined by Justices Klein and Kitching.

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7. *Texaco Inc. v. Dagher*, 547 U.S. 1 (2006). We represented Shell Oil Company in an antitrust action brought by gasoline service station owners alleging that Shell and Texaco had engaged in price fixing when they formed a joint venture to sell gasoline in the western United States. The district court granted summary judgment for Shell and Texaco but the Ninth Circuit reversed, rejecting the defendants' argument that the joint venture should be assessed under the rule of reason rather than subjected to a *per se* rule of invalidity. I was substantially involved in drafting Shell's petition for certiorari and assisted in drafting Shell's merits briefs. The Supreme Court reversed the Ninth Circuit in a unanimous opinion authored by Justice Thomas.

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8. *Fuller-Austin Insulation Co. v. Highlands Ins. Co.*, 135 Cal. App. 4th 958, *cert. denied*, 549 U.S. 946 (2006). We represented Stonewall Insurance Company on appeal from a large jury verdict rendered against it and several other insurers. The case involved issues of first impression under California law relating to the obligations of an excess insurer to provide indemnity after an insured settles future asbestos claims by transferring those claims to a trust under 11 U.S.C. § 524(g). I drafted Stonewall's appellate briefs and argued the appeal. The California Court of Appeal reversed the judgment and ruled that a bankruptcy court's order confirming a plan of reorganization under section 524(g) constitutes a settlement rather than a judgment, and that an excess insurer's obligation to provide indemnity is therefore triggered only if the insurer consents to the plan. Justice Doi Todd wrote the opinion, which Justices Boren and Ashmann-Gerst joined.

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9. *Viner v. Sweet*, 30 Cal. 4th 1232 (2003). We represented Williams & Connolly and one of its former partners on appeal from an adverse jury verdict in a legal malpractice action. The issue on appeal was whether the same causation standard applicable in malpractice actions involving litigation attorneys also applies in actions against transactional attorneys – i.e., whether, but for the attorney’s negligence, the client would have achieved a better result. In a unanimous opinion authored by Justice Kennard, the California Supreme Court agreed with our clients that the same causation standard should govern in both types of cases. On remand, the Court of Appeal held that under the proper causation standard only a small fraction of the jury’s original award could be upheld. 117

Cal. App. 4th 1218 (2004). I was substantially involved in drafting our reply brief in the California Supreme Court and subsequent briefs in the case thereafter.

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10. *Rambus Inc. v. Infineon Technologies AG*, 318 F.3d 1081 (Fed. Cir.), *cert. denied*, 540 U.S. 874 (2003). We represented Rambus on appeal from an adverse jury verdict in a complex patent infringement case. The district court granted judgment as a matter of law against Rambus on its patent infringement claims, and the jury ruled in Infineon's favor on its counterclaim for fraud based on Rambus's failure to disclose pending patent applications to fellow members of a standard-setting organization. I was substantially involved in drafting portions of Rambus's appellate briefs in the Federal Circuit. The court of appeals reversed the district court's claim constructions and remanded for a new trial on infringement. A divided panel also ruled in Rambus's favor on the fraud claim, concluding that Rambus did not breach any applicable disclosure duty as a matter of law. Judge Rader wrote the majority opinion, which was joined by Judge Bryson. Judge Prost dissented in part.

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

Both in private practice and while serving in the United States Attorney's Office, my legal activities have focused almost entirely on litigation. Occasionally, however, I have pursued legal activities that either did not involve litigation or did not progress to trial. In private practice, I have provided advice to clients that involved counseling rather than litigation. For example, we recently provided advice to a non-profit organization concerning options for pursuing school reform measures by analyzing the strength of various legal challenges that might be brought against such measures were they to be

enacted. At the United States Attorney's Office, I spent nearly a year involved in an investigation into the shooting death of Tyisha Miller by officers of the Riverside Police Department. None of the officers involved in the shooting ultimately was charged.

I have also been active in the legal community outside the practice of law. I have served on a number of bar association committees and judicial-related panels. For example, I served for six years as a member of the Magistrate Judge Merit Selection Panel of the U.S. District Court for the Central District of California, which assists the court in vetting candidates for positions as federal magistrate judges, and I served for two years as an Appellate Lawyer Representative to the Ninth Circuit Judicial Conference. Since 2007, I have been a board member of Neighborhood Legal Services of Los Angeles County, a non-profit organization providing free legal assistance to the poor, where I currently serve as Treasurer and a member of the Development Committee.

I have never performed lobbying activities for any client or organization.

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.

During the fall semester of 2007, 2008, and 2009, I taught Judicial Opinion Writing at the University of Southern California's Gould School of Law. The course explored the different approaches to judicial opinion writing that have been developed in the American legal system and analyzed the elements essential to good opinion writing. The students applied those principles by drafting both a majority opinion and a dissent based on the briefing and oral argument in a pending United States Supreme Court case. Copies of the syllabus provided.

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.

Munger, Tolles & Olson does not provide pension or retirement benefits. Upon withdrawal from the partnership, a partner is entitled to receive a "fair share" of firm net income for the current year, reflecting the partner's contributions to date, less amounts previously drawn. In addition, a partner withdrawing from the partnership is entitled to a return of the partner's capital contributions. The current value of my capital contributions to the firm is reflected in the attached Net Worth Statement.

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

No.

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

See attached Financial Disclosure 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.

I am not aware of any potential conflicts of interest likely to be presented by family members. I would recuse myself, at least for some initial period, from any case being handled by my current law firm. I would also recuse myself from any case on which I worked while at my current law firm, as well as any case where, due to a current or past professional or personal relationship with a party or attorney involved, my impartiality might reasonably be questioned.

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

I would handle all matters involving actual or potential conflicts of interest by applying the Code of Conduct for United States Judges and any other relevant ethical canons or statutory provisions.

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 devoted a significant portion of my time to representing clients who are disadvantaged or otherwise unable to pay for legal representation. Those activities have taken a variety of forms. For example, I have filed amicus briefs in the U.S. Supreme

Court in pro bono matters on behalf of non-profit organizations, such as a brief on behalf of local bar associations supporting a Compensation Clause challenge to the constitutionality of a new tax that adversely affected sitting federal judges. I have also assisted in trial court litigation representing the interests of those who are disadvantaged, such as the litigation seeking a preliminary injunction against enforcement of Arizona's SB 1070 immigration law, on preemption and other grounds. And I regularly supervise associates who agree to handle appeals on behalf of pro se litigants through the Ninth Circuit's pro bono program, such as an appeal involving the tax court's authority to order a remedy for the IRS's failure to sell levied property.

I have also served for the past four years as a board member of Neighborhood Legal Services of Los Angeles County, a non-profit organization devoted to providing free legal assistance to low-income persons residing in Los Angeles County.

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.

There is no selection commission in my jurisdiction to recommend candidates for nomination to the United States Court of Appeals for the Ninth Circuit.

On January 18, 2011, I met with a lawyer from the White House Counsel's Office and discussed a potential nomination to the Ninth Circuit. Since April 6, 2011, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. On May 11, 2011, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 16, 2011, I met with members of Senator Dianne Feinstein's judicial advisory committee. On July 8, 2011, I met with Senator Feinstein and two members of her staff. On October 17, 2011, the President submitted my nomination to the Senate.

- 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.