

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Barry Weldon Ashe

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

United States District Judge for the Eastern District of Louisiana

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.

Stone Pigman Walther Wittmann LLC
909 Poydras Street, Suite 3150
New Orleans, Louisiana 70112

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

1956; New Orleans, Louisiana

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.

1981 – 1984, Tulane Law School; J.D. (*magna cum laude*), 1984

1974 – 1978, Tulane University; B.A. (*summa cum laude*), 1978

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.

1985 – present
Stone Pigman Walther Wittmann LLC
909 Poydras Street, Suite 3150
New Orleans, Louisiana 70112
Member (1991 – present)

Associate (1985 – 1991)

1984 – 1985

United States Court of Appeals for the Fifth Circuit
515 Rusk Street, Room 11020
Houston, Texas 77002
Law Clerk for the Hon. Carolyn Dineen King

Summer 1983 & Summer 1984

Stone, Pigman, Walther, Wittmann & Hutchinson
Now Stone Pigman Walther Wittmann LLC
909 Poydras Street, Suite 3150
New Orleans, Louisiana 70112
Law Clerk (Summer 1984)
Summer Associate (Summer 1983)

Summer 1983

Vinson & Elkins
1001 Fannin Street, Suite 2500
Houston, Texas 77002
Summer Associate

Summer 1982

Phelps Dunbar LLP
365 Canal Street, Suite 2000
New Orleans, Louisiana 70130
Summer Associate

1978 – 1981

United States Navy
U.S.S. Engage (MSO-433)
Decommissioned 1991

Other affiliations (uncompensated)

1999 – present

Federal Bar Association
1220 North Fillmore Street, Suite 444
Arlington, Virginia 22201
Circuit Vice President for the Fifth Circuit (2014 – present)

1999 – present

Federal Bar Association, New Orleans Chapter
500 Poydras Street, Suite B245
New Orleans, Louisiana 70130
Immediate Past President (2011 – 2012)
President (2010 – 2011)

President-Elect/Treasurer (2009 – 2010)
Treasurer (2008 – 2009)
Secretary (2007 – 2008)
Membership Chair (2006 – 2007)

2006 – present
Federalist Society, New Orleans Chapter
No Physical Address
Executive Committee Member (2006 – present)

2015 – present
Louisiana Appellate Practice Advisory Commission
No Physical Address
Vice-Chair (2015 – present)

2009 – present
Tulane Law Review Board of Advisory Editors
No Physical Address
Board Member

1989 – 2002 (approximately)
Loyola University New Orleans College of Law
526 Pine Street
New Orleans, Louisiana 70118
Lecturer in Law (Adjunct Faculty)

1982 – 1984, 1986 – present
First Baptist New Orleans Church
5290 Canal Boulevard
New Orleans, Louisiana 70124
President of Trustees (2001 – present)
Church Trustee (1998 – present)
Chair of Deacons (2001)
Deacon (1988 – present)

2012 – present
Global Maritime Ministries
3635 Tchoupitoulas Street
New Orleans, Louisiana 70115
Board Member

2000 – 2004 (approximately)
Christian Health Ministries Foundation
400 Poydras Street, Suite 2525
New Orleans Louisiana 70130
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.

1978 – 1981

United States Navy

Lieutenant (Junior Grade)

Honorable Discharge

I was selected for full Lieutenant, but I am unsure if I was officially appointed to such rank prior to my discharge.

I was not required to register for the 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.

John R. “Jack” Martzell Professionalism Award, Federal Bar Association, New Orleans Chapter (2015)

New Orleans Magazine – Listed among “Top Lawyers” in Appellate Practice and Bet-the-Company Litigation (2014 – present)

American Academy of Appellate Lawyers – Fellow (2013 – present)

Louisiana Super Lawyers – Listed as one of the “Top 50 in Louisiana and New Orleans” (2007 – present)

The Best Lawyers in America – Recognized for Appellate Practice, Bet-the-Company Litigation, and Commercial Litigation (2006 – present)

Chambers USA – Ranked in “Band 2” for General Commercial Litigation (2006 – present)

AV Peer-Review Rated 5.0/5.0 by Martindale-Hubbell

Graduated from Tulane Law School *magna cum laude* and Order of the Coif (1984)

Tulane Law Review (1982 – 1984)

Senior Managing Editor (1983 – 1984)

Merit Scholarship (1981 – 1984)

Certificate of Appreciation – Operation Freedom Flotilla (1980)

Letter of Commendation (1979)

Graduated with distinction from Surface Warfare Officers School (1978)

Graduated from Tulane University *summa cum laude* (1978)

Pi Sigma Alpha Award for Political Science (1978)

Phi Beta Kappa (1978)

Omicron Delta Kappa (1978)

F. Edward Hebert Greater New Orleans Council Navy League Award (1978)

Admiral Cluverius Cup (1978)

U.S. Naval Institute Award (1978)

Legion of Valor Bronze Cross Award (1977)

American Legion 40 & 8 Plaque and Medal (1977)

Pi Sigma Alpha Political Science Honor Society (1977 – 1978)

Scabbard and Blade Society (1977 – 1978)

Tulane Scholar (1974 – 1978)

Gus Mayer Merit Scholarship (1974 – 1978)

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 Academy of Appellate Lawyers – Fellow (2013 – present)

Rules Committee (2017 – present)

American Bar Association (1985 – 2000 (approximately))

American Bar Foundation – Fellow (2011 – present)

Bar Association of the Federal Fifth Circuit Court of Appeals (1985 – present)

Christian Legal Society (1985 – present)

Defense Research Institute (2006 – present)

Federal Bar Association (1999 – present)
Circuit Vice President for the Fifth Circuit (2014 – present)
Nominations and Elections Committee (2016 – 2017)
Earl B. Kintner Awards Committee (2015 – 2017)
National Convention Committee (2011 – 2013)
Immediate Past President, New Orleans Chapter (2011 – 2012)
President, New Orleans Chapter (2010 – 2011)
Host Committee, FBA Annual Meeting and Convention (2010)
President-Elect/Treasurer, New Orleans Chapter (2009 – 2010)
Treasurer, New Orleans Chapter (2008 – 2009)
Secretary, New Orleans Chapter (2007 – 2008)
Membership Chair, New Orleans Chapter (2006 – 2007)
Editor, *The Advocate* (2004 – 2006)

Federalist Society, New Orleans Chapter – Executive Committee (2006 – present)

Foundation of the Federal Bar Association – Fellow (2010 – present)

International Association of Defense Counsel (2006 – 2016)

Lawyers Advisory Committee, U.S. Court of Appeals for the Fifth Circuit (2000 – 2007)

Louisiana Association of Defense Counsel (2007 – present)

Litigation Counsel of America (2014 – present)

Louisiana State Bar Association (1984 – present)
Appellate Practice Committee (2009 (approximately) – present)
Antitrust and Trade Regulation Committee, Vice-Chair (1995 (approximately) – 1997)

Louisiana Bar Foundation – Fellow (2003 – present)
Education Committee Chair (2009 – 2011, 2015 – present)

Louisiana Appellate Practice Advisory Commission (2015 – present)
Vice-Chair (2015 – present)

Maritime Law Association of the United States (1996 (approximately) – 2016)

New Orleans Bar Association (1985 – present)
Product Liability Committee, Chair (2015 – 2016)

Planning Committee for the United States District Court for the Eastern District of Louisiana's Bicentennial (2010 – 2012)

U.S. Magistrate Judge Merit Selection Panel, U.S. District Court for the Eastern District of Louisiana (2016)

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.

Louisiana, 1984.

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, 1997
United States Court of Appeals for the Fifth Circuit, 1985
United States Court of Appeals for the Eleventh Circuit, 1994
United States District Court of the Eastern District of Louisiana, 1985
United States District Court of the Middle District of Louisiana, 1986
United States District Court of the Western District of Louisiana, 1987
Louisiana Supreme Court, 1984

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.

Benjamin Franklin Senior High School Alumni Association (1987
(approximately) – present)

Christian Health Ministries Foundation (2000 – 2004)

First Baptist New Orleans Church (1982 – 1984, 1986 – present)
Board of Trustees (1998 – present)
President (2001 – present)
Deacon (1988 – present)
Chair (2001)
Personnel Committee (2014 – present)
Chair (2015 – present)
Project Oversight Council, Vice-Chair (2015 – present)

Pastor Search Committee (1993 – 1996)
Nominating Committee (1999 – 2001, 2009 – 2012)

Global Maritime Ministries (2012 – present)

Tulane Law Review Board of Advisory Editors (2009 – present)

Tulane Law Review Alumni Association (2009 – present)

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

To my knowledge, none of the organizations listed above currently discriminates or has discriminated during any period of my membership 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.

America, A Nation of Our Own: Gateway to Freedom (A Short Play) (2014).
Copy supplied.

An Uncommon Birth: Shaping Louisiana's Legal Tradition for Statehood (A Short Play) (2012). Copy supplied.

Message from the President, *The Advocate* (Summer 2011). Copy supplied.

Message from the President, *The Advocate* (Spring 2011). Copy supplied.

Message from the President, *The Advocate* (Winter 2010). Copy supplied.

Message from the President, *The Advocate* (Fall 2010). Copy supplied.

Constitutional Law: The Fifth Circuit's War Against Religion in the Public Square, 46 LOY. L. REV. 973 (2000). Copy supplied.

Incidental Demands, in LOUISIANA CIVIL PRETRIAL PROCEDURE (1998). Copy supplied.

Disciplining Maritime Pilots: The Search for Fairness in Suspension and Revocation Proceedings, 58 TUL. L. REV. 1460 (1984). Copy supplied.

Admiralty – Determining LHWCA Coverage Seaward of the Water's Edge, 57 TUL. L. REV. 682 (1983). 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.

American Academy of Appellate Lawyers' Comment on Preliminary Draft of Proposed Amendments to the Federal Rules of Appellate Procedure (2014). Copy supplied.

Federal Bar Association, New Orleans Chapter's Resolution in Favor of Retaining the Orleans Civil District Court and First City Court in Downtown New Orleans (2007). Copy supplied.

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

Testimony before Louisiana Senate Judiciary Committee A on House Bill 799 (May 20, 2014). Videoclip 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.

April 22, 2017: Panelist, "Expanding Your Horizons: Collaboration and Inclusion." Federal Bar Association, Washington, D.C. Notes supplied.

April 14, 2016: Presenter, "Introduction of Nancy Marshall to Present Alumna of the Year." *Tulane Law Review*, New Orleans, Louisiana. Copy supplied.

August 27, 2015: Speaker, "Acceptance of John R. 'Jack' Martzell Professionalism Award." Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. Copy supplied.

April 14, 2015: Presenter, "Introduction of Hon. Antonin Scalia to Present Alumnus of the Year." *Tulane Law Review*, New Orleans, Louisiana. Copy supplied.

March 28, 2015: Co-Presenter, "Update from the Fifth Circuit." Federal Bar Association, Arlington, Virginia. Copy supplied.

December 16, 2014: Co-Presenter, "What George Washington Can Teach Lawyers About Professionalism." New Orleans Bar Association, New Orleans, Louisiana. Copy supplied.

April 3, 2014: Presenter, "Introduction of Hon. Jacques L Wiener Jr. to Present Alumnus of the Year." *Tulane Law Review*, New Orleans, Louisiana. Copy supplied.

August 31, 2011: Speaker, "Outgoing President's Remarks, President's Award Presentation and Passing of the Gavel." Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. Copies supplied.

June 1, 2011: Speaker, "Remarks On Honorary Induction of A.P. Tureaud, Sr. Into Federal Bar Association." Louisiana Supreme Court, New Orleans, Louisiana. Copy supplied.

July 23, 2010: Speaker, "Incoming President's Remarks." Federal Bar Association, New Orleans Chapter, New Orleans, Louisiana. Copy supplied.

December 9, 1999: Co-Presenter, "Defenses and Exceptions." Louisiana State Bar Association Antitrust & Trade Regulation Law Section, New Orleans, Louisiana. Copy supplied.

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

"Stone Pigman Expands in Houston with Five New Hires," *Texas Lawyer*, January 20, 2017. Copy supplied.

"Stone Pigman Grows Energy Practice, Establishes Office in Texas," *Biz New Orleans*, January 20, 2017. Copy supplied.

"Stone Pigman Comes to Houston, Adds 5 Cogan Energy Attys," *Law360*,

January 19, 2017. Copy supplied.

“Losing World Trade Center Revamp Bidder Sues City Consultants for ‘Incorrect and Biased Analysis’ in New Orleans Deal,” *Baton Rouge Advocate*, April 3, 2016. Copy supplied.

“Losing Bidder on WTC Sues City Consultants,” *New Orleans Times-Picayune*, April 1, 2016. Copy supplied.

“Committed to Excellence: Stone Pigman Provides Strong, Practical Solutions to its Clients,” *Best Lawyers New Orleans*, 2014. Copy supplied.

Michael Kunzelman, “Two Lawyers Take New La. Ad Rules to Appeals Court” *Associated Press News Service*, October 5, 2010. Copy supplied.

“State Considering Evolution Disclaimer,” *The Daily Star (Hammond, LA)*, December 11, 2002. Copy supplied.

“Court Won't Hear Case on Evolution Disclaimer,” *Houston Chronicle*, June 20, 2000. Copy supplied.

“ACLU to Oppose Disclaimer Petition Before High Court,” *The Daily Star (Hammond, LA)*, April 19, 2000. Copy supplied.

“ACLU Chunks Alternate Disclaimer,” *The Daily Star (Hammond, LA)*, November 2, 1999. Copy supplied.

“Evolution Statement Sparks Bigger Conflict,” *The Daily Star (Hammond, LA)*, January 6, 1999. Copy supplied.

“ACLU Lawsuit Revisits Federal Court of Appeals,” *The Daily Star (Hammond, LA)*, August 26, 1997. Copy supplied.

“Judge Bars Creationism Disclaimer,” *The Daily Star (Hammond, LA)*, August 12, 1997. Copy supplied.

“An Evolving Debate,” *Jewish Week*, June 2, 1995. Copy supplied.

“Extension Given for Response to Evolution Suit,” *Baton Rouge Advocate*, January 7, 1995. Copy supplied.

In the spring of 1994, I gave an interview to a local television station concerning a lawsuit between competing bottled water companies claiming violations of a noncompete and nonsolicitation agreement. I do not recall which television station I gave the interview to. I do not have any clips or transcripts of, or articles excerpting portions of, the interview.

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

I have not held judicial office.

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

i. Of these, approximately what percent were:

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

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

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

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

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

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

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

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

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

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

I have not held 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.

None.

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

- a. Describe chronologically your law practice and legal experience after graduation

from law school including:

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

From 1984 to 1985, I served as a law clerk to the Honorable Carolyn Dineen King, Circuit Judge of the United States Court of Appeals for the Fifth Circuit.

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

I have not 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.

Summer 1984, 1985 – present
Stone Pigman Walther Wittmann LLC
909 Poydras Street, Suite 3150
New Orleans, Louisiana 70112
Law Clerk (Summer 1984)
Associate (1985 – 1991)
Member (1991 – present)

- 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.

During the period from 1996 through 2001, I was appointed by the NASD (National Association of Securities Dealers) to serve on approximately six arbitration panels. To my recollection, none of these matters ever involved more than preliminary proceedings and resolved by settlement well ahead of any scheduled arbitration. In view of their age and significance, I recall information concerning only one of these matters — a dispute over a broker's allegedly unauthorized transfer of funds (less than \$30,000) from a joint account to one of the account holders.

b. Describe:

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

As a law clerk for Judge King from 1984 to 1985, I assisted in researching and drafting opinions; reviewed petitions for rehearing and advised whether they should be granted; helped prepare for oral argument; and assisted in the handling of bankruptcy motion dockets.

Since I joined Stone Pigman Walther Wittmann LLC in 1985, I have practiced as a commercial litigator and, more recently, appellate specialist, handling a wide variety of cases in both state and federal courts. My work has run the gamut from legal research, case analysis and planning, factual development through investigation and discovery, drafting briefs, assisting as second chair in jury trials, first- and second-chairing bench trials, preparing and arguing appeals, and participating in mediation and settlement.

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

Typical clients have included companies, including those in the pharmaceutical, oil and gas and chemical industries, and private individuals. From time to time, I have also represented governmental agencies, including, for example, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the City of New Orleans.

Generally, my practice can be described as involving commercial litigation. But my cases have touched on a variety of matters, including: contract and lease disputes, products liability, pharmaceuticals, class actions, takings, maritime, banking, director-and-officer liability, professional liability, patent infringement, tax, toxic tort, insurance, fidelity bond, antitrust, securities, and constitutional issues.

- 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 consisted almost entirely of litigation. I appear in court fairly frequently.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 50%
- 2. state courts of record: 50%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 99%
- 2. criminal proceedings: 1%

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

counsel.

I have represented clients in about a dozen cases that have been resolved through verdict, judgment or final decision, rather than settlement. I have served as either lead counsel or associate counsel for my client in all of these cases. In several of these cases, other parties on the side of my client(s) were represented by other counsel.

- i. What percentage of these trials were:
 1. jury: 25%
 2. non-jury: 75%

- 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 filed briefs on behalf of parties in 4 cases at the certiorari stage in the Supreme Court:

Sid-Mar's Restaurant & Lounge, Inc. v. United States, No. 11-652
Grant v. Chevron Phillips Chemical Co., L.P., No. 02-1140
Tangipahoa Parish Board of Education v. Freiler, No. 99-1625
Orleans Parish School Board v. United States Gypsum Company, No. 97-326

I have supplied copies of all the briefs on which I have appeared.

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. *FDIC v. Mijalis*, 800 F. Supp. 397 (W.D. La. 1992), *aff'd in part, rev'd in part*, 15 F.3d 1314 (5th Cir. 1994).

In 1991, I served as second chair in a multi-week jury trial representing the FDIC on claims for director-and-officer liability asserted against the directors and officers of a

failed bank. The jury returned a verdict for FDIC of over \$20 million and the court (Hon. Tom Stagg, United States District Court for the Western District of Louisiana) entered judgment against the individual defendants and their insurer. On appeal to the Fifth Circuit (Hon. Reynaldo G. Garza, Hon. Carolyn Dineen King, and Hon. Harold R. DeMoss Jr.), I drafted appellate briefs and assisted in preparing for oral argument. Although the judgment against the insurer was reversed, the judgment against the directors and officers was affirmed. The representation spanned the period from 1989 through 1994.

Co-counsel for FDIC:

Hon. Sarah S. Vance
United States District Court for the Eastern District of Louisiana
500 Poydras Street
New Orleans, Louisiana 70130
(504) 589-7595
Formerly at Stone Pigman Walther Wittmann LLC

Counsel for International Insurance Company:

Phillip W. Preis
Preis Gordon, APLC
450 Laurel Street, Suite 2150
Baton Rouge, Louisiana 70801
(225) 910-8307

Counsel for Gus S. Mijalis, Alex S. Mijalis and John G. Cosse:

Joe C. LeSage, Jr.
Deceased

Counsel for John B. Franklin and J. Harper Cox:

Paul M. Cooke
Simon, Fitzgerald, Cooke, Reed & Welch
4700 Line Avenue, Suite 200
Shreveport, Louisiana 71106
(318) 550-4873

Counsel for Certain Outside Directors:

Herschel E. Richard, Jr.
Cook, Yancey, King & Galloway
333 Texas Street, Suite 1700
Shreveport, Louisiana 71120
(318) 227-7738

Harry J. "Skip" Phillips, Jr.
Taylor, Porter, Brooks & Phillips LLP
450 Laurel Street, Suite 800
Baton Rouge, Louisiana 70801
(225) 381-0276

John M. Madison, Jr.
Wiener, Weiss & Madison, APC
333 Texas Street, Suite 2350
Shreveport, Louisiana 71101
(318) 226-9100

2. *First National Bank of Louisville v. Lustig*, 96 F.3d 1554 (5th Cir. 1996).

In 1993, I participated in a multi-week jury trial before the Hon. Henry A. Mentz, Jr., United States District Court for the Eastern District of Louisiana, representing First National Bank of Louisville on fidelity bond and bad faith claims against the bond carriers. The jury returned separate multi-million dollar verdicts on the bond claim and the bad faith claim. On appeal to the Fifth Circuit (Hon. Resha H. Barksdale, Hon. Harold R. DeMoss Jr., and Hon. Robert M. Parker), the judgment on the bond claim was affirmed, but the bad faith award was reversed. The representation spanned the period from approximately 1989 through 1996.

Co-counsel for First National Bank of Louisville:

Patrick M. Ardis
Wolff Ardis, PC
5810 Shelby Oaks Drive
Memphis, Tennessee 38134
(901) 235-8204

John M. Newman, Jr.
Jones Day
901 Lakeside Avenue
Cleveland, Ohio 44114-1190
(216) 586-7207

Hon. Jeffrey S. Sutton
United States Court of Appeals for the Sixth Circuit
540 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202
(513) 564-7000
Formerly at Jones Day

Counsel for Federal Insurance Company and Aetna Insurance Company:

Matt J. Farley
Krebs Farley PLLC
400 Poydras Street, Suite 2500
New Orleans, Louisiana 70130
(504) 299-3570

3. *Newport Ltd. v. Sears, Robuck & Co.*, 1995 U.S. Dist. LEXIS 15896 (E.D. La. Oct. 23, 1995).

In 1995, I served as second chair in a multi-week jury trial representing a partnership on claims for breach of contract, fraud and detrimental reliance before Hon. Stanwood R. Duval, Jr., United States District Court for the Eastern District of Louisiana. The jury returned a verdict for the partnership of over \$10 million, and the case settled while on appeal to the Fifth Circuit. My involvement in the representation spanned the period from late 1994 through 1996.

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4. *Freiler v. Tangipahoa Parish Bd. of Educ.*, 185 F.3d 337 (5th Cir. 1999).

I served as co-counsel for the Tangipahoa Parish Board of Education and individual board members in an Establishment Clause challenge to a disclaimer adopted by the school board. The disclaimer was ruled unconstitutional in the district court (Hon. Marcel Livaudais, Jr., United States District Court for the Eastern District of Louisiana, deceased) and by a panel of the Fifth Circuit (Hon. Carolyn Dineen King, Hon. Henry A. Politz, and Hon. Fortunato P. Benavides), though on different grounds. The Fifth Circuit *en banc* denied a petition for rehearing on an 8 to 7 vote, with a dissenting opinion by Hon. Rhesa H. Barksdale, and the Supreme Court of the United States denied certiorari, with three justices dissenting from the denial of certiorari and a dissenting opinion by Hon. Antonin Scalia (joined by Hon. William H. Rehnquist and Hon. Clarence Thomas). The representation spanned the period from 1994 through 2000.

Co-counsel for Tangipahoa Parish Board of Education and Individual Board Members:

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Counsel for Plaintiffs:

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5. *In re Tidewater Inc.*, 249 F.3d 342 (5th Cir. 2001).

I was principal counsel for the survivors of one of several drowning victims in a maritime wrongful death case arising from a boating accident. The case presented the question whether the federal stay associated with limitation of liability should be lifted to allow a state court action to proceed. The district court (Hon. James T. Trimble, Jr., United States District Judge for the Western District of Louisiana) denied the claimants' motion to lift the stay, and the matter was appealed to the Fifth Circuit. I was the principal briefing attorney for the claimant side in the Fifth Circuit, but our clients' claims were settled before the case was argued and decided on appeal. The representation spanned the period from 1998 through 2000.

Co-counsel for Robertson Claimants:

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Counsel for Claimants Nebhut, Maddox, Christianson, Costa, and Bentz:

John R. Martzell
Deceased

Counsel for Stelly Claimants:

Joseph L. Waitz
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Counsel for Vincent Claimants:

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Counsel for Claimant Bayou Corporation:

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Counsel for Claimant Louisiana Workers' Compensation Corporation:

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6. *City of New Orleans v. Louisiana Assessors' Retirement & Relief Fund*, 986 So. 2d 1 (La. 2007).

Louisiana Clerks' of Court Retirement & Relief Fund v. City of New Orleans, 2002 La. App. LEXIS 2416 (La. App. 1st Cir. 2002).

Board of Trustees of Sheriff's Pension & Relief Fund v. City of New Orleans, 819 So. 2d 290 (La. 2002).

I served as first and second chair in bench trials in state district courts in Orleans Parish (Hon. Roland L. Belsome, Civil District Court for Orleans Parish) and East Baton Rouge Parish (Hon. Janice Clarke, Nineteenth Judicial District Court for East Baton Rouge Parish) defending the City of New Orleans against claims by two different state retirement funds for statutorily-required contributions from collected ad valorem taxes. I also argued a case before the Louisiana Supreme Court brought by yet a third state

retirement fund presenting similar issues. Two of the cases were resolved by settlement and the third by statutory amendment. Our firm's representation spanned the period from 2000 through 2011.

Co-counsel for City of New Orleans:

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Formerly at Tarcza & Associates, LLC

7. *Grant v. Chevron Phillips Chemical Co.*, 309 F.3d 864 (5th Cir. 2002).

Chevron Phillips Chemical Co., LP v. Sulzer Chemtech USA, Inc., 831 So. 2d 474 (La. App. 5th Cir. 2002).

I assisted in the representation of a chemical company defending toxic tort claims brought as a class action following a fire in a styrene-distilling column that resulted in its collapse and an alleged chemical release. I briefed and argued an issue related to Louisiana class action and federal removal procedure. The Fifth Circuit (Hon. Jacques L. Wiener, Hon. Emilio M. Garza and Hon. Robert M. Parker) upheld our client's removal of the case. The case was resolved by settlement. I also participated in a separate, but related case pressing the chemical company's claims for negligence in the construction of the column. The company responsible for the construction sought to have the case stayed pending arbitration, but the motion to stay was denied. I briefed and argued the issue in the Louisiana Fifth Circuit Court of Appeal (Hon. James L. Cannella, Hon. Marion F. Edwards, and Hon. Susan M. Chehardy), which affirmed the decision to allow the

litigation to proceed. This case was also resolved by settlement. The representation spanned the period from 2001 through 2005.

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Counsel for Sulzer Chemtech USA Inc. and Winterthur International America Insurance Company:

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8. *United States v. 0.166 Acres of Land*, 644 F.3d 270 (5th Cir. 2011).

Sid-Mar's Restaurant & Lounge, Inc. v. State of Louisiana, 182 So. 3d 390 (La. App. 5th Cir. 2015).

From 2006 to 2016, I represented individual property owners and a restaurant in the litigation of a post-Hurricane Katrina taking by the State of Louisiana *via* commandeering order. The case involved a complicated clash of competing interests among the private property owners, the United States, the State, and a local governmental entity. I served as second chair in the bench trial (Hon. Ellen Shirer Kovach, District Judge of the Twenty-Fourth Judicial District Court, Louisiana) to establish the extent of the property taken. The state Fifth Circuit Court of Appeal (Hon. Jude G. Gravois, Hon. Marc E. Johnson, and Hon. Hans J. Liljeberg) substantially affirmed the compensation award. Before the trials in state court, however, the United States obtained an injunction of the state court proceedings in federal court (Hon. Helen G. Berrigan, United States District Court for the Eastern District of Louisiana). The injunction was litigated through the Fifth Circuit (Hon. Leslie H. Southwick, Hon. James L. Dennis, Hon. Priscilla R. Owen) and certiorari was sought to the Supreme Court of the United States, before the stay was ultimately lifted by Hon. Eldon E. Fallon, United States District Court for the

Eastern District of Louisiana, to allow the state court trials to proceed.

Co-counsel for Sid-Mar's Restaurant & Lounge, Inc. and Individual Owners:

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Counsel for East Jefferson Levee District:

Thomas Anzelmo
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9. *Public Citizen, Inc. v. Louisiana Attorney Disciplinary Bd.*, 632 F.3d 212 (5th Cir. 2011).

In 2011, I drafted appellate briefs and argued the question of the constitutionality of amendments to the rules governing attorney advertising in Louisiana. The Fifth Circuit (Hon. Patrick E. Higginbotham, Hon. Edith Brown Clement, and Hon. Priscilla R. Owen) affirmed the district court's holding of constitutionality as to certain of the amendments, but reversed as to certain other of the amendments. My participation in the representation spanned 2010 through 2011.

Co-counsel for Louisiana Attorney Disciplinary Board:

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Kathryn M. Knight
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Counsel for Morris Bart and Morris Bart LLC:

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Morris Bart, LLC
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Counsel for Public Citizen, Inc., William N. Gee, III, Ltd, and Gee:

Dane S. Ciolino
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(504) 975-3263

10. *Skannal v. Jones, Odom, Davis & Politz, LLP*, 124 So. 3d 500 (La. App. 2d Cir. 2013).

Skannal v. Bamburg, 33 So. 3d 227 (La. App. 2d Cir. 2010).

I served as co-counsel representing individuals challenging the lawfulness of a contingency fee contract they had entered with prior counsel to pursue claims to void certain contracts. I argued two appeals of the associated cases: (1) the appeal of the trial court's ruling to the Louisiana Second Circuit Court of Appeal (Hon. Harmon Drew, Jr., Hon. D. Milton Moore III, and Hon. John Larry Lolley) on the underlying contract claims; and (2) the appeal of the adverse ruling of the trial court (Hon. E. Joseph Bleich, sitting ad hoc, on the Twenty-Sixth Judicial District Court for Bossier Parish, Louisiana) to the Second Circuit (Hon. Henry N. Brown, Jr., Hon. Jay Caraway, and Hon. John Larry Lolley), which reversed the trial court and held that the contingency fee contract was unlawful.

Co-counsel:

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Counsel for Bamburg-related Parties:

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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.)

Over the past three years, I have had the pleasure of serving as chair of our firm's management committee. My duties have included day-to-day supervision of the firm's administration alongside the firm's executive director, assisting in the supervision, management and development of the firm's lawyers, and helping formulate the firm's long-term goals and strategic plan. In 2017, while continuing the excellent representation of our clients, the law firm opened a Houston office and moved its New Orleans office.

I have also been heavily involved in various bar associations. As a national and local officer of the Federal Bar Association, I have had the privilege to serve with the finest judges and lawyers in our community to serve the needs of the federal bench and bar through the provision of legal education and other programming and community service (including, for example, civics education for students). As a member and chair of the Education Committee of the Louisiana Bar Foundation, I have assisted in advancing legal scholarship and capturing oral histories of leading judges and lawyers throughout Louisiana.

I have registered as a lobbyist in the Louisiana legislature to give testimony on pending legislation in several instances. In one instance, I testified about proposed amendments to state statutes calling for the City of New Orleans to make contributions to certain state retirement funds from its ad valorem tax collections. In another instance, in May of 2014, I testified on behalf of Coalition for Common Sense about proposed legislation directed to the Attorney General's authority to engage private attorneys to represent the state. I also participated in the Federal Bar Association's Capitol Hill Day in April of 2015, including meetings with members of Congress or their staffs to discuss issues important to the federal bench and bar such as judicial vacancies and funding of the courts.

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.

From about 1992 to 2002, I taught a Constitutional Law Seminar at Loyola University New Orleans College of Law for one semester each academic year. This course covered the constitutional principles and issues presented in cases granted review by the Supreme Court of the United States in the then-current term of court. Because the issues presented by the cases granted review varied with each new court term, the topics ranged the full gamut of constitutional issues (not including criminal procedure). Syllabi for 1999, 2000, 2001, and 2002 are supplied. Syllabi from prior years are not available.

From about 1989 to 1991, I taught a Criminal Law Seminar at Loyola University New Orleans College of Law for one semester each academic year. I co-taught this course with Randall A. Smith. The course focused primarily upon principles and issues raised by the federal RICO Act and cases involving the Act. Major topics included RICO's predicate acts and statutory elements. A syllabus is not available.

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

None, other than the return of capital after resignation from my membership in Stone

Pigman Walther Wittmann LLC and payment following the year-end true up of income for the period prior to my resignation.

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 have no plans, commitments, or agreements to pursue outside employment in the future. I hope, however, to resume teaching a law school class one semester each academic year, time permitting.

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 in representing or advising any of the parties. I will evaluate recusal in cases involving Stone Pigman Walther Wittmann LLC and any clients that I represented while at Stone Pigman Walther Wittmann LLC. I would also recuse myself in matters involving my family, close friends, and my own financial interests. Lastly, 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 rendered pro bono services to individuals and entities throughout my career at Stone Pigman Walther Wittmann LLC. In addition, I have rendered pro bono services to my church. And through various bar organizations in which I participate, I have provided pro bono services, engaged in work to improve the legal system, and facilitated other attorneys in the provision of pro bono services or work to improve the legal system. The amount of time devoted to these services has varied over the period of my career, but generally average in excess of 50 hours each year.

26. **Selection Process**:

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

In or about November or December 2016, I expressed my interest to both Senators Bill Cassidy, M.D. and John N. Kennedy in serving as a federal judge. Since that time, I have been in contact with both Senators and representatives from their respective offices about pursuing that interest. On May 1, 2017, I interviewed with Senator Cassidy and two of his staff members in Washington, D.C. On May 25, 2017, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice's Office of Legal Policy in Washington, D.C. 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 since then. On October 2, 2017, 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.