

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Michael Lawrence Brown

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

United States District Judge for the Northern District of Georgia

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.

Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309

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

1968; Quantico, Virginia

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; University of Georgia School of Law; J.D. (*magna cum laude*), 1994

1987 – 1991; Georgetown University; B.A., 1991

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.

2005 – present
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
Partner

2002 – 2005
United States Attorney's Office
Northern District of Georgia
75 Ted Turner Drive
Atlanta, Georgia 30303
Assistant United States Attorney

1999 – 2002
United States Attorney's Office
Southern District of Florida
99 N.E. Fourth Street
Miami, Florida 33134
Assistant United States Attorney

1995 – 1999
King & Spalding LLP
1180 Peachtree Street
Atlanta, Georgia 30309
Associate

1994 – 1995
The Honorable J.L. Edmondson
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street
Atlanta, Georgia 30303
Law Clerk

Summer 1993
King & Spalding LLP
1180 Peachtree Street
Atlanta, Georgia 30309
Summer Associate

Summer 1992
Nelson Mullins Riley & Scarborough LLP
1320 Main Street
Columbia, South Carolina 29201
Summer Associate

Other Affiliations (Uncompensated):

2012 – 2014
The Children's School
345 Tenth Street
Atlanta, Georgia 30309
Trustee

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 United States military but registered for selective service upon turning 18.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Rated by Chambers USA for White-Collar Crime and Government Investigations (2013 – 2017)

Listed by Chambers USA as “Up and Coming” in White-Collar Crime and Government Investigations (2010 – 2012)

United States Department of Justice OCDETF Case of the Year Award for Northern District of Georgia (2004)

United States Department of Justice OCDETF Case of the Year Award for Northern District of Georgia (2003)

University of Georgia School of Law Order of the Coif (1994)

Georgia Law Review Managerial Board Member (1994)

University of Georgia School of Law Moot Court Board (1992 – 1994)

University of Georgia School of Law Welborn Cody Merit Scholarship (1992 – 1994)

University of Georgia School of Law Talmadge Moot Court Competition, First Place (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.

Atlanta Bar Association

Eleventh Circuit Historical Society

Eleventh Circuit Lawyers Advisory Committee

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.

Georgia, 1994

I have been a member of the Georgia Bar since 1994. I was an inactive member of the State Bar of Georgia from approximately 2001 to 2002. During this time, I was serving as an Assistant United States Attorney in Miami, Florida, and active membership was not required as I was not practicing in the State of Georgia. I became an active member of the State Bar of Georgia again upon my return to Georgia in 2002. There have otherwise 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.

United States Court of Appeals for the Fourth Circuit, 2014

United States Court of Appeals for the Sixth Circuit, 1998

United States Court of Appeals for the Ninth Circuit, 2014

United States Court of Appeals for the Eleventh Circuit, 2007

United States District Court for the Northern District of Florida, 2014

United States District Court for the Northern District of Georgia, 1996

United States District Court for the Eastern District of Michigan, 2013

United States District Court for the Western District of Wisconsin, 2015

Supreme Court of Georgia, 2007

Georgia Court of Appeals, 2014

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.

Druid Hills Golf Club (2004 – present)

The Amelia Island Club (2010 – present)

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

To the best of my knowledge, none of the organizations listed above currently 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.

Ever since I joined Druid Hills Golf Club in 2004, the Club has admitted same-sex members and their families. Prior to 2014, the Club extended privileges to members' partners as "designated guests," rather than spouses, because Georgia did not permit same-sex couples to marry. In 2004, the City of Atlanta threatened to bring a proceeding against the Club for failing to extend spousal privileges to partners of gay members, but the City dismissed its allegations in early 2005, after discussions with the Club.

12. **Published Writings and Public Statements:**

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

My law firm maintains a website that includes a page with client alerts issued by the Government and Internal Investigations Team, of which I am the co-leader. As co-leader of the Team, my name is sometimes listed on alerts that I have neither authored, nor edited. To the best of my recollection, I have authored or edited the following alerts:

With Craig Carpenito, William H. Jordan, Edward T. Kang, and Jason D. Popp, *DOJ Releases Guidance on Compliance Programs*, Alston & Bird Government and Internal Investigations Advisory, March 22, 2017. Copy supplied.

With Ted Kang, *The Yates Memo and the DOJ's Focus on Individuals*, Alston & Bird Government and Internal Investigations Advisory, September 14, 2015. Copy supplied

Criminal Division to Investigate All False Claims Act Qui Tam Claims, Alston &

Bird Government and Internal Investigations Advisory, September 14, 2015. Copy supplied.

Additionally, I was an editor (along with Scott Hilson) of *The Fraud Reporter*, a compilation of relevant news articles that my firm published. This publication has not been issued for several years. The following issues were released:

The Fraud Reporter (June 2010). Copy supplied.

The Fraud Reporter (December 2009). Copy supplied.

The Fraud Reporter (February 2008). 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.

Since approximately 2012, I have been a member of the Lawyers Advisory Committee for the United States Court of Appeals for the Eleventh Circuit. This Committee reviews proposed changes to the Eleventh Circuit's rules and, if requested, provides input from the perspective of practicing lawyers. This input is provided in the form of written letters submitted to the Clerk of Court and typically includes whether the Committee supports the proposed rule changes, the impact on lawyers of the proposed changes, and, when appropriate, alternative or additional recommendations. I have attached copies of the following Committee letters that are in my possession:

Letter from Lawyers Advisory Committee for the United States Court of Appeals for the Eleventh Circuit letter regarding Proposed Amendments to Eleventh Circuit Rules and IOPs (Jan. 9, 2017).

Letter from Lawyers Advisory Committee for the United States Court of Appeals for the Eleventh Circuit regarding Proposed Amendments to Eleventh Circuit Rules and IOPs (Sept. 9, 2016).

Letter from Lawyers Advisory Committee for the United States Court of Appeals for the Eleventh Circuit regarding Proposal to Revise 11th Cir. R. 25-3 Electronic Case Files (ECF) System (March 18, 2016).

Letter from Lawyers Advisory Committee for the United States Court of Appeals for the Eleventh Circuit regarding Proposed Amendments to Eleventh Circuit Rules and Internal, Operating Procedures (Sept. 3, 2015).

I do not have copies of all of the letters submitted during the time I have served on the Committee. The Committee reports to the Clerk of Court for the Eleventh Circuit Court of Appeals. The address for the current Clerk of Court, David J. Smith, is Clerk of Court, United States Court of Appeals for the Eleventh Circuit, 56 Forsyth Street, N.W., Atlanta, Georgia 30303.

- 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.

I have not issued or provided any such testimony, official statements or other communications to public bodies or public officials.

- 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.

May 27, 2015: Speaker, "Conducting Effective Internal Investigations: Tips and Insights on How to Avoid Sleepless Nights, Reputational Damage, and Civil and Criminal Liability," Alston & Bird LLP. PowerPoint slides supplied.

February 20, 2015: Panelist, "Going In or Not – Government Presentations, Attorney Proffers, and 'Queen for the Day,'" Institute for Continuing Legal Education in Georgia and the State Bar of Georgia. I served as a panelist for a discussion regarding best practices when representing individuals or companies that are cooperating with government investigations. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

March 4, 2014: Panelist, "Exploring Potential Constitutional Implications of Georgia's Retention of the Wide Open Cross Examination Rule After Adoption of the Federal Rules of Evidence," John Marshall Law Journal Symposium and the State Bar of Georgia. I served as a panelist for a discussion regarding revisions to the Georgia Rules of Evidence. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta St., N.W., Suite 100, Atlanta, Georgia 30303.

October 12, 2012: Panelist, "Best Practices in Investigations," Southeast Regional Compliance and Ethics Conference, Society of Corporate Compliance and Ethics.

I served as a panelist for a discussion regarding best practices for conducting internal investigations. PowerPoint slides supplied.

October 27, 2011: Panelist, "Crisis Response 'Best Practices' in the First Seven Days," DRI Corporate Counsel Seminar. I served as a panelist to discuss best practices for a corporation in responding to a crisis. Presentation supplied.

January 28, 2011, Panelist, "White Collar Crime," Institute for Continuing Legal Education in Georgia and the State Bar of Georgia. I spoke about issues that arise during government investigations and how companies should respond to those investigations. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

May 21, 2010: Panelist, "Hot Topics and Global Trends in Compliance and Ethics," Corporate Compliance and Ethics Institute and the Practising Law Institute. I spoke about the importance of corporate compliance programs as well as federal law enforcement initiatives, deferred prosecution agreements, and anti-bribery legislation. PowerPoint slides supplied.

October 30, 2008: Panelist, "Corporate Internal Investigations," Southern Health Care Fraud Institute, Institute for Continuing Legal Education in Georgia, and the State Bar of Georgia. I spoke about conducting effective internal investigations, including how best to protect your client's rights during an internal investigation and how to comply with guidance from the Department of Justice regarding the prosecution of corporations. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

October 24, 2008: Speaker, "Crisis in the Company," Alston & Bird LLP. My presentation focused on best practices in responding to government investigations following a company crisis, including cooperation with law enforcement and preservation of the attorney-client privilege. I have no notes, transcript, or recording. Alston & Bird LLP's address is 1201 West Peachtree Street, Atlanta, Georgia 30309.

October 10, 2008: Speaker, Georgia Association of Certified Fraud Examiners Annual Meeting, Alston & Bird LLP. My presentation focused on best practices in fraud investigations. I have no notes, transcript, or recording. The address of the Georgia Association of Certified Fraud Examiners is Post Office Box 79498, Atlanta, Georgia 30357.

May 7, 2008: Speaker, "Trends and Strategies in a Changing Climate – the Subprime Mortgage/Credit Crisis Part I – the Current Market and Regulatory Activity," Class Action Litigation Forum, Alston & Bird LLP. I spoke about recent developments in mortgage origination litigation. PowerPoint slides supplied.

March 19, 2008, Panelist, "Dealing with the Proliferation of Self-Disclosure Obligations," Corporate Internal Investigations Seminar, Institute for Continuing Legal Education and the State Bar of Georgia. My remarks focused on various disclosure obligations that a corporation should consider during an internal investigation. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

September 7, 2007: Panelist, "Recent Criminal Fraud Cases: Risky Business," Southeastern Health Care Fraud Conference, Institute for Continuing Legal Education and the State Bar of Georgia. I served as a panelist for a discussion regarding government fraud prosecutions. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

April 13, 2007: Speaker, International Crime Seminar, Institute of Continuing Legal Education in Georgia and the State Bar of Georgia. The seminar was held in Cozumel, Mexico. My presentation focused on the Foreign Corrupt Practices Act and Department of Justice enforcement priorities. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

March 16, 2007: Panelist, "Organizing the Internal Investigation: Preparing for and Conducting Interviews," Corporate Internal Investigations Seminar, Institute for Continuing Legal Education and the State Bar of Georgia. I served as a panelist for a discussion regarding internal investigations. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

September 8, 2006: Panelist, Southeastern Health Care Fraud Institute Seminar, Institute for Continuing Legal Education and the State Bar of Georgia. I served as a panelist for a discussion regarding government and internal investigations. I have no notes, transcript, or recordings from the presentation. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

November 10, 2005: Panelist, "Federal Criminal Practice," Institute of Continuing Legal Education and the State Bar of Georgia. I spoke about trends in federal criminal enforcement and best practices in responding to federal investigators. I have no notes, transcript, or recording. The address of the State Bar of Georgia is 104 Marietta Street, N.W., Suite 100, Atlanta, Georgia 30303.

On several occasions, I have made presentations to prospective clients and other interested persons, in a non-public setting, about best practices for conducting internal investigations. I do not have a record of all the occasions on which I have provided this presentation and there are no notes, recordings, or transcripts of my

remarks, but I would have relied on PowerPoint slides substantially similar to those used on May 27, 2015 for “Conducting Effective Internal Investigations: Tips and Insights on How to Avoid Sleepless Nights, Reputational Damage, and Civil and Criminal Liability,” for which PowerPoint slides have been 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.

February 23, 2016, “Atlanta Currency Exchange Executives Indicted in ‘Pumping’ Scheme,” Daily Report (Fulton County, Georgia). Copy supplied.

October 28, 2014, “DeKalb DA Suggests Judge Reversed Convictions to Retaliate Against Appeals Court,” Daily Report (Fulton County, Georgia). Copy supplied.

December 12, 2013, “Ethics Watch,” The Atlanta Journal-Constitution. Copy supplied.

December 10, 2013, “Stiff Sentences in Construction Scandal,” The Atlanta Journal-Constitution. Copy supplied (reprinted in other articles).

October 25, 2013, “Jordan to Join Ga. Ethics Commission,” The Associated Press. Copy supplied.

October 11, 2013, “Ethics Commission Attorney Contacted by FBI,” The Associated Press. Copy supplied.

October 9, 2013, “Ex-Ethics Commission Employee Says Docs Altered,” The Associated Press. Copy supplied.

October 9, 2013, “Ex-State IT Specialist Claims He Removed Documents from Gov. Deal Ethics File,” The Atlanta Journal-Constitution. Copy supplied.

October 1, 2013, “Ga. Ethics Commission to Ask for Special Investigator,” The Associated Press. Copy supplied (reprinted in other articles).

September 8, 2013, “DeKalb Trims Case’s Scope,” The Atlanta Journal-Constitution. Copy supplied.

November 9, 2010, “Lewis Appeals to Keep His Attorney,” The Atlanta Journal-Constitution. Copy supplied.

September 1, 2010, “Policy Protects Reporting Wrongs; Rules Aim to Prevent Retaliation Against Whistleblowers,” The Atlanta Journal-Constitution. Copy supplied.

August 14, 2010, "Ex-School Officials Plead Not Guilty," The Atlanta Journal-Constitution. Copy supplied.

May 28, 2010. "DeKalb Board; Don't Fault Us," The Atlanta Journal-Constitution. Copy supplied.

May 27, 2010, "Ex-school Chief Indicted; Ex-COO also Accused of Violating RICO Act," The Atlanta Journal-Constitution Copy supplied (reprinted in other articles).

May 9, 2010, "Conflict in School Role, Exec Post?" The Atlanta Journal-Constitution. Copy supplied.

February 2, 2007, "Mixed Results In Complex White Collar Case; Alston & Bird's Client Is Convicted Of Bribery; Schreeder's Client Is Acquitted, Still Faces Prison," The Daily Report (Fulton County, Georgia) . Copy supplied.

August 11, 2001, "Kid Porn Nets Counselor 65-Year Term," The Miami Herald. Copy supplied.

In December 2013, the Atlanta Journal-Constitution ran an article entitled *DeKalb Judge Becker Runs Tight Ship* that falsely attributed a quotation to me. The paper later re-printed the article properly attributing the quotation to another attorney.

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 held a 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. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

I have not held office in any political party or election committee, nor have I held a position in a political campaign.

In 2010, my law firm, Alston & Bird, represented the Republican Party of Florida ("RPOF") in an internal investigation regarding the legitimacy of certain business-related expenses incurred by the RPOF. I was primarily responsible for the investigation. The investigation focused on charges incurred by the (then) Chairman of the RPOF and billed to the Party.

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 July 1994 through July 1995, I clerked for the Honorable J.L. Edmondson, Circuit Judge of the United States Court of Appeals for the Eleventh 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 1992
Nelson Mullins Riley & Scarborough LLP
1320 Main Street
Columbia, South Carolina 29201
Summer Associate

Summer 1993
King & Spalding LLP
1180 Peachtree Street
Atlanta, Georgia 30309
Summer Associate

1995 – 1999
King & Spalding LLP
1180 Peachtree Street
Atlanta, Georgia 30309
Associate

1999 – 2002
United States Attorney's Office
Southern District of Florida
99 N.E. Fourth Street
Miami, Florida 33134
Assistant United States Attorney

2002 – 2005
United States Attorney's Office
Northern District of Georgia
75 Ted Turner Drive
Atlanta, Georgia 30303
Assistant United States Attorney

2005 – present
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, Georgia 30309
Partner

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

Since joining Alston & Bird LLP in 2005, my practice has focused on white collar criminal defense. I represent individuals and companies facing a wide variety of criminal allegations, including antitrust violations, mail and wire fraud, securities fraud, violations of environmental laws, mortgage fraud, theft of trade secrets, bribery, and Medicare fraud. As part of my practice, I also routinely conduct internal investigations for companies. In addition, I represent companies facing civil liability under the False Claims Act or companies that are parties to other types of complex civil litigation, including, without limitation, antitrust cases and cases involving theft of trade secrets. My clients in this area are typically hospitals or medical providers accused of overbilling Medicare; banks or mortgage companies accused of mortgage fraud; and other corporate entities involved in litigation over business disputes. I regularly represent criminal defendants on a *pro bono* basis.

Before joining Alston & Bird, I was an Assistant United States Attorney, serving in the Southern District of Florida from 1999 until 2002 and in the Northern District of Georgia from 2002 until 2005. In these positions, I worked with nearly all federal law enforcement agencies and was responsible for the investigation and prosecution of various criminal violations, including wire and mail fraud, drug violations, kidnapping, extortion, child exploitation, money laundering, and firearms violations. I tried many criminal cases in both Miami and Atlanta as lead counsel, including complex, multi-defendant cases with trials that lasted several weeks. I also routinely represented the United States in appeals of my matters to the United States Court of Appeals for the Eleventh Circuit.

Before joining the United States Attorney's Office, I was a litigation associate at King & Spalding from 1995 until 1999. During this time, my typical clients were companies in civil disputes with other companies or individuals. While at King & Spalding, I was involved in the defense of complex civil litigation matters, including class actions and cases involving antitrust claims, Robinson Patman Act claims, violations of the Warsaw Convention, and breach of contract claims.

- 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.

i. Indicate the percentage of your practice in:

- 1. federal courts: 80%
- 2. state courts of record: 20%
- 3. other courts: ___%
- 4. administrative agencies: ___%

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 15%
- 2. criminal proceedings: 85%

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

I have tried approximately 25 cases to verdict. I was lead counsel in the vast majority of these trials. Occasionally, in the United States Attorneys' Office, particularly when I first joined the Office, I was associate counsel.

i. What percentage of these trials were:

- 1. jury: 100%
- 2. non-jury: ___%

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 practiced before the Supreme Court of the United States.

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Shapiro, et al.*, 15-CR-155 (D. Conn.)

Earlier this year, I represented a defendant in a criminal case in U.S. District Court for the District of Connecticut. My client (along with two co-defendants) was charged with conspiracy, wire fraud, and securities fraud stemming from allegations that he misrepresented the profit that his employer would make when brokering RMBS transactions. The trial of this matter commenced in May 2017. After a four week trial, my client was acquitted of all charges.

Presiding Judge: Hon. Robert Chatigny

Counsel for Co-Defendants:

Marc L. Mukasey
Greenberg Taurig, LLP
200 Park Avenue
New York, New York 10166
(212) 801-9200

Guy Petrillo
Petrillo Klein & Boxer LLP
655 Third Avenue, 22nd Floor
New York, New York 10017
(212) 370-0330

Opposing Counsel:

David Novick
Assistant United States Attorney
United States Attorney's Office for the District of Connecticut
157 Church Street, 25th Floor
New Haven, Connecticut 06510
(203) 821-3732

2. *United States v. Autoliv*, 12-CR-20383 (E.D. Mich.)

Since approximately February 2010, I have represented Autoliv, a leading manufacturer of seatbelts, airbags, and steering wheels, in a global antitrust investigation alleging price fixing. The company ultimately pled guilty to such charges in the Eastern District of Michigan as a result of conduct that occurred in Japan. I then participated in the defense team in civil antitrust class actions brought in the United States arising out of the criminal plea.

Presiding Judge: Hon. Marianne Battani

Opposing Counsel:

Nikhil Pyati
United States Department of Justice, Antitrust Division
450 Fifth Street, N.W.
Washington, D.C. 20530
(202) 307-6694
Current contact information unknown

Shane Cralle
Assistant United States Attorney
United States Attorney's Office for the Eastern District of Michigan
211 West Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9100
Former Trial Attorney, Department of Justice Antitrust Division

3. *GeorgiaCarry.org v. Atlanta Botanical Garden, Inc.*, No. 2014-CV-253810 (Fulton County Superior Court); *GeorgiaCarry.org v. Atlanta Botanical Garden, Inc.*, 785 S.E.2d 874 (Ga. 2016)

Since December 2014, I have represented the Atlanta Botanical Garden in a matter involving private property rights under Georgia law and more specifically whether the Garden, as a lessee of property from the City of Atlanta, may prevent visitors from carrying weapons at the Garden. The trial court granted our client's motion to dismiss on procedural grounds, but the Georgia Supreme Court reversed that order. On remand, the trial court granted our client's motion for summary judgment, and that matter is currently pending before the Georgia Court of Appeals.

Presiding Judge: Hon. Gail Tusan (Fulton County Superior Court)
Supreme Court of Georgia Justices: Justices Harris Hines, Harold Melton, Robert Benham, Carol Huntstein, David Nahmias, Keith Blackwell, and Hugh Thompson

Opposing Counsel:

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4. *United Parcel Service v. Doremi Labs, et al.*, Case No. 15-CV-7840 (C. D. Cal.)

In 2015 and 2016, I represented UPS in a business dispute regarding the enforceability of indemnity provisions in its international tariff. The matter arose from duties and value added taxes totaling nearly \$20 million imposed on UPS by French Customs as a result of

computer equipment that a commercial customer shipped into France from the United States. The matter was vigorously litigated but later resolved between the parties pending the results of legal action in France. I was lead counsel on this matter and was responsible for all aspects of the civil litigation and resolution.

Presiding Judge: Hon. Percy Anderson

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5. *United States ex rel. Hastings v. Wells Fargo Bank, NA, Inc., et al.*, 2014 WL 3519129 (N.D. Cal. 2014); *United States ex rel. Hastings v. Wells Fargo Bank, NA, Inc., et al.*, 656 Fed.Appx. 328 (9th Cir. 2017)

From June 2013 until July 2016, I represented SunTrust Mortgage in a False Claims Act proceeding in the United States District Court for the Central District of California. The relator in that case alleged that SunTrust Mortgage and several other national mortgage companies improperly originated government-insured loans that included down payment assistance. After significant litigation and several revised complaints, the court granted the defendants' motion to dismiss. The Ninth Circuit affirmed the trial court's order. I was lead counsel for SunTrust in this matter.

Presiding Judge: Hon. Dean Pregerson

Ninth Circuit Judges: Hon. Thomas Vanaskie, Hon. Mary Murguia, Hon. Paul Watford

Counsel for Co-Defendants:

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6. *State v. Lewis*, Case No. 13-Cr-4745 (DeKalb Superior Court); *Lewis v. State*, 718 S.E.2d 112 (Ga. Ct. App. 2011); *Lewis v. State*, 767 S.E.2d 771 (Ga. Ct. App. 2015); *State v. Lewis*, 779 S.E.2d 643 (Ga. 2015)

From May 2010 through February 2016, I defended the former superintendent of the DeKalb County School Board against state criminal charges. In exchange for testimony and a plea to one misdemeanor, the government agreed to dismiss all felony charges and recommend a probationary sentence and first offender treatment. The trial court judge approved the proposed sentence, but then reversed course and imposed a prison sentence. We successfully appealed that order to the Georgia Court of Appeals and Supreme Court of Georgia, thus securing the agreed upon sentence. I was lead counsel for Dr. Lewis in this matter.

Presiding Judge: Hon. Cynthia Becker

Georgia Court of Appeals Judges: Hon. Keith Blackwell; Hon. Anne Barnes, Hon. Harris Adams, Hon. William Ray, Hon. Christopher McFadden, Hon. Gary Andrews

Supreme Court of Georgia Justices: Justices Harris Hines, Harold Melton, Robert Benham, Carol Huntstein, David Nahmias, Keith Blackwell, and Hugh Thompson

Counsel for Co-Defendants:

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Former DeKalb County District Attorney

7. *United States v. Jack Swann, et al.*, Case No. 2:05-cr-61 (N.D. Ala.); *United States v. Jack Swann, et al.*, 605 F.3d 1152 (11th Cir. 2010)

Between 2005 and 2010, I represented a construction company and its owner facing federal bribery charges in the United States District Court for the Northern District of Alabama. In the first trial (which involved five co-defendants), my individual client was convicted on a single count while all other defendants were convicted on most or all counts charged. In the second trial (which had no co-defendants), my client was acquitted of all charges. I was also lead counsel on appeal from the guilty verdict and sentencing. After oral argument, the Eleventh Circuit affirmed the convictions.

Presiding Judge: Hon. Robert Propst
Eleventh Circuit Judges: Hon. Susan Black, Hon. Frank Hull, Hon. Ed Carnes

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Former Trial Attorney, Department of Justice Antitrust Division

8. *United States v. Flores, et al.*, Case No. 03-Cr-493 (N.D. Ga.); *United States v. Garcia-Jaimes, et al.*, 484 F.3d 1311 (11th Cir. 2007)

In 2004 and 2005, I worked with the DEA, FBI, and local law enforcement officers in Atlanta, Georgia and McAllen, Texas to investigate and prosecute a sophisticated organization involved in the importation and distribution of cocaine and marijuana. I was lead counsel in a multi-week trial involving six defendants. Five of those defendants were convicted of all charges, and their convictions were upheld on appeal.

Presiding Judge: Hon. Orinda Evans

Eleventh Circuit Judges: Hon. Joel Dubina, Hon. Emmet Cox, Hon. Harvey Schlessinger

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9. *United States v. Mendoza, et al.*, Case No. 02-Cr-45 (N.D. Ga.); *United States v. Horton, et al.*, 2004 WL 7321636 (11th Cir. 2004); *United States v. Stallings, et al.*, 194 F. App'x. 827 (11th Cir.2006)

In 2002 and 2003, while an Assistant United States Attorney in Atlanta, I worked closely with the FBI and local law enforcement to investigate and prosecute a violent drug trafficking organization operating in the Atlanta area. The defendants were charged with conspiring to distribute cocaine, with murder as an overt act in furtherance of the conspiracy. After a lengthy multi-defendant trial, the defendants were convicted of the charged offenses. I was lead trial counsel. The Eleventh Circuit affirmed the convictions and sentences.

Presiding Judge: Hon. Orinda Evans

Eleventh Circuit Judges: Hon. Lanier Anderson, Hon. Rosemary Barkett, Hon. Richard Cudahy

Opposing Counsel:

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10. *United States v. Dieter Vogt*, Case No. 00-cr-10029 (S.D. Fla 2000); *United States v. Dieter Vogt*, No. 01-14944 (11th Cir. 2001)

While an Assistant United States Attorney in Miami, I investigated and prosecuted an individual who manufactured and distributed child pornography. I was the lead prosecutor on this matter, which culminated in a multi-week trial in which the defendant was found guilty and sentenced to 65 years' imprisonment (at that time, the longest recorded sentence for a conviction of this sort).

Presiding Judge: Hon. Michael Moore

Opposing Counsel:

Raul A. Cossio, Esq.

PO Box 644 Escazu

San Jose, Costa Rica

(786) 228-9148

Formerly a solo practitioner in Key Largo

Edward A. Carhart, Esq.

Deceased

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.)

As mentioned above, I routinely serve as lead counsel for corporations under investigation by the government in matters in which the government ultimately declined to file enforcement actions. I have also led investigatory teams responsible for conducting internal investigations to discover misconduct by employees. These matters generally remain confidential. I have represented companies under investigation for violations of EPA emissions standards, USDA regulations, tax and reserve accounting rules, and other federal regulatory violations. I have also represented multinational companies in internal investigations arising from complaints by employees involving tax and reserve accounting issues, potential violations of the False Claims Act and the Foreign Corrupt Practices Act, and other regulatory violations.

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.

I have not taught any courses.

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.

Because I am an equity partner at Alston & Bird, I have several retirement accounts that I would remove from the firm's plans as soon as possible after my departure. Specifically, I have voluntary 401(k) contributions, mandatory profit sharing contributions, and a cash balance pension plan. Upon departure from the firm, I would rollover these accounts into other qualified retirement plans or IRAs. I also have made capital contributions to the firm which would be returned to me at the firm's discretion upon my departure. Finally, I participate in a Supplemental Capital/Retirement Plan (SERP), which contains mandatory contributions. Upon my departure, the funds would be paid out to me (without interest) over a period of 5 years.

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.

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

Please see the attached Financial Disclosure Report.

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

Please see the 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 would recuse myself from any matters in which Alston & Bird LLP appears as counsel as my wife would remain as an equity partner with the firm. Further, I would recuse from any litigation where I have ever played a role and carefully evaluate recusal in any matter involving clients I represented while at Alston & Bird. I would also recuse myself from matters involving my family 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 am dedicated to the *pro bono* representation of disadvantaged individuals and routinely represent such clients. For instance, *State v. Lewis*, described above, was a *pro bono* representation. In total, I dedicated more than 700 hours to that representation. As another example, working in conjunction with the Georgia Innocence Project, I previously represented a client and helped her to obtain a new trial following her conviction for murder. After successfully petitioning the trial court for a new trial, we negotiated a favorable plea agreement on her behalf. I invested significant time on this matter. I also currently represent a *pro bono* client in a criminal matter pending in the Southern District of New York involving the theft of trade secrets. I have devoted more than 140 hours to that representation since its inception in 2016.

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.

The Senators from Georgia established a selection committee to interview judicial candidates for potential nomination. The committee published a notification of the process and the application on the State Bar of Georgia's website for several weeks. I submitted my application on January 30, 2016. On February 12, 2017, I was notified that my interview with the committee had been scheduled for February 24, 2017. I attended the interview on that day. On March 31, 2017, I was contacted by the White House Counsel's Office to schedule an interview in Washington, D.C. On April 11, 2017, I interviewed with attorneys from the

White House Counsel's Office and the Office of Legal Policy at the Department of Justice in Washington, D.C. On July 13, 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.