

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Kenneth Bush

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

United States Circuit Judge for the Sixth Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office:

Bingham Greenebaum Doll LLP
3500 National City Tower
101 South Fifth Street
Louisville, Kentucky 40202-3197

Residence:

Anchorage, Kentucky

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

1964; Hot Springs, Arkansas

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.

1986 – 1989, Harvard Law School; J.D. (*cum laude*), 1989
1982 – 1986, Vanderbilt University; B.A. (*summa cum laude*), 1986

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.

Affiliations (Compensated):

April 1996 – present
Bingham Greenebaum Doll LLP (formerly Greenebaum Doll & McDonald PLLC)
3500 National City Tower
101 South Fifth Street
Louisville, Kentucky 40202
Partner (2012 – present)
Member (1998 – 2011)
Counsel (1997 – 1998)
Associate (1996 – 1997)

July 1990 – March 1996
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Associate

July 1989 – July 1990
United States Court of Appeals for the Eighth Circuit
200 Federal Building
402 North Walnut Street
Harrison, Arkansas 72601
Judicial Clerk to the Honorable J. Smith Henley

June 1989 – July 1989
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166
Summer Associate

August 1988
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Summer Associate

July – August 1988
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Summer Associate

June 1988 – July 1988
Sutherland Asbill & Brennan LLP (now Eversheds Sutherland LLP)

700 6th Street, N.W.
Washington, D.C. 20001
Summer Associate

July 1987 – August 1987
Rose Law Firm
119 East Third Street
Little Rock, Arkansas 72201
Summer Associate

June 1987 – July 1987
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Summer Associate

Summer 1986
FIRSTSOUTH, F.A.
111 Center Street
Little Rock, Arkansas 72201
Teller

Affiliations (Uncompensated):

2000 – 2004, 2016 – present
St. Francis in the Fields Episcopal Church
6710 Wolf Pen Branch Road
Harrods Creek, Kentucky 40027
Vestry Member

2009 – 2014
Kentucky Opera
323 West Broadway # 601
Louisville, Kentucky 40202
Board Member

2002 – 2005 est.
Owl Creek Country Club
12400 North Osage Road
Anchorage, Kentucky 40223
Board Member

1997 – 2000 est.
St. Luke's Episcopal Church
1206 Maple Lane
Anchorage, Kentucky 40223

Preschool Board Member

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have never served in the U.S. Military. I have registered for selective service.

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

Scholarships:

Century III Leaders Scholarship

National Honor Society (State Winner)

Wal-Mart Foundation

Academic Honors:

77th Ames Moot Court Competition, Harvard Law School
Finalist and Best Brief Winner (1989)

Harvard Journal of Law and Public Policy
Editor (1986 – 1987), Book Review Editor (1987 – 1988), Executive Editor (1988 – 1989)

Young Alumni Trustee on Vanderbilt University Board of Trust
Nominee (1986)

IMPACT Speakers Symposium, Vanderbilt University
Co-Publicity Committee Chair (1985), Symposium Chair (1986)

Vanderbilt University Concert Choir
President (1985 – 1986)

Professional Honors:

The Best Lawyers in America (2010 – 2017)
Louisville Litigation – Antitrust “Lawyer of the Year” (2017)
Louisville Appellate “Lawyer of the Year” (2016)

Kentucky Super Lawyers (2007 – 2017)

Benchmark Litigation, Future Star (2016, 2017)

Louisville Magazine “Top Lawyers” (2010 – 2016)

Chambers USA, Litigation – General Commercial (2005 – 2009, 2017)

AV Peer Review Rated by Martindale-Hubbell (2003 – present)

Honorary Society Memberships:

Alpha Lambda Delta

Mortar Board

Omicron Delta Epsilon

Omicron Delta Kappa

Phi Beta Kappa

Phi Eta Sigma

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

American Bar Association

Federalist Society

President, Louisville Lawyers Chapter (1997 – present)

Kentucky Bar Association

Annual Convention Planning Committee (2012)

Louisville Bar Association

Louis D. Brandeis American Inn of Court

Barrister (1997 – 2000 est.)

Supreme Court Historical Society

United States Court of Appeals for the Sixth Circuit

Member, Advisory Committee on Rules (2012 – 2015)

United States District Court, Western District of Kentucky

Member, Centennial Committee (2001)

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.

Arkansas, 1989

District of Columbia, 1992

In 1997, my membership became inactive as I no longer actively practiced in the District of Columbia.

Kentucky, 1996

- 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, 1994

United States Court of Appeals for the Fourth Circuit, 1997

United States Court of Appeals for the Fifth Circuit, 1991

United States Court of Appeals for the Sixth Circuit, 1996

United States Court of Appeals for the Eighth Circuit, 1990

United States Court of Appeals for the Eleventh Circuit, 2002

United States Court of Appeals for the Federal Circuit, 1993

United States District Court for the Western District of Arkansas, 1989

United States District Court for the District of Colorado, 2004

United States District Court for the Northern District of Illinois, 2011

United States District Court for the Southern District of Indiana, 1996

United States District Court for the Eastern District of Kentucky, 1996

United States District Court for the Eastern District of Michigan, 2004

United States District Court for the Western District of Michigan, 2004

United States District Court for the Western District of Missouri, 2005

United States District Court for the Western District of Tennessee, 2014

United States District Court for the Western District of Wisconsin, 2004

United States Bankruptcy Court for the Western District of Kentucky, 2013

My United States District Court for the Western District of Missouri membership lapsed because of not practicing before the court.

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.

St. Francis in the Fields Episcopal Church

Parish Member (1996 – present), Vestry Member (2000 – 2004, 2016 – present), Senior Warden (2003 – 2004), Junior Warden (2002 – 2003)

The Forum Club of Louisville

Member (2005 – 2017), Vice President (2005 – 2009), President (2009 – 2017)

The Society of Colonial Wars in the Commonwealth of Kentucky

Member (2006 – 2017)

Owl Creek Country Club

Member (1996 – 2016), Board Member (2002 – 2005 est.)

Kentucky Opera

Board Member (2009 – 2014)

Pendennis Club

Member (2006 – 2011 est.), Library and Archives Committee Member (2008 – 2010 est.)

Leadership Louisville

Member (2008)

St. Luke's Episcopal Church

Preschool Board Member (1997 – 2000 est.)

Filson Club

Member (various years from 1996 to 2016)

Harvard Alumni Club of Western Kentucky

Member (various years)

Vanderbilt Alumni Club of Kentucky

Member (various years)

Hillsboro Club

Junior Member (1995 – 2000), Senior Member (2000 – 2002)

Friends of Red Cross Ball

Committee Member (1993)

Oratorio Society of Washington
Member (1991 – 1995 est.)

Christ Church
Member (1990 – 1996)

- 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, no organization listed in response to Question 11a above invidiously discriminates, or has invidiously 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.

“Love Can (Sometimes) Buy Me Money,” *Bingham Greenebaum Doll LLP Newsletter*, October 26, 2016. Copy supplied.

“Gouverneur Morris,” in *America’s Forgotten Founders*, Gary L. Gregg & Mark David Hall, eds. 2012, available at ISIBooks.org. Copy supplied.

“Readers’ Forum: Reference to Race ‘Inappropriate,’” *The Courier-Journal*, May 21, 2010. Copy supplied.

“Presidential Connections to the Pendennis Club,” *The Pen of the Pendennis*, April 2009. Copy supplied.

“Avon Loses Its Cosmetic Appeal,” *Greenebaum Doll & McDonald PLLC Newsletter*, December 1, 2007. Copy supplied.

“Conspiracy Theory: High Court Holds Parallel Business Conduct, Alone,

Insufficient To State A Claim,” *Greenebaum Doll & McDonald PLLC Newsletter*, August 13, 2007. Copy supplied.

“‘Sorry’ Seems To Be Neither The Hardest Nor The Last Word For Chinese Product Recalls,” in *Instant Awareness: An Immediate Look at the Legal, Governmental, and Economic Ramifications of the Mattel Toy Recalls*, Aspatore Books, 2007. Copy supplied.

“So You Have A Big Antitrust Problem: Now What?” in *Antitrust Law Client Strategies*, Aspatore Books, 2007. Copy supplied.

“Eight Ways To Sunday: Which Direction, Kentucky Supreme Court?” co-authored with Paul E. Salamanca, *The Federalist Society for Law and Public Policy Studies*, September 2006. Copy supplied.

“U.S. Supreme Court Agrees To Resolve A Patent Licensee’s Dilemma,” *Greenebaum Doll & McDonald Newsletter*, June 1, 2006. Copy supplied.

“Litigation For Life: The U.S. Supreme Court Grants Certiorari in *MedImmune, Inc. v. Genentech, Inc.*,” *TerraLex Intellectual Property Newsletter*, April 2006. Copy supplied.

“*United States v. Dentsply International*: Putting Teeth Into Exclusive-Dealing Claims?” *Engage – The Journal of the Federalist Society’s Practice Groups*, October 2005. Copy supplied.

“Sixth Circuit Rejects Claims That Honeywell Has Illegal Tying Arrangement,” *Corporate Counsel News*, Summer 1997. Copy supplied.

“Federal Circuits Split Over Standard For Establishing Secondary-Line Price Discrimination Under The Robinson-Patman Act,” *Greenebaum Doll & McDonald PLLC Law Letter*, June 1997. Copy supplied.

“Sixth Circuit Rejects Attempted Monopolization Claim Against Medical Practice Group,” *Greenebaum Doll & McDonald PLLC Law Letter*, June 1997. Copy supplied.

“A Better Approach To Civil Litigation Reform,” *The National Law Journal*, May 26, 1997. Copy supplied.

“Two Recent High Court Cases List GVR Criteria,” co-authored with Theodore B. Olson, *The National Law Journal*, July 29, 1996. Copy supplied.

“Amid Increased Public And Congressional Debate Over Punitive Damages, Supreme Court of the United States Agrees To Hear Another Punitive Damages Case,” *Century City Lawyer*, May 1995. Copy supplied.

“The End Of The 10(b) Aiding And Abetting Liability Fiction,” *Insights*, June 1994. Copy supplied.

“Changing The Rules Of The Game: The Battle Over FIRREA’s Abrogation Of Capital Forbearance Agreements,” *Banking Governance Law Reporter*, August 1991. Copy supplied.

“The Securities Enforcement Remedies and Penny Stock Reform Act of 1990,” co-authored by John H. Sturc, John Millian and Susanne Kogut, in *The Review of Securities & Commodities Regulation*, Vol. 24, No. 8, April 17, 1991. Copy supplied.

“A New Ball Game In A New Forum: Cease And Desist Proceedings And Civil Money Penalties In Administrative Proceedings Under The Securities Enforcement Remedies Act And Penny Stock Reform Act Of 1990,” in *The Securities Enforcement Remedies And Penny Stock Reform Act Of 1990*, Prentice Hall Law & Business, 1990. Copy supplied.

Note, “Constitutional Law: The Free Exercise Clause and Compulsory Reading in Public Schools – *Mozert v. Hawkins County Public Schools*, 647 F. Supp. 1194 (E.D. Tenn. 1986), *appeal docketed*, No. 87-5024 (6th Cir. Jan. 13, 1987),” in *Harvard Journal of Law & Public Policy*, Vol. 10, No. 3, 1988. Copy supplied.

“Saturn and State Economic Development,” co-authored with Timothy J. Bartik, Charles Becker and Steve Lake, *Forum for Applied Research and Public Policy* 2(1) (Spring 1987). Copy supplied.

“From the Chairman,” *IMPACT Magazine*, February 1986. Copy supplied.

“A 22-year Impact on Vanderbilt Opinion,” co-authored with Todd Miller, *Versus Magazine*, February 1986. Copy supplied.

Blog posts published under the pseudonym “G. Morris” on www.Elephantsinthebluegrass.com. 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.

None.

- 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.

“Response Of Former President Ronald W. Reagan To Final Report Of The Independent Counsel For Iran/Contra Matters,” co-authored with Theodore B. Olson, John A. Mintz and Theodore J. Boutrous, Jr., in *Final Report Of The Independent Counsel For Iran/Contra Matters*, Lawrence E. Walsh, Independent Counsel, December 3, 1993. Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

November 4, 2016: Speaker, “What Would Gouverneur Morris And The Other Founders Do About 2016?” The Filson Historical Society, Louisville, KY. Notes supplied.

November 19, 2015: Speaker, “Manning up the Machine.” Presented to The Forum Club of Louisville, Louisville, KY. Notes supplied.

June 20, 2013: Speaker, “U.S. Supreme Court Year In Review.” Presented on *Kiobel v. Royal Dutch Petroleum Co.*, 133 S. Ct. 1659 (2013), and *Missouri v. McNeely*, 133 S. Ct. 1552 (2013), to the Kentucky Bar Association Annual Convention. Notes supplied.

April 19, 2012: Speaker, “Forgetting an Anniversary.” Presented to The Forum Club of Louisville, Louisville, KY. Notes supplied.

March 20, 2010: Speaker, “Is This Not Your Founding Fathers’ First Amendment?” Presented to the Alexander Hamilton Historical Society of Kentucky. I have no notes, transcript, or recording. Notes supplied.

January 14, 2010: Speaker, “The Life (and Death) of the Party.” Presented to The Forum Club of Louisville, Louisville, KY. Notes supplied.

March 7, 2009: Speaker, “The Constitution and the Importance of Interpretation: Original Meaning,” Presented at Symposium on Constitutional Law, University of Louisville Brandeis School of Law, co-sponsored by the Louisville Lawyers

Chapter of the Federalist Society, the Alexander Hamilton Historical Society of Kentucky, and the League of Women Voters of Kentucky. Notes supplied.

September 11, 2008: Speaker, "A Forgotten Founder." Presented to The Forum Club of Louisville, Louisville, KY. Notes supplied.

November 12, 2007: Speaker, "Civil Antitrust Litigation." Presented to JASK, Lexington, KY. I have no notes, transcript, or recording. Notes supplied.

April 18, 2007: Speaker, "E-Discovery Update." Presented to 17th Annual Issues for Corporate House Counsel CLE Seminar, Kentucky Bar Association. Notes supplied.

November 17, 2005: Speaker, "How to Destroy Documents Without Destroying Your Defense." Audioconference sponsored by Medicare Compliance Alert. Notes supplied.

September 8, 2005: Speaker, "A Certain Starting Place." Presented to The Forum Club of Louisville. Notes supplied.

April 2004: Speaker, "Civil Litigation Resulting From the Erpenbeck Fraud: *Mitchell v. Peoples Bank of Northern Kentucky*." Presented to 24th Annual Conference on Legal Issues for Financial Institutions, sponsored by Office of Continuing Legal Education, University of Kentucky College of Law. Notes supplied.

2000: Speaker, "New Trends and Directions in Supreme Court and Sixth Circuit Decisions." Video presentation sponsored by Kentucky Bar Association, CLE Commission. Notes supplied.

1999: Speaker, "Federal Court News." Kentucky Bar Association District Bar Meeting. I have no notes, transcript, or recording. The address of the Kentucky Bar Association is 514 W. Main Street, Frankfort, KY 40601.

1998: Panelist, "Federal Court News." Presentation with Circuit Judge Boyce Martin, Magistrate Judge Peggy Patterson and David Cole to the Kentucky Bar Association. Notes supplied.

September 26, 1997: Speaker, "Antitrust Developments in Health Care." Seminar on Kentucky Health Care Issues at Lorman Education Services. Notes supplied.

May 28, 1997: Speaker, "Some Legal and Ethical Challenges Facing In-House Counsel In Creating and Preserving Privileged Corporate Information." Presented at Legal Ethics Seminar, sponsored by Louisville Bar Association and University of Louisville School of Law. Notes 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.

July 11, 2014: "Lexington attorney Thomas Fryman, devoted fan of the Talking Heads, dies at 74," *The Lexington Herald Leader*. Copy supplied.

July 8, 2011: "John Bush recalls high court, President Reagan cases," *Business First*. Copy supplied.

September 20, 2010: "Three years after landmark court decision, Louisville still struggles with school desegregation," *Washington Post*. Copy supplied.

July 6, 2007: "Schools Cast About For New Diversity Plans," *ABA Journal E-Report*. Copy supplied.

September 11, 1993: "Frustrated lawmaker asks court for assist; Lawmaker sues fellow lawmakers," *The Hartford Courant*. Copy supplied.

December 7, 1985: "Ford, Carter debate slated at Vanderbilt," *The Tennessean*. Copy supplied.

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

I have never 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%]

Not applicable.

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

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name

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

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

I have not served as a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;

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

Not applicable.

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

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

None.

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

Jefferson County Executive Committee, Republican Party
Member (2016 – 2017)

Senator Rand Paul's Re-election Campaign (2015 – 2016)
Volunteer and Contributor

Senator Rand Paul's Presidential Campaign (2015 – 2016)
Volunteer and Contributor

Governor Matt Bevin's Election Campaign (2015)
Transition Team (Vice Chair, Justice Cabinet Transition Group)
Contributor

Senator Mitch McConnell's Re-election Campaigns (2008, 2014)
Volunteer and Contributor

Congressman Andy Barr's Election Campaign (2014)
Contributor

Former Governor Mitt Romney's Presidential Campaign (2012)
Contributor

Congresswoman Anne Northup's Re-election Campaign (2008)
Contributor

Mark Nielsen, Campaign for Election to Congress (1998)
Contributor

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

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

I served as a clerk to the Honorable J. Smith Henley, Senior Circuit Judge, United States Court of Appeals for the Eighth Circuit, from July 1989 through July 1990.

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

I have never practiced alone.

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

April 1996 – present

Bingham Greenebaum Doll LLP (formerly Greenebaum Doll & McDonald PLLC)

3500 National City Tower

101 South Fifth Street

Louisville, Kentucky 40202

Partner (2012 – present)

Member (1998 – 2011)

Counsel (1997 – 1998)

Associate (1996 – 1997)

July 1990 – March 1996

Gibson, Dunn & Crutcher LLP

1050 Connecticut Avenue, N.W.

Washington, D.C. 20036

Associate

July 1989 – July 1990

United States Court of Appeals for the Eighth Circuit

200 Federal Building

Harrison, Arkansas 72601

Judicial Clerk to the Honorable J. Smith Henley

June – July 1989
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166-0193
Summer Associate

August 1988
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Summer Associate

July – August 1988
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Summer Associate

June – July 1988
Sutherland Asbill & Brennan LLP (now Eversheds Sutherland (US) LLP)
700 6th Street, N.W.
Washington, D.C. 20001
Summer Associate

July – August 1987
Rose Law Firm
119 East Third Street
Little Rock, Arkansas 72201
Summer Associate

June – July 1987
Akin Gump Strauss Hauer & Feld LLP
1700 Pacific Avenue, Suite 4100
Dallas, Texas 75201
Summer Associate

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

I have never served as a mediator or arbitrator.

b. Describe:

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

At Gibson, Dunn & Crutcher LLP, I practiced appellate law primarily, including representing clients before federal courts of appeals, state supreme courts and the Supreme Court of the United States. At Greenebaum Doll & McDonald PLLC, which later became Bingham Greenebaum Doll LLP, my litigation practice has been approximately 75% trial level and 25% appellate level.

Most of my litigation practice has been in federal courts, though in recent years more of my disputed matters have been decided through arbitration. I have litigated in courts and before arbitrators in many jurisdictions, though the majority of my cases at Bingham Greenebaum Doll LLP have had a Kentucky or Sixth Circuit connection. I have also advised clients on non-litigation matters, primarily in the context of giving advice related to state and federal antitrust and other competition laws.

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

Typical clients at Gibson, Dunn & Crutcher LLP were individuals and companies. My cases at Gibson, Dunn & Crutcher LLP concerned issues such as the constitutionality of punitive damages awards under the Due Process Clauses and other federal and state constitutional provisions, federal securities law issues, controversies under the Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), and certain federal criminal law matters.

My clients at Bingham Greenebaum Doll LLP (formerly Greenebaum Doll & McDonald PLLC) have also included individuals and companies. Areas of law in which I have litigated and advised clients include antitrust and competition law, federal securities law, federal criminal law, the tobacco industry's Master Settlement Agreement, state and federal cigarette excise taxes, state and federal cigarette and alcoholic beverage regulation, the Racketeer Influenced and Corrupt Organizations Act ("RICO"), and state business torts and corporate law statutes.

- 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.

Approximately ninety percent (90%) of my practice has been in litigation, with the remainder spent advising clients on antitrust and other legal matters. I appear fairly frequently in court.

i. Indicate the percentage of your practice in:

1. federal courts: 70%
2. state courts of record: 15%
3. other courts: 10%
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

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

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

I have represented clients before either trial courts or appellate courts in many dozen cases that have been resolved through a court's judgment, rather than settlement. The very large majority of these cases involved bench trials, pre-trial dispositive motions that were resolved by the judge, or appeals. In a majority of these cases, I served as lead counsel for my client. In many instances, there were other parties on the side of my client(s) who were represented by other counsel.

i. What percentage of these trials were:

1. jury: less than 5%
2. non-jury: more than 95%

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 participated in the drafting of briefs, petitions for certiorari and other papers for parties and amici in cases before the Supreme Court of the United States. I have not made an oral argument before the Supreme Court. Listed below are the briefs, petitions for certiorari and other papers, copies of which are provided, except where noted:

Briefs for Parties and *Amici Curiae* on Writ of Certiorari

Brief for Petitioner in *Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson*, No. 90-333 (filed Dec. 5, 1990)

Reply Brief for Petitioner in *Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson*, No. 90-333 (filed Feb. 11, 1991)

Brief *Amici Curiae* of Phillips Petroleum Co., United Services Automobile

Association, and Allstate Insurance Co. in Support of Petitioner in *TXO Production Corp. v. Alliance Resources Corp.*, No. 92-479 (filed Jan. 22, 1993)

Brief *Amicus Curiae* of the Securities Industry Association in Support of Petitioner in *Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, No. 92-854 (filed July 30, 1993)

Brief for Respondents in *Plaut v. Spendthrift Farm, Inc.*, No. 93-1121 (filed Sept. 9, 1994)

Brief *Amici Curiae* of Life Insurance Company of Georgia, ITT Corporation and American General Life and Accident Insurance Company in Support of Petitioner in *BMW of North America, Inc. v. Gore*, No. 94-896 (filed Mar. 23, 1995)

Brief for Petitioner in *Koon v. United States*, No. 94-1664 (filed Nov. 9, 1995)

Reply Brief for Petitioner in *Koon v. United States*, No. 94-1664 (filed Dec. 28, 1995)

Brief of *Amicus Curiae* Dollar Bank, F.S.B. in Support of Respondents in *United States v. Winstar Corp.*, No. 95-865 (filed Mar. 29, 1996)

Brief of *Amici Curiae* Trinity Ventures, Ltd. and Castle Harlan, Inc. in Support of Respondents in *United States v. Winstar Corp.*, No. 95-865 (filed Mar. 29, 1996)

Brief *Amici Curiae* of the Louisville Area Chamber of Commerce, Inc. (d/b/a Greater Louisville Inc.) and Louisville Metro Mayor Jerry E. Abramson in Support of Respondents in *Meredith v. Jefferson County Board of Education*, No. 05-915 (filed Oct. 10, 2006)

Petitions, Briefs and Memoranda of Parties and *Amicus* Briefs on Petition for Writ of Certiorari

Petition for Writ of Certiorari in *BellSouth Corp. v. American Telephone & Telegraph Co.*, No. 92-879 (filed Nov. 20, 1992)

Reply Memorandum in *BellSouth Corp. v. American Telephone & Telegraph Co.*, No. 92-879 (filed Jan. 27, 1993)

Brief *Amici Curiae* on Behalf of Women's Washington Issues Network, Women for VMI, Frank F. Hayden and Oscar W. King, III in Support of Petition for Writ of Certiorari in *Virginia Military Institute v. United States*, No. 92-1213 (filed April 1993)

Petition for Writ of Certiorari in *General Chemical Corp. v. De La Lastra*, No. 93-337 (filed Aug. 31, 1993)

Reply Memorandum in *General Chemical Corp. v. De La Lastra*, No. 93-337 (filed Nov. 3, 1993)

Petition for Writ of Certiorari in *Pacific Lighting Corp. v. MGW, Inc.*, No. 93-426 (filed Sept. 16, 1993)

Reply Memorandum in *Pacific Lighting Corp. v. MGW, Inc.*, No. 93-426 (filed Oct. 20, 1993)

Petition for Writ of Certiorari in *Sears Roebuck and Company v. Harris*, No. 93-1589 (filed Apr. 7, 1994)

Reply Memorandum in *Sears Roebuck and Company v. Harris*, No. 93-1589 (filed May 11, 1994)

Brief of Respondents in Opposition to Petition for a Writ of Certiorari in *Johnston v. Cigna Corp.*, No. 93-1723 (filed June 1, 1994)

Petition for Writ of Certiorari in *Koon v. United States*, No. 94-1664 (filed Apr. 10, 1994)

Reply Memorandum in *Koon v. United States*, No. 94-1664 (filed June 26, 1995)

Petition for Writ of Certiorari in *OXY USA Inc. v. Continental Trend Resources, Inc.*, No. 94-1838 (filed May 8, 1995)

Reply Memorandum in *OXY USA Inc. v. Continental Trend Resources, Inc.*, No. 94-1838 (filed June 9, 1995)

Supplemental Brief in *OXY USA Inc. v. Continental Trend Resources, Inc.*, No. 94-1838 (filed Jan. 17, 1996)

Petition for Writ of Certiorari in *Wolfberg v. Greenberg*, No. 95-433 (filed Sept. 14, 1995)

Reply Brief in *Wolfberg v. Greenberg*, No. 95-433 (filed Oct. 31, 1995)

Brief *Amici Curiae* on Behalf of American Council of Life Insurance, Health Insurance Association of America and Alliance for Managed Care in Support of Petition for Certiorari in *Jefferson-Pilot Life Insurance Co. v. Weems*, No. 95-209 (filed Oct. 6, 1995)

Petition for Writ of Certiorari in *Dikar, S. Coop. LTDA v. United States District Court for the Eastern District of Kentucky (Matthew Haymaker, Real Party in Interest)*, No. 97-1888 (filed May 1998 est.) (copy unavailable)

Reply Brief in *Dikar, S. Coop. LTDA v. United States District Court for the Eastern District of Kentucky (Matthew Haymaker, Real Party in Interest)*, No. 97-1888 (filed June 30, 1998)

Petition for Writ of Certiorari in *Southwire Co. v. Janowick*, No. 06-1701 (filed June 2007 est.) (copy unavailable)

Petitioner's Reply to Briefs in Opposition in *Southwire Co. v. Janowick*, No. 06-1701 (filed Aug. 7, 2007)

Petition for Writ of Certiorari in *Vibo Corp. d/b/a General Tobacco v. State of Arkansas*, No. 11-134 (filed Aug. 2, 2011)

Reply Brief in *Vibo Corp. d/b/a General Tobacco v. State of Arkansas*, No. 11-134 (filed Nov. 8, 2011)

Petition for Writ of Certiorari in *Price v. Haney*, No. 14-125 (filed Aug. 5, 2014)

Petition for Writ of Certiorari in *R.J. Reynolds Tobacco Co. v. Commonwealth of Pennsylvania*, No. 15-1299 (filed Apr. 21, 2016)

Reply Brief in *R.J. Reynolds Tobacco Co. v. Commonwealth of Pennsylvania*, No. 15-1299 (filed July 5, 2016)

Petition for Writ of Certiorari in *R.J. Reynolds Tobacco Co. v. State of Maryland*, No. 15-1537 (filed June 22, 2016)

Reply Brief in *R.J. Reynolds Tobacco Co. v. State of Maryland*, No. 15-1537 (filed Sept. 19, 2016)

Application for Stay

Application for Stay in *Alexis Chan Heung-Kong v. Seifert*, A-212 (filed Aug. 24, 1992)

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. *KFC Nat'l Council & Adver. Coop., Inc. v. KFC Corp.*, No. 5191-VCS, 2011 Del. Ch. LEXIS 17 (Del. Ct. Chancery Jan. 31, 2011).

I served as lead trial counsel for the plaintiff, KFC National Council & Advertising Cooperative ("NCAC"), which is in charge of national advertising for the KFC brand. After a bench trial, the Delaware Court of Chancery (then-Vice Chancellor Leo Strine) granted judgment to our client, the franchisee-controlled NCAC, holding that KFC Corp. did not have the type of control over decision-making of the NCAC that KFC contended it possessed.

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2. *Baum Research & Dev. Co. v. Hillerich & Bradsby Co.*, 31 F. Supp. 2d 1016 (E.D. Mich. 1998); Case No 98-72946, 2003 U.S. Dist. LEXIS 27801 (E.D. Mich. Sept. 26, 2003), 2004 U.S. Dist. LEXIS 30008 (E.D. Mich. June 22, 2004), 2004 U.S. Dist. LEXIS 31024 (E.D. Mich. Nov. 29, 2004), 2005 U.S. Dist. LEXIS 43455 (E.D. Mich. Mar. 16, 2005); *In re Baseball Bat Litig.*, 75 F. Supp. 2d 1189 (D. Kan. 1999); *Baum Research & Dev. Co. v. Hillerich & Bradsby Co. (In re Baseball Bat Antitrust Litig.)*, 112 F. Supp. 2d 1175 (Judicial Panel on Multidistrict Litig. 2000).

I served as lead trial counsel for defendant Hillerich & Bradsby Co. (“H&B”), the maker of Louisville Slugger baseball bats, in an action brought by Baum Research & Development Co. challenging the validity of certain rules promulgated by the National Collegiate Athletic Association (“NCAA”), another defendant in the case, governing the standards for aluminum baseball bats in college athletics. The litigation included proceedings before the Panel on Multidistrict Litigation and pretrial proceedings in the United States District Courts for the District of Kansas (Judge Kathryn Vratil) and the Eastern District of Michigan (Judge Avern Cohn). H&B and the other defendants obtained dismissal of the federal antitrust claims. The case was tried on state tortious interference claims in the Eastern District of Michigan for many weeks before the parties settled prior to verdict.

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3. *Vibo Corp. v. Conway*, 594 F. Supp. 2d 758 (W.D. Ky. 2009), *aff'd*, 669 F.3d 675 (6th Cir. 2012); *Vibo Corp. v. State ex rel. McDaniel*, Case No. 1J-97-2982 (Pulaski County, Arkansas Circuit Court, 17th Division), *aff'd*, 380 S.W.3d 411 (Ark. 2011), *cert. denied*, 565 U.S. 1059 (2011); *Vibo Corp. v. People of the State of California, ex rel., et al.*, Case No. 37-2008-00097878-CU-MC-CTL (California Superior Court., County of San Diego); *State of Kansas ex rel. v. Vibo Corp.*, Case No. 10-C-146 (Kansas Shawnee County District Court, Seventh Division); *Hauri Mashinenbau AG v. Vibo Corp.*, Case No. 10-

CVS-1052 (N.C. Super. Ct.); *Focke & Co. GmbH v. Vibo Corp.*, Case No. 11-CVS-158 (N.C. Super. Ct.).

I served as lead trial and appellate counsel for Vibo Corporation d/b/a General Tobacco (“General Tobacco”), which was a tobacco products manufacturer, in litigation in the United States District Court for the Western District of Kentucky (Judge Jennifer Coffman), the United States Court of Appeals for the Sixth Circuit (Judges Eric Clay, Julia Gibbons, Helene White), Arkansas state trial court (Judge Mackie Pierce), the Supreme Court of Arkansas (Justice Robert L. Brown, writing for the Court), the Supreme Court of the United States, California state trial court, Kansas state trial court and North Carolina state trial court. The litigation arose from a dispute over payments allegedly owed by General Tobacco under the tobacco industry’s Master Settlement Agreement (“MSA”). General Tobacco challenged the validity of the MSA and General Tobacco’s alleged payment obligations, raising federal antitrust, constitutional and other legal claims. The litigation involved the validity of over \$200 million in alleged liability of General Tobacco to the forty-six States, the District of Columbia and U.S. territories that are parties to the MSA (“Settling States”). Other parties in the federal court case were all of the other tobacco product manufacturers that are members of the MSA. Other parties in the North Carolina state court cases were companies that had sold General Tobacco certain manufacturing equipment. Although General Tobacco’s challenges to the MSA and its alleged payment obligations were unsuccessful, General Tobacco ultimately was able to reach a settlement with the Settling States in the North Carolina cases that allowed for the wind-down of General Tobacco’s business and sale of its assets without bankruptcy.

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4. *KFC Corp. v. JRN, Inc.*, Civil Action No. 3:11-CV-260-H, 2012 U.S. Dist. LEXIS 6122, 2012 U.S. Dist. LEXIS 6127 (W.D. Ky. Jan. 19, 2012).

I served as lead trial counsel for the defendant, JRN, Inc., which is one of the largest KFC franchisees (JRN owned approximately 200 restaurants at the time of the suit), in the United States District Court for the Western District of Kentucky (Judge John G. Heyburn II). The case, which affected tens of millions of dollars in restaurants and other assets, involved whether JRN was in compliance under franchise agreements for alleged remodeling obligations. After an evidentiary hearing akin to a bench trial, the Court ruled in JRN's favor, denying KFC Corp.'s motion for a preliminary injunction. The case settled thereafter.

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5. *Liggett Group, Inc. v. Commonwealth*, 232 S.W.3d 559 (Ky. Ct. App. 2007).

I served as lead trial and appellate counsel for Vibo Corporation d/b/a General Tobacco ("General Tobacco"), which prevailed in a matter brought by Liggett Group and other tobacco product manufacturers challenging the terms of entry granted General Tobacco to join the tobacco industry's Master Settlement Agreement ("MSA"). General Tobacco prevailed in Franklin Circuit Court (Judge Roger L. Crittenden), and the judgment was affirmed by the Kentucky Court of Appeals (Judges Kelly Thompson, Thomas Wine,

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6. *Environmental Capital International, LLC v. PBK Bank, Inc.*, No. 2004-CA-001616-MR, 2006 Ky. App. Unpub. LEXIS 791 (Ky. Ct. App. Feb. 3, 2006), *discretionary review denied*, 2007 Ky. LEXIS 321 (Ky. Feb. 14, 2007).

I served as lead trial and appellate counsel for the prevailing party, defendant PBK Bank, Inc., in a dispute over whether PBK Bank had liability to a factoring company with respect to a borrower who had defaulted on construction loans. PBK Bank obtained summary judgment in Lincoln Circuit Court (Judge Jeffrey T. Burdette), and the summary judgment was affirmed by the Kentucky Court of Appeals (Judges David

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7. *Malone v. Addison Ins. Mktg.*, 225 F. Supp. 2d 743 (W.D. Ky. 2002); *Malone v. Addison Ins. Mktg.*, Civil Action No. 3:05CV-122-H, 2005 U.S. Dist. LEXIS 9907 (W.D. Ky. May 23, 2005).

I served initially as lead local counsel and later as lead trial counsel for defendant Addison Insurance Marketing in a multi-million dollar class action challenging the defendants' marketing and sale of annuities. Addison successfully obtained dismissal of the original action removed to the United States District Court for the Western District of Kentucky (then Chief Judge John G. Heyburn II) and later litigated a second action brought in Jefferson Circuit Court (Judge Barry Willett), settling this suit before trial.

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8. *Broussard v. Meineke Discount Muffler Shops*, 155 F.3d 331 (4th Cir. 1998).

I served as lead counsel for a group of Meineke franchisees who filed an amicus brief with the United States Court of Appeals for the Fourth Circuit in support of the defendant/appellant franchisor Meineke Discount Muffler Shops (“Meineke”). The appeal was of a judgment of \$390 million judgment entered on a jury verdict against Meineke and in favor of the plaintiff class of franchisees. In an opinion written by then-Chief Judge J. Harvie Wilkinson (joined by Judges Ervin and Michael), the Fourth Circuit ruled in favor of Meineke, and in favor of my clients’ interests, and reversed the district court’s judgment entered on the verdict in its entirety.

Plaintiffs’ Counsel:

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Kenneth Starr (formerly with Kirkland & Ellis)

Counsel for Amicus Curiae ATL International, Inc., et al.:

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9. *Hillerich & Bradsby Co. v. Heavy Hitter Industries, Inc. and Major League Baseball Players Association*, Civil Action No. 3:96 CV-265-R (W.D. Ky., jury trial in 1998, settled in 1999).

I served as an associate on the trial team that represented Hillerich & Bradsby Co. (“H&B”) in a case that involved whether H&B’s player contracts or the team contracts of the Major League Baseball Players Association (“MLBPA”) had precedence with respect to use of printed signatures of major league players on baseball bats. The case was tried in the United States District Court for the Western District Kentucky (Judge Thomas Russell). The jury was unable to reach a verdict, and the case settled thereafter.

Co-counsel for Hillerich & Bradsby Co.:

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Counsel for Major League Baseball Players Association:

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10. *Stacey C. Koon v. United States of America*, 518 U.S. 81 (1996).

I served as an associate on the team of lawyers led by Theodore B. Olson who represented former Los Angeles Police Sergeant Stacey C. Koon in the successful appeal of Mr. Koon’s sentence to the Supreme Court of the United States. Mr. Koon was convicted for his role in the videotaped police encounter with Rodney King, which resulted in the Los Angeles (South Central) riots of 1992. The case involved the standard of review for downward departures from the United States Sentencing Guidelines, which at that time were deemed to be mandatory for sentencing.

Co-counsel for Stacey C. Koon:

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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.)

I served as an associate on the team of four lawyers at Gibson Dunn & Crutcher (led by Theodore B. Olson) who represented former President Ronald Reagan in preparing his

Response to the Independent Counsel's Report in the Iran-Contra investigation.

I have represented clients in matters related to the tobacco industry's Master Settlement Agreement ("MSA"). I have around a decade of experience in nationwide litigation and arbitration proceedings in disputes involving payments of credits (for the years 2003 to the present), called "NPM Adjustments", alleged against the forty-six States, the District of Columbia and certain U.S. territories that are MSA parties ("Settling States") by the tobacco product manufacturers that are also parties to the MSA ("Participating Manufacturers" or "PMs"). The Participating Manufacturers claim the NPM Adjustments through a provision in the MSA that allows for this credit based on, among other things, whether the PMs lost market share to companies that are not members of the MSA (which companies are known as "Non-Participating Manufacturers" or "NPMs") and whether the Settling States diligently enforced their statutes governing the NPMs.

I have served as counsel for clients in confidential government-initiated investigations and internal investigations involving antitrust laws and other legal matters. Clients include companies and individuals who are witnesses, subjects or targets in confidential Department of Justice ("DOJ") criminal antitrust and other investigations, as well as parties to civil litigation brought by the DOJ, the Federal Trade Commission and private plaintiffs.

I was a co-founder of the Louisville Lawyers Chapter of the Federalist Society chapter approximately twenty years ago and have served as its president for most of the chapter's existence, with primary responsibility for organizing meetings and arranging speakers. Speakers have included members of Congress, federal Executive Branch officials, state and federal judges, legal scholars and attorneys.

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. I was a teaching assistant at Vanderbilt University during the spring semester of 1985 and the 1985 – 1986 school year. I conducted weekly help sessions for students in accounting and graded homework and tests. I have not been able to locate any syllabus for any course in which I was a teaching assistant.

I also was a tutor in the Volunteers in Service Tutoring Program at Vanderbilt University during the 1984 – 1985 school year. I helped elementary students in reading and mathematics at a Nashville housing project community center. I have not been able to locate any syllabus for any course associated with this tutoring.

I served as a pre-law tutor at Leverett House at Harvard College during the 1987 – 1988 school year. I advised undergraduate students who were interested in applying to law school. There was no particular course associated with this tutoring.

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 return of capital after resignation from the partnership of Bingham Greenebaum Doll LLP.

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.

None, other than that I have written an historical novel about Founder Gouverneur Morris that I hope will be published. Morris wrote the preamble to the Constitution of the United States and also was that charter's chief editor.

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 would recuse from any and all cases pertaining to any matter in which (a) any law firm with which I have been affiliated (*i.e.*, Bingham Greenebaum Doll LLP or Greenebaum Doll & McDonald PLLC or Gibson, Dunn & Crutcher LLP) represented any individual or entity while I was affiliated with that firm, or (b) my wife Bridget Maloney Bush represented or represents any individual or entity. I also would recuse from any other case as required by 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States Courts generally and the United

States Court of Appeals for the Sixth Circuit in particular.

- 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 would comply with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States Courts generally and the United States Court of Appeals for the Sixth Circuit in particular. Upon presentation of a case for consideration, I would promptly review the parties, their affiliates and the issues to determine the propriety of my participation in the case.

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 my church and other charitable organizations, as well as to individuals. Also, as co-chair of my firm's litigation department, I have helped facilitate other attorneys in my department in the provision of pro bono services. My pro bono hours generally average thirty to forty 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 a meeting with Senate Majority Leader Mitch McConnell in Louisville in November 2016, I expressed my interest in serving as federal judge. I have been in contact with Leader McConnell and representatives from his office since that time. I also expressed my interest in serving as a federal judge in a meeting with the state Director for Senator Rand Paul in January 2017, and had subsequent contact with this official. On February 23, 2017, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C., and 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. I also met with attorneys from the White House Counsel's Office on March 2, 2017.

- 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.