

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Edward Hulvey Meyers

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

Judge, United States Court of Federal Claims

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: Stein Mitchell Beato & Missner LLP  
901 15th Street, N.W., Suite 700  
Washington, D.C. 20005

Residence: Ashton, Maryland

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

1972; Washington, D.C.

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.

2002 – 2005, Catholic University of America, Columbus School of Law; J.D. (*summa cum laude*), 2005

1991 – 1995, Vanderbilt University; B.A., 1995

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.

2012 – present  
Stein Mitchell Beato & Missner LLP

901 15th Street, N.W., Suite 700  
Washington, D.C. 20005  
Partner

2006 – 2012  
Kirkland & Ellis LLP  
1301 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Associate

2005 – 2006  
Honorable Loren A. Smith  
United States Court of Federal Claims  
717 Madison Place, N.W.  
Washington, D.C. 20439  
Law Clerk

2004 – 2005  
United States Department of Homeland Security  
245 Murray Lane, S.W.  
Washington, D.C. 20528  
Legal Intern

2004 – 2005; 2003 – 2004  
Professor Marshall J. Breger  
Catholic University of America, Columbus School of Law  
3600 John McCormack Road, N.E.  
Washington, D.C. 20064  
Research Assistant

2002 – 2004  
Meyers & Alterman  
1620 L Street, N.W., Suite 610  
Washington, D.C. 20016  
Engineer

2000 – 2002  
MCI WorldCom  
22001 Loudoun County Parkway  
Ashburn, Virginia 20147  
Systems Engineer

1998 – 2000  
Business Equipment Center (subsequently Knowlogy)  
1934 Old Gallows Road, 2nd Floor  
Vienna, Virginia 22182

Engineer

1998

R.H.I. Consulting  
1751 Pinnacle Drive, Suite 1600  
McLean, Virginia 22102  
Desktop Support

1998

Spear Safer Harmon & Co.  
8350 NW 52 Terrace, Suite 200  
Miami, Florida 33166  
Contractor

1996 – 1998

NetX Consulting  
9113 SW 72nd Avenue  
Miami, Florida 33156  
Engineer

1995 – 1996

Pet Industry Joint Advisory Council  
1615 Duke Street, Suite 100  
Alexandria, Virginia 22314  
Database Support

1992 – 1995

The Exit/In  
2208 Elliston Place  
Nashville, Tennessee 37235  
Bartender (1994 – 1995)  
Security (1992 – 1994)

Other Affiliations (uncompensated)

2017 – present

Hampshire Greens Homeowners Association, Inc.  
c/o IKO Property Management  
3416 Olandwood Court, Suite 210  
Olney, Maryland 20832  
Secretary (2019 – present)  
Director (2017 – 2019)

1998 – 1999; 1995 – 1996

Wheaton Volunteer Rescue Squad  
2400 Arcola Avenue

Wheaton, Maryland 20902  
Firefighter / Emergency Medical Technician

1990 – 1995  
Glen Echo Volunteer Fire Department  
5920 Massachusetts Avenue  
Bethesda, Maryland 20816  
Firefighter / Emergency Medical Technician

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. I registered for the 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.

SuperLawyers Rising Star, Washington, D.C. (2014, 2015)

Kirkland & Ellis LLP Pro Bono Service Award (2009, 2010, 2011)

John L. Garvey Faculty Award for the graduate with the highest academic average (2005)

Degree from Catholic University of America, Columbus School of Law conferred *summa cum laude* (2005)

Merit scholarship (Fall 2003, Spring 2004, Fall 2004, Spring 2005)

Catholic University Law Review, Associate Editor (2004 – 2005) and Staff Member (2003 – 2004)

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 (2006 – present)

Federalist Society for Law and Public Policy Studies (2003 (est.) – present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in

membership. Please explain the reason for any lapse in membership.

District of Columbia, 2007

Virginia, 2005

There have been no lapses in membership.

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

Supreme Court of the United States, 2016

United States Court of Appeals for the Federal Circuit, 2015

United States Court of Appeals for the Seventh Circuit, 2014

United States District Court for the Eastern District of Wisconsin, 2014

United States District Court for the Southern District of Texas, 2010

United States District Court for the District of Columbia, 2007

United States Court of Federal Claims, 2006

There was a period ending in July 2018 during which my membership to the D.C. District Court was inactive. After I moved from Kirkland & Ellis to Stein Mitchell, all of my information changed in the district court's records other than my email address. Therefore, when a renewal notice was sent, I did not receive it. Upon learning of the issue, I promptly renewed my 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.

Izaak Walton League of America – Wildlife Achievement Chapter (2019 – present)

National Rifle Association (2009 (est.) – present)

The University Club of Washington (2006 (est.) – 2018)

Vanderbilt University Alumni Association, Washington, D.C. Chapter (1995 – 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.

I understand that the University Club previously limited its membership to men, but this limitation was removed in the 1980s and the University Club was open to anyone regardless of their race, sex, religion, or national origin at all times of my affiliation. To the best of my knowledge, none of the other organizations listed above currently discriminates 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.

**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.

None.

- 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.

Joint letter to the Senate Judiciary Committee by current and former attorneys at Kirkland & Ellis LLP supporting the nomination of Lee P. Rudofsky, July 25, 2019. 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.

None.

- 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.

None.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

jury trials: \_\_\_\_\_%  
bench trials: \_\_\_\_\_% [total 100%]

civil proceedings: \_\_\_\_\_%  
criminal proceedings: \_\_\_\_\_% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

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

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
  - b. a brief description of the asserted conflict of interest or other ground for recusal;
  - c. the procedure you followed in determining whether or not to recuse yourself;
  - d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.
15. **Public Office, Political Activities and Affiliations:**
- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed



you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office.

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

Montgomery County, MD Question E (1996). While a volunteer firefighter, I assisted distributing literature and provided information outside a polling place opposing Question E, which would have consolidated all of Montgomery County's fire and rescue services under a single chief rather than the existing commission and department leadership.

Bush-Quayle Presidential Campaign (1992). I volunteered at two election rallies, one in Paducah, Kentucky and one Nashville, Tennessee.

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

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

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

I served as a law clerk to the Honorable Loren A. Smith, U.S. Court of Federal Claims, from 2005 to 2006.

- 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.

2006 – 2012  
Kirkland & Ellis LLP  
1301 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Associate

2012 – present

Stein Mitchell Beato & Missner LLP  
901 15th Street, N.W., Suite 700  
Washington, D.C. 20005  
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 in alternative dispute resolution proceedings.

b. Describe:

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

From 2005 to 2006, I was a law clerk to a judge on the U.S. Court of Federal Claims.

From 2006 to 2012, I was a civil litigator at Kirkland & Ellis LLP, where my practice covered a wide range of areas, including securities, government contracts, construction, insurance, and various statutory claims. I practiced in state and federal courts and worked almost exclusively at the trial court level. I prepared lay and expert witnesses for deposition and trial, took and defended depositions, and drafted numerous motions to dismiss and for summary judgment.

From 2012 through the present, my practice has continued to involve government contract litigation, copyright, construction, campaign finance, and whistleblower claims under various whistleblower programs.

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

At Kirkland & Ellis LLP, my clients tended to be large commercial entities defending against litigation matters.

At Stein Mitchell Beato & Missner LLP, my clients include large commercial entities and individuals. My clients include those defending against litigation matters as well as plaintiffs.

- 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.

At Kirkland & Ellis LLP, 85% of my practice was in litigation. I occasionally appeared in court to argue motions in 2011 – 2012.

At Stein Mitchell Beato & Missner LLP, 90% of my practice involves litigation matters. I occasionally appear in court.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 70% |
| 2. state courts of record:  | 20% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 10% |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 95% |
| 2. criminal proceedings: | 5%  |

- 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 been involved in one case that resulted in a jury verdict. I served as associate counsel in *Stone & Webster v. Xcel Energy* before the Honorable William Hood of the District Court for the Second Judicial District of Colorado.

I have also tried two bid protest cases seeking injunctive relief to final resolution by the court on the merits. I served as the sole counsel for my client in *FMS Investment Corp. et al. v. United States* before the Honorable Thomas Wheeler of the United States Court of Federal Claims. I served as associate counsel in *Information Sciences Corp. v. United States* before the Honorable Susan G. Braden of the United States Court of Federal Claims.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 33% |
| 2. non-jury: | 66% |

- 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.

Brief in Opposition, *Chisholm v. Two Unnamed Petitioners*, No. 15-1416, 2016 WL 4410246 (2016).

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. *Corcoran v. CVS Health Corp.*, No. 17-16996, -- Fed. Appx. -- (9th Cir. June 12, 2019). 2015 – present.

In this multi-state class action alleging that CVS Pharmacy, Inc. (“CVS”) misrepresented its usual and customary prices for certain generic prescription drugs when submitting claim data for payment by insurance providers, I am representing the plaintiff classes. The classes allege that CVS should have reported the lower prices it charged to members of its Health Savings Pass program as the usual and customary pricing, which would have lowered the cost for purchasers using their insurance to obtain their generic medications.

I am not the lead counsel on this matter. Before the trial court, I assisted in drafting and amending the pleadings, researched and drafted motions and responses, oversaw discovery responses, prepared witnesses for deposition testimony and defended their depositions, and helped prepare colleagues for arguments. During the appeal, I assisted drafting the filings and helped prepare my colleague for the oral argument.

Following briefing and argument, the district court (i) granted in part Plaintiffs’ motion for class certification, (ii) excluded certain expert opinions, and (iii) granted CVS Pharmacy, Inc. summary judgment. *See Order, Corcoran v. CVS Health*, No. 15-cv-3504-YGR (N.D. Cal. Sept. 5, 2017). On appeal, the U.S. Court of Appeals for the Ninth Circuit reversed each of the district court’s holdings and remanded for further proceedings. *See Corcoran v. CVS Health Corp.*, No. 17-16996, -- Fed. Appx. -- (9th Cir. June 12, 2019). This case is currently scheduled for trial in April 2020.

Judges:

United States Court of Appeals for the Ninth Circuit: Circuit Judges Consuelo M. Callahan and N. Randy Smith; District Judge (sitting by designation) Fernando Olguin.

United States District Court for the Northern District of California: Judge Yvonne Gonzalez Rogers.

Co-Counsel:

Robert Gilmore  
Stein Mitchell Beato & Missner LLP  
901 15th Street, N.W., Suite 700  
Washington, D.C. 20005  
(202) 737-7777

Richard Lewis  
Sathya Gosselin  
Hausfeld LLP  
1700 K Street, NW, Suite 650  
Washington, D.C. 20006  
(202) 540-7200

Bonny E. Sweeney  
Samantha Stein  
Hausfeld LLP  
600 Montgomery Street, Suite 3200  
San Francisco, California 94111  
(415) 633-1953

Elizabeth Pritzker  
Jonathan Levine  
Pritzker & Levine LLP  
180 Grand Avenue, Suite 1390  
Oakland, California 94612  
(415) 692-0772

Defendants' Counsel:

Enu Managi  
Grant Geyerman  
Williams & Connolly LLP  
725 Twelfth Street, NW  
Washington, D.C. 20005  
(202) 434-5000

2. *Wisconsin ex rel. Two Unnamed Petitioners v. Peterson*, 363 Wis.2d 1 (2015), decision clarified on reconsideration sub nom. *Wisconsin ex rel. Three Unnamed Petitioners v. Peterson*, 365 Wis.2d 351 (2015), cert. denied sub nom. *Chisholm v. Two Unnamed Petitioners*, 137 S.Ct. 77 (2016). 2013 – present.

I represent one of the primary targets of this “John Doe” investigation into alleged coordination of issue advocacy between candidates and outside groups during Wisconsin’s recall elections in 2011 and 2012. Under Wisconsin law, a John Doe proceeding is one in which a judge oversees an inquiry by a prosecutor to determine

whether there is probable cause to believe a crime has been committed. If the judge and prosecutor determine that probable cause exists, there can be a criminal complaint filed.

Because there were five separate counties involved in this investigation, they sought, and the John Doe judge approved, the appointment of a special prosecutor. The John Doe judge approved a large number of subpoenas and search warrants on people's homes and offices, and then recused herself from the matter because of a conflict. When we first entered the case, my colleagues and I filed a petition for the return of the property seized from our client, which I assisted in researching and drafting. This petition was consolidated with a similar petition by another individual whose property had been seized as well as a number of motions to quash subpoenas filed by other individuals and entities. In January 2014, the John Doe judge granted our petition and the motions to quash subpoenas because he found that Wisconsin's then-existing campaign finance statutes did not regulate issue advocacy and, therefore, none of the alleged conduct was illegal. The John Doe judge then stayed his decision pending appeal but ordered the prosecutors not to review any of the seized materials.

I was then one of the drafters of a motion to the Wisconsin Court of Appeals seeking writs of mandamus and prohibition in which we challenged the appointment of the special prosecutor that was joined by two other petitioners, which was denied. The special prosecutor separately filed a motion for a writ of mandamus, alleging that the John Doe judge had misapplied the law. I also was one of the drafters of our opposition to this motion.

I assisted in drafting a petition to the Wisconsin Supreme Court seeking permission to bring an original action in that Court regarding the interpretation of Wisconsin's then-existing campaign finance statutes and regulations that were at the center of the prosecution's case. The Wisconsin Supreme Court granted the request for an original action and I was one of the drafters of our briefs on the merits. The Wisconsin Supreme Court held that Wisconsin's campaign finance laws did not regulate issue advocacy and ordered the investigations ended; denied the special prosecutor's petition for a writ of mandamus; and denied our petition for a writ of mandamus challenging the appointment of a special prosecutor because no clear duty had been violated (although a majority of the court joined a concurring opinion finding the appointment invalid). *See State of Wisconsin ex rel. Two Unnamed Petitioners v. Peterson*, 363 Wis.2d 1 (2015). The special prosecutor sought reconsideration, in response to which we renewed our challenge to the special prosecutor's appointment. The Wisconsin Supreme Court held that the special prosecutor's appointment had been invalid and allowed district attorneys to intervene to seek further review. *See State of Wisconsin ex rel. Three Unnamed Petitioners v. Peterson*, 365 Wis.2d 351 (2015).

The Supreme Court of the United States denied the district attorneys' certiorari petition. *See Chisholm v. Two Unnamed Petitioners*, 137 S. Ct. 77 (2016). I was the counsel of record for my client before the Supreme Court of the United States and drafted most portions the joint brief in opposition on behalf of five parties and reviewed and revised portions that I did not draft. Since the Supreme Court's denial of certiorari, I have

continued to represent my client in efforts to ensure the State of Wisconsin returns or destroys the materials that were obtained in the course of the investigation.

Judges:

John Doe Judge: Hon. Gregory Peterson (2013 – 2018)

John Doe Judge: Hon. Kendall Kelley (2018 – present)

Wisconsin Court of Appeals: Hon. Brian Blanchard, Hon. Paul Lundsten, Hon. JoAnne Kloppenburg

Wisconsin Supreme Court: Chief Justice Patience Drake Roggensack and Justices Shirley Abrahamson, N. Patrick Crooks, Michael J. Gableman, David T. Prosser, Jr., and Annette Kingsland Ziegler.

Co-Counsel:

Michael Bresnick  
Venable LLP  
600 Massachusetts Avenue, N.W.  
Washington, D.C. 20001  
(202) 344-4000  
*Formerly with Stein Mitchell Beato & Missner LLP*

Julie R. O'Sullivan  
Georgetown University Law Center  
600 New Jersey Avenue, N.W.  
Washington, D.C. 20001  
(202) 662-9000  
*Formerly with Stein Mitchell Beato & Missner LLP*

Philip J. O'Beirne  
Stein Mitchell Beato & Missner LLP  
901 15th Street, N.W., Suite 700  
Washington, D.C. 20005  
(202) 737-7777

Dennis P. Coffey  
Mawicke & Goisman, S.C.  
1509 North Prospect Avenue  
Milwaukee, Wisconsin 53202  
(414) 224-0600

Principal Counsel for Unnamed Movants:

Unnamed Movant No. 1:

Steven M. Biscupic  
Biscupic & Jacobs SC  
1045 West Glen Oaks Lane, Suite 106  
Mequon, Wisconsin 53092  
(262) 241-0033

Unnamed Movant No. 2:

Edward D. Greim  
Graves Garrett LLC  
1100 Main Street, Suite 2700  
Kansas City, Missouri 64105  
(816) 256-3181

Unnamed Movant No. 3:

Timothy Hansen  
Hansen Reynolds LLC  
301 North Broadway, Suite 400  
Milwaukee, Wisconsin 53202  
(414) 455-7676

Unnamed Movant Nos. 4-5:

Brady C. Williamson  
Godfrey & Kahn, S.C.  
One East Main Street, Suite 500  
Madison, Wisconsin 53703-3300  
(608) 257-3911

Unnamed Movant No. 7, who was also Unnamed Petitioner No. 2:

Dean Strang  
Strang Bradley LLC  
33 East Main Street, Suite 400  
Madison, Wisconsin 53703  
(608) 535-1550

Unnamed Movant No. 8:

Bud Cummins  
Law Offices of Bud Cummins  
1818 North Taylor Street  
Suite 301



Little Rock, Arkansas 72207-4625  
(501) 831-6125

Principal Counsel for Special Prosecutor:

Francis D. Schmitz  
N6278 1323rd Street  
Prescott, Wisconsin 54021-7003

John Chisholm  
Milwaukee County District Attorney  
821 West State Street, Room 405  
Milwaukee, Wisconsin 53233  
(414) 278-4646

3. *United States ex rel. Harrison v. Omega Protein, Inc. et al.*, No. 16-cv-359 (W.D.La.)  
2015 – 2019.

I represented the *qui tam* relator in this action brought under the False Claims Act by a former employee of Omega Protein Inc. who alleged numerous environmental violations while working at a fish processing facility in Louisiana. The complaint alleged that defendants had made false certifications of environmental compliance to obtain government financing for vessel rehabilitation projects. I drafted much of the complaint and False Claims Act disclosure statement, and edited portions that I did not draft. I prepared our client for interviews with the United States Government. The United States elected to intervene in the case and settle with the defendants.

Judges:

Hon. S. Maurice Hicks, Jr., District Judge for the United States District Court for the Western District of Louisiana.

Hon. Carol B. Whitehurst, Magistrate Judge for the United States District Court for the Western District of Louisiana.

Co-Counsel:

Andrew Beato  
Jed Wulfekotte  
Stein Mitchell Beato & Missner LLP  
901 15th Street, Suite 700  
Washington, D.C. 20005  
(202) 737-7777

Robert Landry  
Law Office of Robert B. Landry III, PLC

5420 Corporate Boulevard, Suite #303  
Baton Rouge, Louisiana 70808  
(225) 349-7460

United States Counsel:

Brandie Weddle  
United States Department of Justice  
175 N Street, NE  
Washington, D.C. 20002  
(202) 353-2685

Karen King  
U.S. Attorney's Office for the Western District of Louisiana  
800 Lafayette Street, Suite 2200  
Lafayette, Louisiana 70501  
(337) 262-6313

Defendants' Counsel:

Gregory F. Linsin  
Blank Rome LLP  
1825 Eye Street NW  
Washington, D.C. 20006  
(202) 772-5813

4. *FMS Investment Corp. v. United States*, 139 Fed. Cl. 221 (2018), clarified on reconsideration 139 Fed. Cl. 439 (2018). 2018.

I was sole counsel for plaintiff Continental Service Group, Inc. in this consolidated bid protest action challenging the Department of Education's procurement for default collection services for its student loan program. Following a number of decisions by the Court of Federal Claims enjoining prior attempts to procure default collection services from large businesses, the Department of Education cancelled its procurement for default collection services. The Department of Education argued that small business contractors, which operated under separate contracts, were able to provide all the default collection services that the Department of Education needed for the foreseeable future.

The Court denied preliminary injunctive relief. Following production of the administrative record and briefing and argument for permanent injunctive relief, the Court granted a permanent injunction in favor of the protestors. The Court enjoined the Department of Education from cancelling the default collection procurement because the Department of Education had not provided a reasoned analysis explaining its decision to cancel the procurement.

I became involved in this matter following the Court's granting injunctive relief, and

represented Continental Service Group, Inc. with regard to its subsequent challenge to the Department of Education's cancellation of the procurement. I wrote the pleadings, motions, and opposition to the United States' motions, and argued the motions before the Court on behalf of my client.

Judge: Hon. Thomas Wheeler, United States Court of Federal Claims.

Defendant's Counsel:

David Pehlke  
United States Department of Justice  
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Automated Collection Services, Inc.:  
John Prairie  
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Windham Professionals, Inc.:  
David Ralston, Jr.  
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Progressive Financial Services, Inc.:  
Thomas Coulter  
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1629 K Street N.W., Suite 300  
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5. *Coast Professional, Inc. v. United States*, 120 Fed. Cl. 727 (2015), vacated and remanded 828 F.3d 1349 (Fed. Cir. 2016), decision on remand 136 Fed. Cl. 467 (2018). 2015 – 2018.

I was lead counsel for defendant-intervenor Continental Service Group, Inc. in this bid protest challenging the Department of Education's issuance of award term extensions to high-performing private collection agencies performing default collections for the student loan program. Under the governing contracts, contractors that met a minimum performance threshold were eligible for an award term extension, and the Department could consider other criteria in making its award decision. Under these criteria, there were nine contractors eligible for an award term extension and who were considered for award. The department also considered the results of an audit of telephone communications with defaulted borrowers and, as a result, issued five award term

extensions.

I was the primary drafter of our filings and edited portions I did not draft, and I argued the motion to the Court on behalf of my client. The Court of Federal Claims dismissed the protests, holding that the decision to issue award term extensions was a contract administration matter that was beyond the scope of the Court's bid protest jurisdiction. Several protestors appealed to the Federal Circuit, which vacated that decision because it determined that the issuance of the award term extension was within the Court's bid protest jurisdiction. I assisted in drafting joint submissions before the Federal Circuit and assisted preparing for the argument. Following remand, the Department agreed to take corrective action and reconsider the award term extension decisions with regard to the four protestors, rendering the protest moot.

Judges:

U.S. Court of Federal Claims:

Hon. Francis Allegra, U.S. Court of Federal Claims (2015)

Hon. Susan G. Braden, U.S. Court of Federal Claims (2016 – 2017)

Hon. Thomas C. Wheeler, U.S. Court of Federal Claims (2017 – 2018)

Federal Circuit:

Circuit Judges Kimberly A. Moore, Jimmie V. Reyna, and Evan J. Wallach

Co-counsel:

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(202) 739-5870

6. *In re: Standard and Poor's Rating Agency Litigation*, 23 F. Supp. 3d 378 (S.D.N.Y. 2014) (MDL 2446). 2013 – 2015.

I represented the State of South Carolina as a plaintiff in this matter in which South Carolina alleged Defendants engaged in unlawful business practices by misrepresenting that its analyses of structured finance securities were objective, independent, and not influenced by either Defendants' or their clients' financial interests. These allegations were similar to those brought by 18 other states, the District of Columbia, and the U.S. Department of Justice. We also defended against an action Defendants brought seeking declaratory and injunctive relief that would have prohibited South Carolina from bringing its action against the Defendants. I was retained after South Carolina's complaint was filed and Defendants brought their action against the state.

Shortly after the State filed its action, Defendants removed the case to federal court and then sought to establish a Multi-District Litigation. The Judicial Panel on Multi-District Litigation granted the Defendants' motion to establish an MDL and determined that the Southern District of New York was the appropriate venue for the MDL. *In re: Standard and Poor's Rating Agency Litigation*, 949 F. Supp. 2d 1360 (JPMDL 2013). Before the MDL judge, Plaintiffs moved to remand to state courts due to the lack of federal jurisdiction over the Plaintiffs' state law claims. The court agreed, holding remand necessary because of the lack of federal jurisdiction. *In re: Standard and Poor's Rating Agency Litigation*, 23 F. Supp. 3d 378 (S.D.N.Y. 2014) (MDL 2446). Following remand to state court, the case settled as part of a global settlement that Defendants entered to resolve all the state and federal litigation.

I was a member of the team of attorneys representing the State of South Carolina. In that capacity, I researched and drafted motions, including a motion to remand prior to the MDL and the motion to remand before the MDL, and interviewed fact witnesses. The case settled before discovery.

Judges:

MDL 2446 – Judge Jesse M. Furman, District Judge for the United States District Court for the Southern District of New York

U.S. District Court for the District of South Carolina (No. 3:13-cv-596-CMC) – Judge Cameron McGowan Currie

South Carolina Court of Common Pleas – Richland County (No. 2013-CP-40-951) – Judge George C. James, Jr.

Co-Counsel:

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Defendant's Counsel:

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(212) 701-3621

7. *The Coalition for Equity and Excellence in Maryland Higher Education, Inc. v. Maryland Higher Education Commission*, 977 F. Supp. 2d 507 (D. Md. 2013). 2010 – 2012.

In this matter, I was part of a team that represent Plaintiffs in their litigation alleging that Maryland has failed to desegregate its higher education system as required by federal law. It was not disputed that Maryland had previously segregated its higher education system; the issue in this litigation is whether Maryland's efforts to remedy that segregation have been sufficient.

I was an associate attorney and involved mostly in discovery and related motion practice. I deposed fact witnesses, researched and drafted discovery motions and responses, researched and helped draft summary judgment briefing, and helped prepare arguments for summary judgment. I also assisted at the beginning of the trial to prepare opening statements and helped prepare early witnesses for trial testimony. I was not present through the entire trial.

The court denied in part and granted in part the defendant's motion for summary judgment, allowing the case to proceed on allegations that Maryland had limited the missions of the Historically Black Colleges and Universities ("HBCUs") and unnecessarily duplicated programs at non-HBCU schools. *See* 2011 WL 2217481 (D. Md. 2011). The Court held a six-week trial in January and February 2012, after which the Court held that Maryland had failed to take appropriate steps to desegregate its higher education system and suggested the parties seek to mediate a remedy. *See* 977 F. Supp. 2d 507. The parties subsequently cross appealed and the U.S. Court of Appeals for the Fourth Circuit ordered the parties to further seek to mediate their dispute. *See* 746 Fed. Appx 271 (Mem.) (4th Cir. 2019). I was not involved in post-trial briefing or the appeal.

Judge:

Hon. Catherine C. Blake, District Judge for the United States District Court for the District of Maryland.

Co-Counsel:

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Jon Greenbaum  
Lawyers' Committee for Civil Rights Under Law

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(410) 244-7605

8. *Stone & Webster, Inc. v. Xcel Energy*, No. 2009 CV 6913, Colorado 2nd Judicial District Court, Denver County. 2010.

I was part of the team representing Stone & Webster in this trial regarding delays and cost overruns in the construction of the Comanche 3 power plant outside Denver, Colorado. Xcel Energy was building the Comanche 3 plant and acting as the general contractor for the project. Stone & Webster was hired to design and construct certain portions of the plant. Stone & Webster sued Xcel Energy to recover damages for delays and added costs it alleged Xcel Energy caused, and Xcel Energy counterclaimed for damages it alleged were caused by Stone & Webster.

I was an associate attorney on the team of attorneys from Kirkland & Ellis LLP that Stone & Webster retained to take over the matter in the spring of 2010 and took the case to trial in October 2010. I assisted preparing for depositions, researching and drafting motions, developing factual arguments, preparing witnesses for deposition and trial testimony, and assisted preparing trial examinations. After a one-month trial, the jury returned a verdict of \$84.5 million for Stone & Webster, and a verdict of \$70 million for Xcel Energy on its counterclaims. The case settled on appeal.

Judge: Hon. William Hood, District Judge for the Second Judicial District – Denver County.

Co-Counsel:

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*Then with Faegre Baker Daniels LLP*

9. *Oceanic Exploration Co. v. ConocoPhillips*, No. 4:07-cv-815 (S.D. Tex. Apr. 16, 2008). 2006 – 2008.

I was part of a team defending ConocoPhillips against claims of corruption brought by Oceanic Exploration Company. The case involved an oil and gas concession in a

disputed international boundary between Australia and East Timor, which is known as the "Timor Gap." A joint authority established by Australia and East Timor awarded the disputed concession to ConocoPhillips, which developed the concession commercially. Oceanic asserted that ConocoPhillips bribed officials in East Timor to ensure they would not abrogate the existing concession and seek to award a new oil and gas concession covering the Timor Gap following East Timor's formally being recognized as a sovereign nation. I was a junior associate and researched legal and factual issues, and assisted in drafting motions including for transfer and a motion to dismiss.

Oceanic originally sued ConocoPhillips and other entities in the District Court for the District of Columbia because some of the defendants were foreign sovereign entities and venue was proper only in Washington, D.C. Oceanic's complaint made numerous allegations under various statutory and common law theories, including the civil provisions of the Racketeer Influenced Corrupt Organizations Act ("RICO Act"). Plaintiffs sought \$10.5 billion in damages, which would have been trebled under the RICO Act. The United States District Court for the District of Columbia dismissed all of the defendants other than ConocoPhillips and one of its subsidiaries and dismissed certain claims against the remaining defendants. Following the dismissal of all the foreign defendants, the court transferred the case to the U.S. District Court for the Southern District of Texas. The Texas court dismissed the case for failure to state a claim, which was affirmed by the U.S. Court of Appeals for the Fifth Circuit.

Judges:

U.S. District Court for the District of Columbia: Hon. Emmett Sullivan

U.S. District Court for the Southern District of Texas: Hon. Lynn Hughes

Co-Counsel:

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10. *Information Sciences Corp. v. United States*, 80 Fed. Cl. 759 (2008). 2006 – 2008.

I represented plaintiff-intervenor Gallagher, Hudson, Hudson & Hunsberger, Inc. (d/b/a Development Infrastructure) in this protest challenging an award of a contract to develop and operate the FedBizOpps.gov website. The Court of Federal Claims enjoined a prior attempt by the General Services Administration (“GSA”) to award the contract because the source selection authority violated the Federal Acquisition Regulations by failing to exercise independent judgment in making the award decision, and ordered that the source selection authority be replaced if the GSA decided to reevaluate the existing proposals. *See* 73 Fed. Cl. 70 (2006). I got involved shortly after this decision and was an associate attorney working on a fee petition under the Equal Access to Justice Act (“EAJA”) for our client. In that capacity, I researched and assisted drafting the fee petition, which the Court granted in part. *See* 78 Fed. Cl. 673 (2007).

Following the first protest decision, the GSA re-awarded the FedBizOpps contract to the same awardee, and the disappointed bidders again protested. Here too, I was an associate attorney and, in that capacity, analyzed the administrative record, researched and developed arguments, assisted drafting filings, and assisted my colleague prepare for argument. The Court again enjoined the GSA from proceeding with the contract award because it found that the source selection authority’s best value determination violated regulatory requirements. *See* 80 Fed. Cl. 759 (2008). Following this decision, I again assisted in the filing of a new EAJA petition for attorney’s fees, which was granted in part. *See* 86 Fed. Cl. 269 (2009). After the second protest, the GSA awarded the contract to the initial awardee under a Section 8(a) set aside.

Judge: Hon. Susan G. Braden, U.S. Court of Federal Claims

Co-Counsel:

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Defendant's Counsel:

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Federal Housing Finance Authority  
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Defendant-Intervenor Counsel:

Richard L. Moorehouse  
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1750 Tysons Boulevard  
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McLean, Virginia 22102  
(703) 749-1304

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 have not performed lobbying activities on behalf of any client or organization.

While at Stein Mitchell Beato & Missner LLP, I was part of a team that represented an anonymous whistleblower seeking statutory compensation after providing information that was critical to the United States recovering approximately \$2 billion in fines and restitution from a foreign bank for aiding U.S. taxpayers' avoidance of taxes. The anonymous whistleblower filed for an award to both the SEC and IRS under their respective whistleblower programs. The IRS previously denied any award. The SEC staff determined that the whistleblower did not qualify under its rules but recommended to the Commission that it issue a waiver and award our client \$16 million. We challenged the SEC's determination that our client did not act voluntarily as well as the Commission's limiting the portion of the recovery for which it would pay the whistleblower, which led the SEC to amend the rules of its whistleblower program. In the end, the Commission awarded \$16 million to our client. Following submissions to the IRS, it reversed its prior denial and awarded our client a whistleblower award of \$98 million.

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.

I do not have any deferred income arrangements.

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

I do not have any plans, commitments, or agreements to pursue outside employment if confirmed to the court. In the future, I would like to pursue teaching a law school course if time permits.

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).

When my nomination is formally submitted to the Senate, I will file my federal Financial

Disclosure Report and will supply it to this Committee.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation where I have ever played a role or where I hold any financial interest in the plaintiff, an intervenor, or other litigant.

For a reasonable period of time, I will recuse in any case in which Stein Mitchell Beato & Missner LLP represents any party, intervenor, or third-party.

My wife is an employee of the National Nuclear Security Administration of the United States Department of Energy. If confirmed, I will recuse myself from matters against the United States involving the National Nuclear Security Administration. If she transfers to work for a different government agency, I will recuse from litigation matters involving that government entity.

I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of a conflict, on a case-by-case basis and determine the appropriate action with the advice of the parties and their counsel, including recusal when 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 review carefully and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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

I have made every effort to perform pro bono work. When I worked for Kirkland & Ellis



LLP, I received Kirkland's Pro Bono Service Award for 2009, 2010, and 2011, for my efforts representing pro bono clients, including The Coalition for Equity and Excellence in Maryland Higher Education, Inc. in its litigation against the State of Maryland.

**26. Selection Process:**

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

On or about March 4, 2019, I received a call from an attorney for the Office of White House Counsel asking if I would be interested in interviewing for a position on the court. Later that day, another representative called me to schedule an interview. On March 5, 2019, I submitted my resume to the Office of the White House Counsel. On March 11, 2019, I interviewed with various attorneys from the Office of the White House Counsel and the Department of Justice's Office of Legal Policy. On May 10, 2019, I spoke again with attorneys for the Office of White House Counsel. On June 26, 2019, I learned from a representative from the Office of the White House Counsel that I would move forward in the process. Since that time, I have communicated with attorneys for the Department of Justice and Office of the White House Counsel regarding the completion of materials for the nomination.

- 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.