UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

2. **Position**: State the position for which you have been nominated.
   
   Solicitor General of the United States

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.
   
   U.S. Department of Justice
   950 Pennsylvania Avenue, NW
   Washington, D.C. 20530

4. **Birthplace**: State date and place of birth.
   
   August 21, 1969; Syracuse, NY

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.

   
   
   Brandeis University, no degree received (attended 1987 – 1988)

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):

March 2017 – present
U.S. Department of Justice
Office of the Associate Attorney General
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Senior Advisor

January 2017 – March 2017
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Acting & Principal Deputy Solicitor General

2005 – 2017
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
Of Counsel (2005 – 2007)

2003 – 2005
U.S. Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
Deputy Assistant Attorney General

2001 – 2003
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500
Associate Counsel to the President (2001 – 2003)
Assistant Counsel to the President (2001)

1998 – 2001
Cooper, Carvin & Rosenthal, PLLC (now Cooper & Kirk, PLLC)
1523 New Hampshire Avenue, NW
Washington, D.C. 20036
Associate
1997 – 1998
U.S. Supreme Court
1 First Street, NE
Washington, D.C. 20543
Law Clerk to Justice Antonin Scalia

1996 – 1997
U.S. Court of Appeals for the Fourth Circuit
1100 E. Main Street
Richmond, VA 23219
Law Clerk to Judge J. Michael Luttig (retired; Judge Luttig also maintained chambers in McLean, VA)

1995
Katten, Muchin, Zavis LLP (now Katten, Muchin, Rosenman LLP)
525 W. Monroe Street
Chicago, IL 60661
Summer Associate

1994
Nixon, Hagrave, Devans & Doyle (now Nixon Peabody LLP)
1300 Clinton Square
Rochester, NY 14604
Summer Associate

1992 – 1993
Gleacher & Company, Inc.
810 Seventh Avenue, 41st Floor
New York, NY 10019
Financial Analyst

1991 – 1992
Morgan Stanley & Co. LLC
1585 Broadway
New York, NY 10036
Financial Analyst

Affiliations (Uncompensated):

2011 – present
D.C. Circuit Historical Society
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, Room 4726
Washington, D.C. 20001
Board Member
2015 – 2017
Lumen Christi Institute
1220 E 58th Street
Chicago, IL 60637
Board Member

2007 – 2012
D.C. Commission on Judicial Disabilities & Tenure
515 5th Street, NW, Room 246
Washington, D.C. 20001
Member

2006 – approx. 2014
St. Ann’s Catholic Church Parish Council
4001 Yuma Street, NW
Washington, D.C. 20016
Chairman (approx. 2010 to approx. 2014)
Member (2006 to approx. 2010)

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

I have not served in the military. I have registered for selective service.

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


Awarded the Lincoln Liberty Award by the Georgetown Law Republicans (2015).


Graduated with High Honors, University of Chicago Law School (1996).

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.

To my recollection:

D.C. Commission on Judicial Disabilities & Tenure  
Member (2007 – 2012)

President’s Task Force on Puerto Rico’s Status  
Member (2003)

American Bar Association  
Member (1999 – 2000)

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  
   Admitted 1999

   Virginia  
   Admitted 1998

   In 2003, my D.C. bar membership temporarily lapsed due to an inadvertent failure to timely pay dues. The dues were promptly paid as soon as the oversight was discovered and my D.C. bar membership was promptly reinstated.

   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 (2006 – present)  
United States Court of Appeals for the First Circuit (2013 – present)  
United States Court of Appeals for the Second Circuit (2011 – present)  
United States Court of Appeals for the Third Circuit (2008 – present)  
United States Court of Appeals for the Fourth Circuit (2011 – present)  
United States Court of Appeals for the Sixth Circuit (2005 – present)  
United States Court of Appeals for the Seventh Circuit (2000 – present)  
United States Court of Appeals for the Eighth Circuit (2015 – present)  
United States Court of Appeals for the Tenth Circuit (2013 – present)  
United States Court of Appeals for the D.C. Circuit (2011 – present)
U.S. District Court for the District of Columbia (2006 – present)

I have also been admitted pro hac vice to various courts for specific cases.

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.

To my recollection:

D.C. Circuit Historical Society
   Board Member (2011 – present)

Alexander Hamilton Society
   Member (2011 – present (intermittent))

Federalist Society
   Member (1996 – present (intermittent))

Lumen Christi Institute
   Board Member (2015 – 2017)

St. Ann’s Catholic Church
   Member, Parish Council (2006 – approx. 2010)
   Chairman, Parish Council (approx. 2010 – approx. 2014)

Knights of Columbus
   Member (approx. 1989 – unknown)

b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate 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.

The Knights of Columbus is a Catholic fraternal organization limited to men, although there is a corresponding organization for women. To my knowledge, none of the other organizations discriminate or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implications 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.

To my recollection and through searches of publicly available databases by persons acting on my behalf, I and persons acting on my behalf have found the following works that I authored or co-authored.


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.

To my recollection and through searches of publicly available databases by persons acting on my behalf, I and persons acting on my behalf have compiled responsive materials in Appendix 12(b).

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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I and persons acting on my behalf have found the following communications relating to matters of public policy or legal interpretation that I issued or provided or that others presented on my behalf to public bodies or public officials.


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

Other than what is supplied in Appendix 12(c), to my recollection and through searches of my records and publicly available databases, I and persons acting on my behalf have found the following remarks that I delivered:


October 21, 2016: Keynote Speaker, “The U.S. Supreme Court And Executive Authority,” Virginia Bar Association 18th Annual Corporate Counsel Fall Forum. The Jefferson Hotel, Richmond, VA. Notes supplied.


May 12, 2016: Speaker, “Zubik v. Sebelius, Little Sisters Of The Poor v. Sebelius And Other Related Contraceptive Mandate Litigation.” Catholic Association of Latino Leaders, Chicago, IL. I have no notes, transcript, or recording. The address of the Catholic Association of Latino Leaders is 3424 Wilshire Blvd., 4th Floor Los Angeles, CA 90010.


December 2, 2015: Panelist, Discussion on Practicing Law. Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.


April 2, 2015: Speaker, “Litigating Against The Federal Government.” Federalist Society, Yale Law School chapter. I have no notes, transcript, or recording. The address of Yale Law School is 127 Wall Street, New Haven, CT 06511.


November 10, 2014: Guest Lecturer, “NLRB v. Noel Canning.” Class by Prof. Suzy Prucka at the University of Maryland Baltimore Campus, Baltimore, MD. Notes supplied.


September 20, 2014: Speaker, “NLRB v. Noel Canning.” Vanderbilt Law School, Nashville, TN. I have no notes, transcript, or recording. The address of Vanderbilt Law School is 131 21st Avenue, South, Nashville, TN 37203.


March 18, 2014: Guest Lecturer, “NLRB v. Noel Canning.” Class by Prof. Pam Harris at Georgetown Law School, Washington, D.C. I have no notes, transcript, or
recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.

March 6, 2014: Guest Lecturer, “NLRB v. Noel Canning.” Class by Prof. Don Ayer at Georgetown Law School, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.


December 12, 2013: Speaker, “Executive Roundtable Series – A Year-End Legislative Roundup and Forecast.” Jones Day. I have no notes, transcript, or recording. The address of Jones Day’s Washington, D.C. Office is 51 Louisiana Avenue, NW, Washington, D.C. 20001.

November 16, 2013: Speaker, The Federalist Society, University of Chicago Law School Chapter. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, NW, Suite 300, Washington, D.C. 20006.


November 8, 2013: Panelist, “NLRB v. Noel Canning.” The Federalist Society Columbus, Ohio Chapter. Athletic Club of Columbus, Columbus, OH. I have no notes, transcript, or recording. The address of the Columbus, Ohio Chapter of The Federalist Society is P.O. Box 1434, Columbus, OH 43216.

September 25, 2013: Guest Lecturer, “Practicing Law In Washington, D.C.,” Class by Prof. David H. Thompson at Georgetown Law School, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.


April 9, 2013: Speaker, “Noel Canning And Other NLRB Developments.” Jones Day 2013 Government Contractor Labor & Employment Discussion Group, McLean, Virginia. I have no notes, transcript, or recording. The address of the Jones Day Washington Office is 51 Louisiana Ave NW, Washington, D.C. 20001.


February 27, 2013: Participant, “Same-Sex Marriage Mock Moot Court: Hollingsworth v. Perry, No. 12-144.” The Georgetown University Law Center, Washington, D.C. I have no notes, transcript, or recording. The address of the Georgetown University Law Center is 600 New Jersey Avenue, NW, Washington, D.C. 20001.


April 24, 2012: Speaker, "NLRB v. Noel Canning." Supreme Court Law Clinic. West Virginia University College of Law, Washington, D.C. I have no notes, transcript, or recording. The address of the West Virginia University College of Law is 101 Law School Dr., Morgantown, WV 26505.


July 11, 2011: Speaker, Quarterly Supreme Court Reviews Live Webcast. Washington, D.C. I have no notes, transcript, or recording. Address Unknown.


July 15, 2010: Speaker, "Perspectives On Federal Regulation." Jones Day, Pittsburgh, PA. I have no notes, transcript, or recording. The address of the Jones Day Pittsburgh Office is 500 Grant Street, Suite 4500, Pittsburgh, PA 15219.


February 18, 2010: Panelist, "High Court Halftime: The October 2009 Term At Midpoint." Washington Legal Foundation, Washington, D.C. I have no notes, transcript, or recording, but press coverage is supplied. ("Summary of WLF's Program: High Court Halftime: The October 2009 Term at Midpoint").


March 23, 2009: Panelist, "Legislative Developments." Securities Industry and Financial Markets Association (SIFMA) Compliance & Legal Division Annual Seminar, JW Marriott Desert Ridge, Phoenix, AZ. I have no notes, transcript, or recording. The address for the SIFMA is 120 Broadway, 35th Floor, New York, NY 10271.


January 10, 2008: Speaker, "Reviewing Supreme Court Business Cases." Jones Day, Dallas, TX. Notes supplied.


March 30, 2007: Speaker, "President’s Authority to Appoint and Remove U.S. Attorneys." Republican National Lawyer’s Association, Washington, D.C. I have
no notes, transcript, or recording. The address for the Republican National Lawyer’s Association is P.O. Box 18965, Washington, D.C. 20036.


Spring 2003: Guest Lecturer, “Role Of The Office Of Counsel To The President.” Class taught by Prof. Hadley Arkes at Princeton University, Princeton, NJ. I have no notes, transcript, or recording. The address for Princeton University is Princeton University, Princeton, NJ 08544.

Summer 2002: Speaker, National Federation of Filipino American Associations. I have no notes, transcript, or recording. The address for the National Federation of Filipino American Associations is 1322 18th Street, NW, Washington, D.C. 20036.

Summer 2002: Speaker, Opening Ceremony. Safe Haven Museum, Oswego, NY. I have no notes, transcript, or recording. The address for the Safe Haven Museum is 2 East 7th Street, Oswego, NY 13126.


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.

To my recollection and through searches of my records and publicly available databases, I and persons acting on my behalf have found the following articles in which I am quoted:


Autumn 2016: “New Lumen Christi Board Members Include Distinguished Chicago and D.C.-Based Lawyers.” Copy supplied.


June 28, 2016: “Former Virginia Governor’s Conviction Overturned,” Telegram & Gazette. Copy supplied.


April 27, 2016: “Supreme Court Hears Arguments In McDonnell Corruption Conviction Appeal,” CBS. Copy supplied.


July 6, 2014: “For These Supreme Court Justices, Unanimous Doesn’t Mean Unity; Despite A High Number Of 9-To-0 Decisions This Term, The Divisions Among The Justices Are Still Clear,” Washington Post Blogs. Copy supplied.


April 19, 2007: "What Will Senate Hearings Mean For Gonzales?," NPR. Copy supplied.


Through searches of my records, I and persons acting on my behalf have found the following interviews; however, I have no recollection of all the interviews listed below and persons acting on my behalf found no corresponding articles or recordings through searches of publically available databases:


October 11, 2016: The Financial Times Interview.

September 13, 2016: Bloomberg Radio’s “Bloomberg Law” Interview.


May 18, 2016: Josh Blackman Interview.

July 24, 2014: Pittsburgh Post Gazette Interview.

July 8, 2014: Law 360 Interview.

July 8, 2014: Legal Bisnow Interview.
July 8, 2014: Bloomberg BNA Interview (Reporter – Kimberly Robinson).

December 17, 2013: NPR Interview (Reporter – Nina Totenberg).

December 2, 2013: Law 360 Interview.


March 19, 2007: NPR Interview.

March 7, 2007: NPR Interview.


April 1, 2006: Ron Kessler Interview.

November 4, 2005: Ray Richardson Show Interview.

October 24, 2005: Radio Show Interview (Call-in Number: 866-338-1059).

October 15, 2005: Joe Watkins Radio Show Interview.

October 12, 2005: Unspecified Radio Show Interview.

October 12, 2005: Ray Richardson Radio Show Interview.

October 8, 2005: Ron Kessler Interview.

October 8, 2005: Ron Insana Radio Show Interview.

October 6, 2005: Virginia Radio Show Interview (Call-in Number: 703-445-9409).

October 6, 2005: Detroit Radio Show Interview (Call-in Number: 313-872-7600).

October 6, 2005: Nebraska Radio Show Interview (Call-in Number: 402-556-9000).

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I and persons acting on my behalf have found the following press releases in which I am quoted:


December 18, 2013: “Jones Day Partner Giovanna Cinelli Chosen As Vice Chair Of Women In Aerospace,” Jones Day. Copy supplied.


November 2010: “Washington Partner Lily Fu Claffee To Join U.S. Chamber As Senior Vice President, General Counsel And Chief Legal Officer,” Jones Day. Copy supplied.


13. 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.

   U.S. Court of Appeals for the Fourth Circuit

   U.S. Supreme Court

   The White House
   Assistant Counsel to the President (2001), Appointed by President George W. Bush.

   The White House
   Associate Counsel to the President (2001 – 2003), Appointed by President George W. Bush.

   U.S. Department of Justice, Office of Legal Counsel

   D.C. Commission on Judicial Disabilities & Tenure
   Member (2007 – 2012), Appointed by President George W. Bush.

   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.

   To my recollection, while practicing at Jones Day, I represented political interests, including, serving as counsel to the Trump-Pence Campaign in connection with the administration transition and the Mitt Romney Campaign in connection with a litigation filed in D.C. concerning participation in presidential debates.
To my recollection, while practicing at Cooper, Carvin & Rosenthal, PLLC (now Cooper & Kirk, PLLC), I represented political interests, including the Bush-Cheney Campaign in connection with the 2000 Florida recounts.

14. **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 Justice Antonin Scalia of the U.S. Supreme Court from 1997 to 1998. I served as a law clerk to Judge J. Michael Luttig (retired) of the U.S. Court of Appeals for the Fourth Circuit from 1996 to 1997.

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

      I have not 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.

      March 2017 – present
      U.S. Department of Justice
      Office of the Associate Attorney General
      950 Pennsylvania Avenue, NW
      Washington, D.C. 20530
      Senior Advisor

      January 2017 – March 2017
      U.S. Department of Justice
      950 Pennsylvania Avenue, NW
      Washington, D.C. 20530
      Acting & Principal Deputy Solicitor General

      2005 – 2017
      Jones Day
      51 Louisiana Avenue, NW
      Washington, D.C. 20001
      Associate (2005 – 2007)
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.

Immediately after graduation from the University of Chicago Law School, I served as a law clerk to Judge J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit, and then as a law clerk to Associate Justice Antonin Scalia of the Supreme Court of the United States.

After completing these clerkships, I became an associate at Cooper, Carvin & Rosenthal in Washington, D.C., where I assisted on a wide range of litigation matters. These included, among others, “Winstar” cases brought by financial institutions, a school desegregation case for the Rockford School Board in Rockford, Illinois, and other constitutional and commercial litigation matters. In 2000, I, along with other attorneys from Cooper, Carvin & Rosenthal, assisted in drafting briefs and other pleadings for the Bush-Cheney Campaign as part of the 2000 Florida Recount.
In January 2001, I spent a very brief period as part of the Bush-Cheney transition, after which, in January 2001, I joined the Office of Counsel to the President as an Assistant Counsel. In June 2001, I was promoted to Associate Counsel and Special Assistant to the President. During my time in the White House Counsel’s Office, I advised the President and White House staff on a wide range of legal and legal policy matters, including judicial and other Executive Branch appointments, Executive Orders, questions of constitutional and international law, and other issues.

In June 2003, I became a Deputy Assistant Attorney General in the Department of Justice’s Office of Legal Counsel. There, I handled a wide range of legal matters involving constitutional law, international law, and other issues. Publicly available memoranda I issued are supplied in Appendix 12(b).

In July 2005, I joined the Washington, D.C. Office of the Jones Day law firm as Of Counsel, and was promoted to Partner in 2008. There, I principally handled a wide array of commercial, criminal, and constitutional litigation. For example, I argued the following three cases before the Supreme Court of the United States: *Noel Canning v. NLRB*, which involved a challenge to President Obama’s recess appointments to the National Labor Relations Board; *Zubik v. United States*, which involved a challenge to federal regulations governing the provision of contraceptive insurance coverage by religious organizations; and *McDonnell v. United States*, which involved a challenge to the criminal conviction of former Virginia Governor Bob McDonnell. I also represented numerous other clients on commercial and administrative law matters, including, for example, the Internet Corporation for Assigned Names and Numbers (ICANN), in a matter involving an attempt to attach certain country code top level domain names (ccTLDs); IBM in a matter involving the Foreign Corrupt Practices Act (FCPA); and R.J. Reynolds Tobacco Company in legal challenges to federal laws and regulations governing the sale and marketing of tobacco products, as well as a lawsuit brought by the United State Government against Reynolds and other tobacco companies under the Racketeer Influenced and Corrupt Organization (RICO) Act. I also handled and supervised several *pro bono* matters, often involving representations of individuals who were bringing habeas corpus challenges to their criminal convictions. I am not a trial lawyer; accordingly, my litigation matters, both in trial and appellate courts, generally involved motions practice and appeals. Finally, a relatively small part of my practice involved transactional work, principally advising on U.S. regulatory aspects of mergers and acquisitions, such as reviews before the Committee on Foreign Investment in the United States (CFIUS).

ii. Your typical clients and the areas at each period of your legal career, if any, in which you have specialized.
See response to 14(b)(i).

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I estimate that approximately 90% of my practice involved litigation, with the remaining 10% involving transactional, regulatory, and other matters. During my five-year tenure in the Office of Counsel to the President and the Department of Justice Office of Legal Counsel, I did not appear in court at all. Since then, the frequency of my appearance in courts has increased over time, and, prior to joining the Department of Justice in January 2017, I appeared in court on a fairly frequent basis. As noted above, these appearances generally involved appeals and motions practice.

i. Indicate the percentage of your practice in:

The following are estimates to the best of my recollection:

1. federal courts: 80%
2. state courts of record: 15%
3. other courts: 0%
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

The following are estimates to the best of my recollection:

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. What percentage of these trials were:

The following are estimates to the best of my recollection:

1. jury: 5%
2. non-jury: 95%

Based on a search of publically available databases, I estimate that I have represented clients in approximately twenty-four cases that were tried to verdict.
Most of these cases were resolved through motions practice. To the best of my recollection, I have only participated in one case where, during my participation, the matter was tried before a jury, *McDonnell v. United States*. In that case, my participation involved motions practice, jury instructions, and arguing the case on appeal.

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 argued three cases before the United States Supreme Court. I have filed numerous other briefs before the Supreme Court, including on petitions for certiorari, on the merits, and as amicus.

**Argued Cases:**

No. 15-474, *McDonnell v. United States* (application for stay of mandate; reply in support of application for stay of mandate; petition for writ of certiorari; reply in support of petition; brief for petitioner; supplemental joint appendix; reply for petitioner; argued on behalf of petitioner)

Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119, 15-191, *Zubik v. Burwell* (petition for writ of certiorari on behalf of Zubik; petition for writ of certiorari on behalf of Roman Catholic Archbishop of Washington; reply in support of petition on behalf of Zubik; reply in support of petition on behalf of Roman Catholic Archbishop of Washington; supplemental brief in support of petition on behalf of Zubik; supplemental brief in support of petition on behalf of Priests for Life; brief for petitioners in Nos. 14-1418, 14-1453, & 14-1505; joint appendix Vols. 1-3; reply for petitioners in Nos. 14-1418, 14-1453, & 14-1505; argued on behalf of petitioners in Nos. 14-1418, 14-1453, & 14-1505; supplemental brief for petitioners; supplemental reply brief for petitioners)

No. 12-1281, *NLRB v. Noel Canning* (brief for respondent in opposition of petition; brief for respondent; response to Motion of Senate Republican Leader for Leave to Participate in Oral Argument (unavailable); argued on behalf of respondent)

**Merits Briefs:**

No. 16-327, *Lee v. United States* (brief for respondent)

No. 16-142, *Honeycutt v. United States* (brief for respondent)

No. 15-1248, *McLane Company v. EEOC* (reply for respondent)


No. 14-7506, *Ortiz v. United States* (brief for respondent; motion to dismiss)
No. 08-861, *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.* (petition for writ of certiorari; reply in support of petition; brief for petitioner; joint appendix; reply brief for petitioner)

No. 06-873, *Chamber of Commerce v. Lockyer* (petition for writ of certiorari; joint appendix; reply in support of petition; brief for petitioner; reply brief for petitioner)


**Amicus Briefs:**

No. 16-466, *Bristol-Myers Squibb Co. v. Superior Ct. of Calif.* (amicus brief for the United States supporting petitioner)

No. 16-405, *BNSF Railway Co. v. Tyrrell* (amicus brief for the United States supporting petitioner)

No. 16-369, *Los Angeles County v. Mendez* (amicus brief for the United States supporting petitioners)

No. 16-254, *Water Splash, Inc. v. Menon* (amicus brief for the United States supporting petitioner)

No. 15-1509, *U.S. Bank National Ass’n v. Village at Lakeridge* (amicus brief for the United States advocating denial of petition)

No. 15-1189, *Impression Products v. Lexmark Int’l* (amicus brief for the United States supporting reversal in part and vacatur in part)


No. 12-656, *Spirit Airlines v. Dep’t of Transportation* (amicus brief for Airlines for America and Air Line Pilots Association, Int’l supporting petitioners)

No. 10-10, *Turner v. Rogers* (amicus brief for Senators Demint, Graham, Johanns, and Rubio supporting respondents)

No. 07-539, *Progress Energy, Inc. v. Taylor* (amicus brief for Chamber of Commerce of the United States of America supporting petitioner)
No. 06-873, *Mohawk Indus. v. Williams* (amicus brief for Chamber of Commerce of the United States of America supporting petitioner)

No. 05-1481, *Sidley Austin LLP v. EEOC* (amicus brief for Chamber of Commerce of the United States of America supporting petitioner)

Petition for Writ of Certiorari:

No. 16-7080, *Tyree v. Chao* (brief for the respondent in opposition of petition)

No. 16-6989, *Fox v. United States* (brief for the respondent in opposition of petition)

No. 16-6872, *Valdez v. United States* (brief for the respondent in opposition of petition)

No. 16-6224, *Vennes v. United States* (brief for the respondent in opposition of petition)

No. 16-6076, *Carrasquillo-Penaloz a v. United States* (brief for the respondent in opposition of petition)

No. 16-1073, *Carrillo v. U.S. Bank Nat'1 Ass’n* (petition for a writ of certiorari)

No. 16-991, *Sessions v. Bashkim Shuti* (petition for a writ of certiorari)

No. 16-978, *Sessions v. Baptiste* (petition for a writ of certiorari)

No. 16-966, *Sessions v. Golicov* (petition for a writ of certiorari)

No. 16-880, *Habeas Corpus Center v. U.S. Dep't of Justice* (brief for the respondent in opposition of petition)


No. 16-808, *Vitreo Retinal Consultants of the Palm Beaches, P.A. v. U.S. Dep't of Health and Human Servs.* (brief for the respondent in opposition of petition)

No. 16-755, *Menendez v. United States* (brief for the respondent in opposition of petition)

No. 16-742, *Kerr v. Haugrud* (brief for the respondent in opposition of petition)

No. 16-721, *West Virginia v. U.S. Dep’t of Health and Human Servs.* (brief for the respondent in opposition of petition)

No. 16-709, *Daniels v. Merit Sys. Protection Bd.* (brief for the respondent in opposition of petition)
No. 16-679, McFadden v. United States (brief for the respondent in opposition of petition)

No. 16-639, Rowland v. United States (petition for a writ of certiorari)

No. 16-612, Langbord v. United States (brief for the respondent in opposition of petition)

No. 603, Conrad v. United States (brief for the respondent in opposition of petition)

No. 16-572, Citizens Against Reservation Shopping v. Haugrud (brief for the respondent in opposition of petition)

No. 16-564, Darin v. United States (brief for the respondent in opposition of petition)

No. 16-548, Belmora LLC v. Bayer Consumer Care (brief for the respondent in opposition of petition)

No. 16-531, Ameren Services Co. v. FERC (brief for the respondent in opposition of petition)

No. 16-508, Viloski v. United States (brief for the respondent in opposition of petition)

No. 16-402, Carpenter v. United States (brief for the respondent in opposition of petition)

No. 16-368, Noble Energy, Inc. v. Haugrud (brief for the respondent in opposition of petition)

Nos. 16-293, 16-294, In Re Fields (brief for the respondent in opposition of petition)

No. 15-1131, Michigan Catholic Conference v. Sebelius (petition for a writ of certiorari; reply in support of petition; second petition for a writ of certiorari)

No. 15-1003, Diocese of Fort Wayne-South Bend, Inc. v. Burwell (petition for a writ of certiorari)

No. 15-834, University of Dallas v. Burwell (petition for a writ of certiorari)

No. 14-492, University of Notre Dame v. Burwell (petition for a writ of certiorari; reply in support of petition; supplemental brief in support of petition)

No. 13-829, Roman Catholic Archbishop of Washington v. Sebelius (petition for a writ of certiorari; reply in support of petition)
No. 12-521, *American Snuff Co. v. United States* (application to extend time to file petition for writ of certiorari; application to extend further time; petition for writ of certiorari; reply in support of petition)

No. 09-977, *R.J. Reynolds Tobacco Co. v. United States* (petition for a writ of certiorari; reply in support of petition)

No. 08-917, *McSwain v. Warren* (petition for a writ of certiorari; reply in support of petition)


**Miscellaneous Filings:**

No. 16A683, *Habeas Corpus Resource Center v. U.S. Dep’t of Justice* (opposition to application to recall and stay the mandate pending the disposition of a petition for a writ of certiorari)

No. 16-399, *Perry v. Merit Systems Protection Board* (joint appendix)

No. 16-309, *Maslenjak v. United States* (joint appendix)

No. 13A1277, *Diocese of Cheyenne v. Burwell* (application for injunction pending appeal; supplemental brief; letter from counsel for the applicants withdrawing application)

No. 13A690, *Michigan Catholic Conference v. Sebelius* (application for injunction pending appeal; letter from counsel for the applicants withdrawing application)

No. 13A689, *The Catholic Diocese of Nashville v. Sebelius* (application for injunction pending appeal; letter from counsel for the applicants withdrawing application)

No. 13A688, *Roman Catholic Archbishop of Washington v. Sebelius* (application for injunction pending appeal; letter from counsel for the applicants withdrawing application)

15. **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.


Former Virginia Governor Bob McDonnell was convicted of bribery for allegedly accepting payments in exchange for agreeing to perform certain “official acts” in violation of 18 U.S.C. §§ 1343, 1349, and 1951. Former Governor McDonnell appealed, principally arguing that the conduct alleged did not constitute “official action” and the jury was not properly instructed on the meaning of “official action.” The U.S. Court of Appeals for the Fourth Circuit affirmed the conviction. The Supreme Court granted certiorari and vacated and remanded, holding that the jury had not been properly instructed on the definition of “official acts.” During the trial, I assisted on motions and jury instructions issues. On appeal, I presented oral argument in both the Fourth Circuit and the Supreme Court.

Co-Counsel:

Henry W. Asbill
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-5414

Jacob (Yaakov) M. Roth
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-7658

Charlotte H. Taylor
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 829-3872

James M. Burnham
White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500
(602) 501-5469

John L. Brownlee
Holland & Knight, LLP
1600 Tysons Boulevard, Suite 1700
McLean, VA 22102
(703) 720-8053

Timothy J. Taylor
Holland & Knight, LLP
1600 Tysons Boulevard, Suite 1700
McLean, VA 22102
(703) 720-8643

Counsel to Mrs. McDonnell:

William Anthony Burck
Quinn Emanuel Urquhart & Sullivan, LLP
777 6th Street, NW, 11th Floor
Washington, D.C. 20001
(202) 538-8000

Heather Hansen Martin
Quinn Emanuel Urquhart & Sullivan, LLP
777 6th Street, NW, 11th Floor
Washington, D.C. 20001
(202) 538-8126

Stephen Michael Hauss
Quinn Emanuel Urquhart & Sullivan, LLP
1 Fleet Place
London, UK EC4M 7RA
+44 (207) 653-2220

Randy Singer
1209 Laskin Road
Virginia Beach, VA 23451
(757) 301-9995

Opposing Counsel:

Michael R. Dreeben
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530
(202) 514-2255
Michael S. Dry
Vinson & Elkins
3064 Old Grove Lane
Toano, VA 23168
(202) 639-6525

Richard Daniel Cooke
U.S. Attorney’s Office
Eastern District of Virginia
600 East Main Street, Suite 1800
Richmond, VA 23219
(703) 299-3700

David Harbach II
U.S. Attorney’s Office
Eastern District of Virginia
919 E. Main St., Suite 1900
Richmond, VA 23219
(804) 819-7412

Ryan Faulconer
U.S. Attorney’s Office
Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, VA 22314
(703) 299-3805


The Noel Canning Company challenged a National Labor Relations Board (NLRB) ruling against it on the ground that the President’s recess appointments to the NLRB were unconstitutional. The D.C. Circuit held that the recess appointments were unconstitutional and, therefore, that the NLRB lacked a quorum. The Supreme Court granted certiorari and affirmed. In the D.C. Circuit, I represented both the Noel Canning Company and the U.S. Chamber of Commerce, which had sought to intervene as a party. In the Supreme Court, I represented the Noel Canning Company. I presented oral argument in both the D.C. Circuit and the Supreme Court.
Co-Counsel:

G. Roger King
McGuinness + Yager
1100 13th Street, NW
Washington, D.C. 20005
(202) 682-3100

James M. Burnham
White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500
(602) 501-5469

Gary E. Lofland
Halverson Northwest Law Group
405 E. Lincoln Avenue
Yakima, WA 98901
(509) 452-2828

Lily Fu Claffee
U.S. Chamber of Commerce
1615 H Street, NW
Washington, D.C. 20062
(202) 463-5576

Robin Conrad
Dentons U.S. LLP
1900 K Street, NW
Washington, D.C. 20006
(202) 550-0307

Sheldon Gilbert
U.S. Chamber Litigation Center
1615 H Street, NW
Washington, D.C. 20062
(202) 463-5685

Steven P. Lehotsky
U.S. Chamber Litigation Center
1615 H Street, NW
Washington, D.C. 20062
(202) 463-5337

Rachel Lee Brand
George Mason University, Antonin Scalia Law School
3301 Fairfax Drive
Arlington, VA 22201
(703) 993-8537

Joshua Ullman
20 F Street, NW
Washington, D.C. 20001
(202) 642-1970

Opposing Counsel:

Donald Verilli
Munger, Tolles & Olson, LLP
1155 F Street, NW
Washington, D.C. 20004
(202) 220-1101

Beth Brinkmann
Covington & Burling LLP
850 Tenth Street, NW
Washington, D.C. 20001
(202) 353-8679

Laurence E. Gold
Trister, Ross, Schadler & Gold, PLLC
1666 Connecticut Avenue, NW, Suite 500
Washington, D.C. 20009
(202) 328-1666

Bradley T. Raymond
Bradley T. Raymond PC
25 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 624-6847

James B. Coppess
AFL-CIO
815 Sixteenth Street, NW
Washington, D.C. 20006
(202) 637-5337


In 2013, numerous religious organizations filed lawsuits challenging federal regulations that required such organizations to cover certain contraceptives as part of their health plans, unless they submitted a form either to their insurer or to the Federal Government, stating that they objected on religious grounds to providing contraceptive coverage. The religious organizations argued that the regulations violated the Religious Freedom Restoration Act of 1993. In Zubik v. Burwell, the Supreme Court consolidated seven separate petitions raising this issue—arising out of the Third, Fifth, Tenth, and D.C. Circuit Courts of Appeals—into a single case, including Petition Nos. 14-1418, 14-1453, 14-1505, 15-35, 15-105, 15-119 and 15-191. After oral argument and supplemental briefing, the Supreme Court vacated the lower court rulings stating: “Given the gravity of the dispute and the substantial clarification and refinement in the positions of the parties, the parties on remand should be afforded an opportunity to arrive at an approach going forward that accommodates petitioners’ religious exercise while at the same time ensuring that women covered by petitioners’ health plans ‘receive full and equal health coverage, including contraceptive coverage.’” I presented oral argument in the Supreme Court, the D.C. Circuit, and the D.C. District Court.

Co-Counsel (for Petitions 14-1418 and 14-1505):

Paul M. Pohl
Jones Day
500 Grant Street, Suite 4500
Pittsburgh, PA 15219
(412) 394-7900

Leon F. Dejulius, JR.
Jones Day
500 Grant Street, Suite 4500
Pittsburgh, PA 15219
(412) 394-9528

Matthew A. Kairis
Jones Day
25 John H McConnell Boulevard #600
Columbus, OH 43215
(614) 281-3605

David T. Raimer
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-3890
Anthony J. Dick  
Jones Day  
51 Louisiana Avenue, NW  
Washington, D.C. 20001  
(202) 879-7679

Ira M. Karoll  
Jones Day  
500 Grant Street, Suite 4500  
Pittsburgh, PA 15219  
(412) 394-7976

Counsel for Other Parties:

Robert J. Muise, Counsel for Petition 14-1453  
American Freedom Law Center  
Contact Information Unavailable

Paul D. Clement, Counsel for Petitions 15-119 and 15-191  
Kirkland & Ellis LLP  
655 15th Street, NW, Suite 1200  
Washington, D.C. 20005  
(202) 234-0090

Erin E. Murphy, Counsel for Petitions 15-119 and 15-191  
Kirkland & Ellis LLP  
655 15th Street, NW, Suite 1200  
Washington, D.C. 20005  
(202) 879-5036

Mark Rienzi, Counsel for Petition 15-105, East Texas Baptist University, and Houston Baptist University  
The Becket Fund for Religious Liberty  
1200 New Hampshire Avenue, NW, Suite 700  
Washington, D.C. 20036  
(202) 349-7208

Eric C. Rassbach, Counsel for Petition 15-105, East Texas Baptist University, and Houston Baptist University  
The Becket Fund for Religious Liberty  
1200 New Hampshire Avenue, NW, Suite 700  
Washington, D.C. 20036  
(202) 955-0095
Kenneth R. Wynne, Counsel for Westminster Theological Seminary
Burdine Wynne LLP
1021 Main Street, Suite 1275
Houston, TX 77002
(713) 227-8835

Opposing Counsel:

Donald B. Verrilli, Jr.
Munger, Tolles & Olson LLP
1155 F Street, NW
Washington, D.C. 20004
(202) 220-1101

Mark B. Stern
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 7531
Washington, D.C. 20530
(202) 514-5089

Alisa B. Klein
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 7235
Washington, D.C. 20530
(202) 514-1597

Adam C. Jed
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 7235
Washington, D.C. 20530
(202) 514-2203

Jacek Pruski
Contact Information Unavailable


Petitioner, who was serving a 240-month sentence for a drug conviction, had until April 24, 1997 to file a federal habeas petition challenging his 1992 drug conviction. Acting pro se, on April 10, 1997, he filed a “Motion of Notification of Intent to File” a federal habeas petition; he then filed the habeas petition itself on June 26, 1997, after the statutory deadline. The district court dismissed the habeas petition as untimely. The Sixth Circuit reversed, holding that the petition was timely under the doctrine of equitable tolling because petitioner diligently attempted to meet the statutory deadline for filing but was impeded from doing so for reasons beyond his control. I represented petitioner pro bono.
and presented oral argument in the Sixth Circuit.

Co-Counsel:

Gregory A. Castanias
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-3639

William L. McCoskey
Indiana University Bloomington, Department of Criminal Justice
1033 E. Third Street
Sycamore Hall 303B
Bloomington, IN 47405
(812) 856-6049

Opposing Counsel:

Benjamin C. Glassman
U.S. Attorney’s Office, Southern District of Ohio
303 Marconi Blvd # 200
Columbus, OH 43215
(614) 469-5715


Petitioner, a former prostitute, suffered from Dissociative Identity Disorder (“DID”), formerly known as multiple personality disorder, which she had likely developed in early childhood as a result of years of sexual abuse. In 1978, she was convicted of killing one of her customers. In 1988, after having been diagnosed with DID, she challenged her convictions first in state and then federal court. Although the state court initially invalidated her conviction, in 2003, the Michigan Court of Appeals reversed. She then filed a federal habeas petition claiming that, in light of her DID, she was incompetent to stand trial at the time of her original conviction. The federal district court dismissed the motion as untimely, on the ground that her 1988 diagnosis did not constitute newly discovered evidence and she was not entitled to equitable tolling. The Sixth Circuit affirmed. I represented petitioner pro bono and presented oral argument in the Sixth Circuit.

Co-Counsel:

Christopher S. Perry
U.S. Department of Transportation
Office of the General Counsel
1200 New Jersey Avenue, SE
Washington, D.C. 20590
(202) 366-9282

Opposing Counsel:

Raina I. Korbakis
Office of the Michigan Attorney General
525 West Ottawa Street, Floor 4
Lansing, MI 48933
(517) 373-4875

Bernard Eric Restuccia
Office of the Michigan Attorney General
525 West Ottawa Street, Floor 4
Lansing, MI 48933
(517) 373-1124

Janet A. VanCleve
Office of the Michigan Attorney General (Former Employment)
525 West Ottawa Street, Floor 4
Lansing, MI 48933
(517) 373-1110


Petitioner, who was serving two consecutive seven-year jail terms, challenged his sentence as unconstitutional. Under applicable law, although the maximum sentence to which he was subject was eight years, the court could impose a sentence of greater than two years only if it found that a two-year sentence would demean the seriousness of the offense or not adequately protect the public from future crime. The state court’s seven-year sentence was based on a finding that a two-year sentence would have demeaned the seriousness of the offense. Petitioner contended that this sentence violated the Supreme Court’s decisions in Apprendi v. New Jersey and Blakely v. Washington, which held that facts that increase a sentence beyond the statutorily-prescribed maximum must be found by a jury beyond reasonable doubt. The federal district court granted Petitioner’s habeas petition, and the Sixth Circuit affirmed. I represented petitioner pro bono and presented oral argument in the Sixth Circuit.

Co-Counsel:

David Strandness
Booster Fuels, Inc.
1201 Howard Avenue #200
Burlingame, CA 94010
(650) 260-4281
Opposing Counsel:

Diane Mallory
Office of the Ohio Attorney General (Former Employment)
30 E. Broad Street, 14th Floor
Columbus, OH 43215
(614) 466-4986


Plaintiffs, victims of terrorist attacks and their family members, hold unsatisfied judgments against defendants Iran, North Korea, and Syria arising out of lawsuits brought pursuant to the Foreign Sovereign Immunities Act (FSIA). To satisfy their judgments, plaintiffs sought to attach Internet data managed by the Internet Corporation for Assigned Names and Numbers (ICANN) — and in particular, to attach the country-code top level domain names (ccTLDs) and Internet Protocol (IP) addresses for Iran, Syria, and North Korea. The district court granted ICANN’s motion to quash the writs of attachment on the ground that the data were not attachable under District of Columbia law. The D.C. Circuit affirmed, albeit on different grounds, holding that plaintiffs had forfeited certain arguments, and it rejected others because allowing the plaintiffs to attach the ccTLDs at issue threatened to undermine the interests of ICANN and other third-parties. I presented oral argument in the D.C. Circuit.

Co-Counsel:

Eric Enson
Jones Day
555 South Flower Street
Los Angeles, CA 90017
(213) 243-2304

Ryan J. Watson
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-3809

Tara Lynn R. Zurawski
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-3879

51
Opposing Counsel:

Meir Katz
Robert J. Tolchin
Berkman Law Office
111 Livingston Street, Suite 1928
Brooklyn, NY 11201
(718) 855-3627

Steven T. Gebelin
Raines Feldman, LLP
9720 Wilshire Boulevard, Floor 5
Beverly Hills, CA 90212
(310) 440-4100


In 2011, the Food and Drug Administration (FDA) promulgated a rule that required that the warnings on cigarette packages and advertising include one of nine graphic images and the National Cancer Institute’s smoking cessation hotline telephone number “1-800-QUIT-NOW”. Several tobacco companies sued to invalidate the rule as unconstitutional under the First Amendment. The district court preliminarily enjoined the rule and, thereafter, granted summary judgment in favor of the tobacco companies, holding that the rule violated the First Amendment. The D.C. Circuit affirmed. I represented R.J. Reynolds Tobacco Co. and Santa Fe Natural Tobacco Co., and presented oral argument in both the District Court and the D.C. Circuit.

Co-Counsel:

Warren D. Postman, Counsel for R.J. Reynolds Tobacco Co. and Santa Fe Natural Tobacco Co.
U.S. Chamber of Commerce
1615 H Street, NW
Washington, D.C. 20062
(202) 463-5629

Geoffrey K. Beach, Counsel for R.J. Reynolds Tobacco Co. and Santa Fe Natural Tobacco Co.
Womble & Carlyle
1 West 4th Street
Winston-Salem, NC 27101
(336) 721-3504

Philip J. Perry, Counsel for Commonwealth Brands Inc.
Latham & Watkins LLP
555 11th Street, NW
Washington, D.C. 20004
(202) 637-2244

Jonathan D. Hacker, Counsel for Liggett Group LLC
O'Melveny & Myers LLP
1625 I Street, NW
Washington, D.C. 20006
(202) 383-5285

Floyd Abrams, Counsel for Lorillard Tobacco Company
Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
(212) 701-3622

Joel Kurtzberg, Counsel for Lorillard Tobacco Company
Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
(212) 701-3120

Patricia A. Barald, Counsel for Lorillard Tobacco Company
Covington & Burling LLP
850 10th Street, NW, #762-N
Washington, D.C. 20001
(202) 662-5358

Scott D. Danzis, Counsel for Lorillard Tobacco Company
Covington & Burling LLP
850 10th Street, NW
Washington, D.C. 20001
(202) 662-6000

Opposing Counsel:

Mark B. Stern
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 7531
Washington, D.C. 20530
(202) 514-5089
Alisa B. Klein  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW, Room 7235  
Washington, D.C. 20530  
(202) 514-1597

Sarang V. Damle  
U.S. Copyright Office  
101 Independence Avenue, SE, Room LM-403  
Washington, D.C. 20543  
(202) 707-3572

Drake S. Cutini  
Contact Information Unavailable

Daniel K. Crane-Hirsch  
U.S. Department of Justice  
Civil Division  
Liberty Square Building  
450 5th Street, NW, Room 6302  
Washington, D.C. 20530  
(202) 616-8242

9. *Discount Tobacco City & Lottery Inc. v. United States*, 674 F.3d 509 (6th Cir. 2012);  

Plaintiffs, tobacco manufactures and sellers, filed suit challenging several provisions of the Family Smoking Prevention and Tobacco Control Act (FSPTCA), which imposed restrictions on the marketing and sale of tobacco products, including a ban on the use of color or graphics in advertising; a requirement that tobacco advertisements include graphic warnings, the specifics of which the Food and Drug Administration would promulgate in a future rulemaking; restrictions on the marketing and sale of “modified risk tobacco products”; and other restrictions. The district court invalidated the FSPTCA’s prohibition on the use of color or graphics in tobacco advertising and one other provision, but upheld the FSPTCA’s other restrictions. The Sixth Circuit largely affirmed, agreeing that the prohibition on the use of color or graphics in tobacco advertising was unconstitutional, but upholding the remaining provisions of the Act. I represented R.J. Reynolds Tobacco Company and American Snuff Company, and presented oral argument in both the District Court and the Sixth Circuit.

Co-Counsel:

Robert F. McDermott Jr. (retired), Counsel for R.J. Reynolds Tobacco Co. and American
Snuff Co.
Jones Day (former employment)
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-3875

Hashim M. Mooppan, Counsel for R.J. Reynolds Tobacco Co. and American Snuff Co.
Jones Day
51 Louisiana Avenue, NW
Washington, D.C. 20001
(202) 879-3450

Geoffrey K. Beach, Counsel for R.J. Reynolds Tobacco Co. and American Snuff Co.
Womble & Carlyle
1 West 4th Street
Winston-Salem, NC 27101
(336) 721-3504

English Lucas Priest Owsley
1101 College Street
Bowling Green, KY 42101
(270) 781-6500

Floyd Abrams, Counsel for Lorillard Tobacco Company
Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
(212) 701-3622

Joel Kurtzberg, Counsel for Lorillard Tobacco Company
Cahill Gordon & Reindel LLP
80 Pine Street
New York, NY 10005
(212) 701-3120

Philip J. Perry, Counsel for Commonwealth Brands, Inc.
Latham & Watkins LLP
555 11th Street, NW
Washington, D.C. 20004
(202) 637-2244
Opposing Counsel:

Mark B. Stern
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 7531
Washington, D.C. 20530
(202) 514-5089

Alisa B. Klein
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 7235
Washington, D.C. 20530
(202) 514-1597

Mark R. Freeman
U.S. Department Of Justice
950 Pennsylvania Avenue, NW, Room 7228
Washington, D.C. 20530
(202) 514-5714

Samantha Chaifetz
U.S. Department Of Justice
950 Pennsylvania Avenue, NW, Room 7248
Washington, D.C. 20530
(202) 514-4821

Benjamin S. Kingsley
U.S. Attorney’s Office
Northern District of California
450 Golden Gate Avenue 11FL
San Francisco, CA 94102
(415) 436-7200

Daniel K. Crane-Hirsch
U.S. Department of Justice
Civil Division
Liberty Square Building
450 5th Street, NW, Room 6302
Washington, D.C. 20530
(202) 616-8242

Eugene M. Thirolf
Eugene M. Thirolf LLP
407 Mercer Road
Rockville, MD 20852
(301) 340-6821
William F. Campbell
U.S. Attorney’s Office
Western District of Kentucky
717 West Broadway
Louisville, KY 40202
(502) 582-5911


The Export-Import Bank provided loan guarantees to foreign purchasers of U.S.-made aircraft, including, for example, loan guarantees to Air India to purchase certain aircraft manufactured by Boeing. Delta Air Lines sued the Export-Import Bank, arguing that the Bank’s loan guarantees violated the Export-Import Bank Act of 1945 and the Administrative Procedure Act. A U.S. manufacturer with a major stake in the resolution of this issue was Boeing, since Delta’s lawsuit principally challenged the Export-Import Bank’s authority to provide loan guarantees to foreign airlines seeking to purchase Boeing’s airplanes. I represented Boeing in this matter as amicus curiae in support of the Export-Import Bank. The District Court granted summary judgment in favor of the Export-Import Bank. The District Court did not hold oral argument in this matter.

Co-Counsel:

Jean Lin
U.S. Department of Justice
20 Massachusetts Avenue, NW
Washington, D.C. 20001
(202) 514-3716

Adam Anderson Grogg
U.S. Department of Justice
20 Massachusetts Avenue, NW
Washington, D.C. 20001
(202) 514-2395

Opposing Counsel:

Michael K. Kellogg
Kellogg, Hansen, Todd, Figel & Frederick PLLC
1615 M Street, NW, Suite 400
Washington, D.C. 20036
(202) 326-7900

Wan J. Kim
Kellogg, Hansen, Todd, Figel & Frederick PLLC

57
16. 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.)

See answer to Question 15, above. I have not performed lobbying activities on behalf of clients.

17. 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 never taught a course, although as noted in my response to Question 12(d), I have, on occasion, appeared as a guest lecturer at classes taught by others.

18. 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 anticipate receiving the following payments from Jones Day:

In the 4th quarter of 2017, I will receive $54,000 paid into my account in the Jones Day Retirement Plan (a defined contribution plan).

Jones Day has withheld $550,000 of my partnership income as a tax retainer to pay taxes on my behalf that are attributable to my income earned as a Partner of the Firm. At some point between now and January 20, 2024, I will receive the unused portion, if any, of this retainer.
When I reach the age of 65, I will receive approximately $33,000 annually as part of the Jones Day defined benefit pension plan, assuming plan investment performance meets expectations.

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

No.

20. **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 OGE-278.

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

My completed Statement of Net Worth is attached.

22. **Potential Conflicts of Interest**:

   a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

   During the nomination process, I consulted with the Department of Justice’s ethics office. I will continue to consult with them if confirmed and will recuse myself from any matter in which it is required.

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

   I will consult with the Department of Justice’s ethics office if confirmed and will recuse from any matter in which it is required.

23. **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 work load, 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. If you are not an
attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have been very fortunate in my career. I believe that, to whom much is given, much is expected. I therefore have long been committed to performing pro bono work. I estimate that, while at Jones Day, I devoted approximately 200 hours per year (and sometimes more) to engaging in pro bono work. For example, as described in my response to Question 15, I personally argued three pro bono cases in the courts of appeals on behalf of indigent prisoners (see entries 15.4, 15.5, and 15.6). I also regularly served as the supervising partner for Jones Day associates in the handling of their pro bono matters. In addition, my representation of Catholic Charities and other Catholic organizations in the Zubik and related litigation was handled on a pro bono basis.