

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Joseph Harold Hunt (aka "Jody")

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

Assistant Attorney General, Civil Division, United States Department of Justice

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, DC 20530

Residence: Rockville, MD

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

September 30, 1961; Tupelo, MS

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.

Columbia Law School, J.D. 1989 (1986 – 1989)
The Florida State University, M.A. 1984 (1982 – 1983; 1984)
National Taiwan Normal University, Non-degree language study program (1983 – 1984)
Samford University, B.S. 1982 (1979 – 1982)

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.

1999 – Present
United States Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530
Senior Advisor, Office of Legal Policy (on detail, October 2017 – present)
Chief of Staff and Senior Counselor, Office of Attorney General (on detail, February 2017 – October 2017)
Director, Federal Programs Branch, Civil Division (2002 – present)
Counsel, Office of Deputy Attorney General (on detail, 2001 – 2002)
Trial Attorney, Federal Programs Branch, Civil Division (1999 – 2002)

1995 – 1999
King & Spalding LLP
1180 Peachtree Street
Atlanta, GA 30309
Elected to partnership (1999)
Associate (1995 – 1999)

1990 – 1995
White & Case LLP
701 13th Street, NW, #600
Washington, DC 20005
Associate

1989 – 1990
United States District Court, Northern District of Alabama
1729 Fifth Avenue North
Birmingham, AL 35203
Law Clerk to The Honorable James H. Hancock (retired)

1989 – 1990
The University of Alabama at Birmingham
1720 Second Avenue South
Birmingham, AL 35294
Adjunct Professor (during judicial clerkship)

1988 (summer)
White & Case LLP
1221 6th Avenue
New York, NY 10020
Summer Associate (also spent several week rotation in firm's Washington, DC office)

1987 (summer)
Bradley, Arant, Rose & White
1819 Fifth Avenue North
Birmingham, AL 35203
Summer Associate

February 1986 – Summer 1986
Jiangsu Academy of Agricultural Sciences
50 Zhongling Street, Xiaolingwei
Nanjing, China
Taught English as a second language to graduate students

August 1984 – February 1986
Samford University
800 Lakeshore Drive
Birmingham, AL 35209
Interim Director of Student Activities

August 1982 – Summer 1983
The Florida State University
600 West College Avenue
Tallahassee, FL 32306
Graduate Assistant, International Affairs Program, Political Science Department

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 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.

Attorney General's Award for Distinguished Service (2004)

Attorney General's Award for Distinguished Service (2006)

Attorney General's Award for Distinguished Service (2007)

Civil Division Awards

Phillip C. Jessup International Moot Court, National Champion Team, ranked Best Oralist (national phase) and Second Best Oralist (international phase) (1988)

Civil Procedure Teaching Fellow, Columbia Law School

Achievement with Honors, Parker School of Foreign and Comparative Law, Columbia Law School

Graduate Assistant, The Florida State University, International Affairs, Political Science

Department

Rotary Foundation Fellowship (for study abroad in Taipei, Taiwan)

Valedictorian, Samford University (1982 Graduating Class)

John R. Mott Award, Samford University (Outstanding Graduating student)

Pi Kappa Phi (Samford University Chapter, Honorary Society)

Teacher's Assistant, Samford University, English Department

Inducted into Boaz High School Wall of Fame, Boaz, AL

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.

The District of Columbia Bar (1991 – present)

The Commonwealth of Massachusetts Bar Association (1990 – present)

State Bar of Georgia (1995 – 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.

New York, admitted 1990

Massachusetts, admitted 1990

District of Columbia, admitted 1991

Georgia, admitted 1995

To my knowledge, 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.

It is my understanding that I am admitted to practice in all local courts in New York, Massachusetts, and the District of Columbia by operation of my bar

admission in those states.

It is my understanding that I am admitted to practice in all courts in Georgia at or below the Superior Court level by operation of my bar admission to Georgia.

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

Supreme Court of the State of Georgia, 1996

Georgia Court of Appeals, 1996

To my knowledge, there have been no lapses in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Fourth Presbyterian Church, Bethesda, MD (congregant 2012 – present)

First Baptist Church, Gaithersburg, MD (member 1999 – 2012; Deacon, Personnel Committee, and Sunday School Teacher)

John's Creek Baptist Church, John's Creek, GA (member 1995 – 1999; Sunday School Teacher)

Cornerstone Baptist Church, Fredericksburg, VA (member 1993 – 1995)

First Baptist Church, Alexandria, VA (member 1990 – 1993)

Vestavia Hills Baptist Church, Birmingham, AL (1989 – 1990)

- 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.

To my knowledge, none of these organizations 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.

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.

I have a recollection that sometime in 1983 or 1984 I wrote a letter to the editor of either Time or Newsweek magazine about the downing of a Korean Airlines jet. I have no copy of the letter.

- 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 the best of my recollection I have never prepared or contributed to any such report, memorandum, or statement.

- 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.

In 2001, while serving on detail as Counsel to the Deputy Attorney General, I provided a written statement in conjunction with testimony given on behalf of the Government before the House Energy and Commerce Committee (and also, I believe, before the House Judiciary Committee) regarding proposed legislation in connection with settlement of a telecommunications matter. 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.

In 2016 I was inducted into the Boaz High School Wall of Fame (Boaz, AL), and at the ceremony I gave some remarks to thank my teachers and the community. Remarks available at: <https://www.youtube.com/watch?v=q3->

pmC2rUAE&sns=em.

In about 1991 I was asked to deliver the Baccalaureate address to the graduating students and their families and guests at the high school from which I had graduated (Boaz High School in Boaz, AL). I do not have a copy of the speech, any outline or notes, nor do I have a copy of any transcript or any recording of it. I am not able to recall the contents of the speech, although I have a recollection that I exhorted the students to “never give up” on their dreams.

- 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.

I gave an interview to Bloomberg in mid-February 2017. I do not have any clips or transcripts of the interview, but I have an article (dated February 17, 2017) that, in part, involves matters I was asked about and that purports to quote some of my responses to certain questions I was asked. 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.

I have not been elected to or appointed to any public office.

I have held a career public service position in the United States Department of Justice from 1999 to present.

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

I have never held any position in or rendered services to a political party or election committee, and I have never played a role in a political campaign.

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 The Honorable James H. Hancock (now retired), United States District Court, Northern District of Alabama, from 1989 to 1990.

- 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.

1989 – 1990

United States District Court, Northern District of Alabama
1729 Fifth Avenue North
Birmingham, AL 35203
Law Clerk to The Honorable James H. Hancock (now retired)

1990 – 1995

White & Case LLP
701 13th Street, NW, #600
Washington, DC 20005
Associate

1995 – 1999

King & Spalding LLP
1180 Peachtree Street
Atlanta, GA 30309
Elected to partnership (1999)
Associate (1995 – 1999)

1999 – Present

United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Senior Advisor, Office of Legal Policy (on detail, Oct. 2017 – present)
Chief of Staff and Senior Counselor, Office of Attorney General (on detail, Feb. 2017 – October 2017)
Director, Federal Programs Branch, Civil Division (2002 – present)
Counsel, Office of Deputy Attorney General (on detail, 2001 – 2002)
Trial Attorney, Federal Programs Branch, Civil Division (1999 – 2002)

- 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.

Upon graduation from Columbia Law School, I served as a law clerk to the Honorable James H. Hancock (now retired), United States District Court Judge for the Northern District of Alabama, from 1989 to 1990.

After completing the clerkship, I became an associate at the law firm White & Case LLP in Washington, D.C., where I assisted on a wide range of litigation matters. A significant portion of my work at White & Case involved international claims matters, such as work on behalf of clients who had claims against Iraq arising out of the Gulf Crisis. I was also assigned to other general litigation matters during my time at the firm from 1990 to 1995.

In 1995 my wife and I moved to Atlanta, Georgia for her graduate school residency, and there I joined the law firm King & Spalding LLP as an associate handling a variety of litigation matters. Most of my work at King & Spalding involved product liability and commercial litigation matters on behalf of major clients of the firm. I was elected to the partnership of the firm.

In 1999 my wife and I returned to the Washington, D.C. area, where I took a position as Trial Attorney with the Federal Programs Branch of the Civil Division at the Department of Justice. I handled a variety of litigation matters for the United States, including, for example, an employment matter, arbitration claims, a matter for the Department of State, and other such cases handled by the Federal Programs Branch. From 2001 to 2002, I served on detail as Counsel in the Office of the Deputy Attorney General during which time I worked on various civil litigation issues and principally on a telecommunications matter.

In 2002 I returned to the Federal Programs Branch as Director, a career SES position, and have served in that position from then to present. In my role as career Director, I have supervised the handling of district court civil litigation matters on behalf of the United States. My primary areas of substantive supervisory responsibility have included national security litigation, foreign affairs litigation, homeland security litigation,

government information litigation, and affirmative litigation. Among other things, I also have had administrative responsibility for the assignment of litigation matters handled by the Federal Programs Branch. In February of 2017, the incoming Attorney General asked if I would serve as his Chief of Staff and Senior Counselor, which I did on detail until October of 2017. In that position, I had responsibility for day-to-day issues and activities as part of my role in managing the work of the Attorney General. From October 2017 to present I have been on detail in the Office of Legal Policy.

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

I had no clients during the period in which I was a law clerk from 1989 to 1990.

During my time at White & Case, from 1990 to 1995, I had various clients as determined by the work needs of the firm. I spent a significant portion of my time on international claims matters arising out of the Gulf Crisis, and thus my clients were typically major corporations that had claims against Iraq (for such losses as construction projects that were terminated as a result of the Gulf Crisis or for the fuel used by United States and coalition forces in connection with Operations Desert Shield and Desert Storm). *See also* answer to 14(b)(i) above.

At King & Spalding LLP, from 1995 to 1999, my typical clients were corporate clients of the firm that had been sued for commercial reasons (e.g., in nationwide multi-district class action litigation) and on product liability theories (either in individual cases or consolidated class actions). *See also* answer to 14(b)(i) above.

At the Department of Justice, from 1999 to present, my client has been the United States of America, which I have defended in a range of statutory and constitutional challenges brought against it. *See also* answer to 14(b)(i) above.

- 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.

Virtually all of my legal practice has been in civil litigation, and the frequency of my court appearances has varied. As Federal Programs Branch Director from 2002 to present, I supervise the handling of litigation matters and thus appear infrequently myself for the purpose of presenting oral argument in court (so as to permit the assigned line attorneys to handle court appearances). The vast majority of the work of the Branch involves motions practice by which the Government

appears in courts through written work product and by presentation of argument on the motions (and rarely through trial) for the purpose of defending the interests of the United States. The following are estimates only:

i. Indicate the percentage of your practice in:

1. federal courts: 99 %
2. state courts of record: 1 %
3. other courts: ___%
4. administrative agencies: ___%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 100 %
2. criminal proceedings: ___%

- 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.

Over the course of my career I have litigated scores of cases to judgment or final decision. In private practice I participated as an associate on trial teams in support of a number of matters, some of which were tried to verdict; to the best of my recollection, I did not personally appear as counsel of record in those proceedings. The vast majority of the cases handled under my supervision at the Federal Programs Branch of the Civil Division and in which I am actively involved are resolved through motions practice, such as motions to dismiss or for summary judgment. While these cases do not go to trial and are not tried to verdict, the cases are litigated to final judgment and not frequently resolved by settlement. As Career Director, a few of the matters I have supervised were tried to verdict, and because I supervised the cases I did not personally appear as counsel of record in the trial. The following are estimates only:

i. What percentage of these trials were:

1. jury: 25 %
2. non-jury: 75 %

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

The Federal Programs Branch of the Civil Division, for which I am a career supervisor, handles district court litigation for the United States and does not handle matters in the appellate courts (handled by Appellate Staff) or in the Supreme Court of the United States (handled by the Office of Solicitor General). Many of the matters handled by the Federal Programs Branch and in which I have

been involved have been heard subsequently in the courts of appeals and in the Supreme Court, however, and in those instances my colleagues and I frequently and routinely have consulted with members of Appellate Staff and the Office of Solicitor General with respect to matters the Department of Justice has handled for the United States in the courts of appeals and before the Supreme Court.

When I was an associate in private practice, I assisted with research in connection with the representation of certain clients whose cases were presented to the Supreme Court, but to the best of my recollection I was not counsel of record before the Supreme Court in those cases.

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.

1. *Doe v. Bush*, 257 F. Supp. 2d 436 (D. Mass. 2003) (Judge Tauro), 323 F.3d 133 (1st Cir. 2003) (Judges Lynch, Cyr, and Stahl), *rehearing denied*, 322 F.3d 109 (2003).

This was a constitutional challenge to the President's authority to take military action in Iraq pursuant to his Article II powers and the Authorization for Use of Military Force Against Iraq Resolution of 2002, a joint resolution of Congress. I presented oral argument before the United States District Court for the District of Massachusetts, which ruled in favor of the Government and dismissed the case. Petitioners appealed to the United States Court of Appeals for the First Circuit, which affirmed the District Court decision 2-1. Petitioners sought but were denied a rehearing in the court of appeals.

Co-counsel:

Robert D. McCallum, Jr.
[Then Assistant Attorney General, Civil Division]
Retired, Address at the time:
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Washington, DC 20530

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Shannen W. Coffin
[Then Deputy Assistant Attorney General, Civil Division]
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Washington, DC 20036
(202) 429-6265

Gregory G. Katsas
[Then Deputy Assistant Attorney General, Civil Division]
United States Court of Appeals for the D.C. Circuit
E. Barrett Prettyman U.S. Courthouse and William B. Bryant Annex
333 Constitution Avenue NW
Washington, DC 20001
(202) 216-7000

Vincent M. Garvey
[Then Deputy Director, Federal Programs Branch, Civil Division]
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[Then United States Attorney for the District of Massachusetts]
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2. *Global Relief Foundation, Inc. v. O'Neill*, 207 F. Supp. 2d 779 (N.D. Ill. 2002) (Judge Anderson); 315 F.3d 748 (7th Cir. 2002) (Judges Cudahy, Coffey, and Easterbrook); *cert. denied*, 540 U.S. 1003 (2003).

In the aftermath of the terrorist attacks of September 11, the President directed the Secretary of Treasury to employ all appropriate measures to stop the flow of money supporting international terrorists. Pursuant to authority conferred by Congress in the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*) and delegated by Executive Order, the Secretary of Treasury's Office of Foreign Assets

Control first issued a blocking order freezing the financial assets of the Global Relief Foundation pending investigation and then subsequently designated the Foundation as a Specially Designated Global Terrorist. The Foundation brought suit and sought an injunction against the interim blocking order, contending that the blocking order was not authorized by statute, executive order, or the Constitution. I participated in the Government's defense of this challenge before the United States District Court for the Northern District of Illinois, which denied the Foundation's motion and ruled in favor of the United States. The Foundation appealed the district court decision to the United States Court of Appeals for the Seventh Circuit, which also found in favor of the Government. The Foundation sought and was denied review in the Supreme Court.

Co-counsel:

Robert D. McCallum, Jr.
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[Then Assistant Attorney General, Civil Division]
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Adam Szubin

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[Then United States Attorney for the Northern District of Illinois]
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Opposing counsel:

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[Then Attorney with Gordon & Simmons, LLC]
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Thomas Anthony Durkin
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3. *FAIR v. Rumsfeld*, 291 F. Supp. 2d 269 (D.N.J. 2003) (Judge Lifland), *rev'd*, 390 F.3d 219 (3d. Cir. 2004), (Judges Ambro, Aldisert, and Stapleton), *rev'd*, 547 U.S. 47 (2006).

A federal statute requires that universities accepting federal funding cannot discriminate against military recruiters in providing access to students on campus. The plaintiffs, which sought to deny the military access to their campuses, argued that the statute violated their First Amendment rights to freedom of speech and expressive association. I was involved in defending the constitutionality of the statute before the United States District Court for the District of New Jersey, which ruled in favor of the Government. On appeal, a divided panel of the Third Circuit found that plaintiffs had demonstrated a likelihood of success on the merits of the First Amendment claims and were entitled to preliminary injunctive relief. The Supreme Court unanimously reversed and held that the statute is constitutional.

Co-counsel:

Peter D. Keisler
[Then Assistant Attorney General, Civil Division]
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Vincent M. Garvey
[Then Deputy Director, Federal Programs Branch, Civil Division]
Retired, Address at the time:
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950 Pennsylvania Avenue NW
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(202) 514-2000

Mark T. Quinlivan
[Then Senior Counsel, Federal Programs Branch, Civil Division]
United States Attorney's Office for the District of Massachusetts
John Joseph Moakley United States Courthouse
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Christopher J. Christie
[Then United States Attorney for the District of New Jersey]
Last known work address:

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(609) 292-6000

Michael A. Chagares
[Then Assistant United States Attorney for the District of New Jersey]
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Frank R. Lautenberg Post Office and Courthouse
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Opposing counsel:

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4. *Doe v. Rumsfeld*, 341 F. Supp. 2d 1 (D.D.C. 2004) (Judge Sullivan); 172 Fed. Appx. 327 (D.C. Cir. 2006) *per curiam* (Judges Randolph, Tatel, and Griffith).

I participated in the Government's defense of this case, in which six anonymous service members brought suit against the Department of Defense to enjoin it from requiring that members of the armed forces be inoculated with the anthrax vaccine to prevent against the effects of exposure to anthrax. Plaintiffs complained that the Food and Drug Administration had failed to complete its review of the prior National Institutes of Health-issued license for this biologic vaccine, thereby rendering improper the Department of Defense's administration of the vaccine to military personnel. The United States District Court for the District of Columbia initially ruled in favor of the plaintiffs and issued an injunction prohibiting the Department of Defense from inoculating service members without their consent. On a subsequent emergency motion, the district court modified the injunction to permit the Department of Defense to move forward with voluntary vaccinations, subject to statutory emergency authority. Before appellate proceedings could be completed regarding the merits of the injunction, the FDA completed its review of the prior license for this biologic, thereby mooting further proceedings in the case.

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5. *Al-Anazi v. Bush*, 370 F. Supp. 2d 188 (D.D.C. 2005) (Judge Bates).

In this case, detainees at Guantanamo Bay, Cuba sought a court order requiring the United States to provide their counsel with 30-days' advance notice of any proposed transfer from Guantanamo to any location outside the United States. I presented oral argument in the case before the United States District Court for the District of Columbia, which denied petitioners' motion and declined to order the Government to provide such advance notice of transfer. The particular issue regarding advance notice of transfer was addressed subsequently in other cases as well, and ultimately decided in favor of the Government in *Kiyemba v. Obama*, 561 F.3d 509, 511 (D.C. Cir. 2009).

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6. *Mohammed v. Harvey*, 456 F. Supp. 2d 115 (D.D.C. 2006) (Judge Lamberth) and *Omar v. Harvey*, 416 F. Supp. 2d 19 (D.D.C. 2006) (Judge Urbina); 482 F.3d 582 (D.C. Cir. 2007) (Judges Sentelle, Randolph, and Kavanaugh); 479 F.3d 1 (D.C. Cir. 2007) (Judges Tatel, Brown, and Edwards); *Munaf v. Geren*, 553 U.S. 674 (2008).

In two consolidated cases, the United States Supreme Court unanimously concluded in 2008 that the habeas corpus statute (28 U.S.C. §2241 (c)(1)) extends to U.S. citizens held overseas by U.S. forces subject to a U.S. chain of command, but that the petitioners were not entitled to habeas relief because, as an equitable matter, habeas jurisdiction should not be extended to shelter fugitives from the criminal justice system of a foreign sovereign with authority to prosecute them. The petitioners, both naturalized U.S. citizens, were held by MNF-1 (Multi-National Forces in Iraq, led by U.S. forces) and had been referred to the Central Criminal Court of Iraq for prosecution. I was involved in preparation of the Government's defense in the district court litigation. In one case the district court ruled in favor of the Government, and in the other case the district court ruled against the Government. Different panels of the United States Court of Appeals for the District of Columbia entered judgment in favor of the Government in one case and in favor of petitioners in the other.

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7. *Weixum v. XiLai*, 568 F. Supp. 2d 35 (D.D.C. 2008) (Judge Leon).

Plaintiffs, practitioners of the Falun Gong spiritual movement in the Peoples' Republic of China, brought suit against Chinese official Bo Xilai for human rights abuses allegedly occurring while he served as Governor of a province in China. At the time of the suit, he was serving as China's Minister of Commerce. Plaintiffs served a summons and complaint on Minister Bo while he was in the United States at the invitation of the United States Government as part of a joint U.S.-China Commission on Commerce and Trade. I participated in the submission by the United States of a Statement of Interest and Suggestion of Immunity in the United States District Court for the District of Columbia, which ruled in favor of the United States by finding that Minister Bo was entitled to immunity from service, and thus from the jurisdiction of the court, during his participation at the time in a special diplomatic mission to the United States.

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8. *Mohamed v. Jeppesen Dataplan, Inc.*, 539 F. Supp. 2d 1128 (N.D. Cal. 2008) (Judge Ware); 579 F.3d 943 (9th Cir. 2009); *en banc*, 614 F.3d 1070 (9th Cir. 2010); *cert denied*, 563 U.S. 1002, (2011).

This case arose from allegations that the CIA used a private company, Jeppesen Dataplan Inc., to provide navigational and logistics support as part of its alleged rendition program. Five plaintiffs brought suit alleging that they had been tortured and that Jeppesen had provided support services in connection with the alleged renditions for such purposes. I participated in the litigation of the matter in the United States District Court for the Northern District of California, in which the Government asserted the state secrets privilege and sought dismissal of the case. The district court upheld the state secrets privilege assertion and granted the Government's motion to dismiss. The United States Court of Appeals for the Ninth Circuit affirmed dismissal of the suit, and the Supreme Court subsequently denied plaintiffs' petition for writ of certiorari.

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9. *U.S. v. City of Arcata*, 2009 U.S. Dist. LEXIS 57555 (N.D. Cal., June 17, 2009) (Judge Sandra B. Armstrong), *aff'd*, 629 F.3d 986 (9th Cir. 2010) (Judges Kozinski, Rymer, and Kennelly).

Two California towns enacted ordinances via ballot initiative prohibiting military recruiters from seeking to recruit minors under the age of 18. These ordinances conflicted with federal law, which explicitly permitted such recruitment efforts. I was involved in litigation brought by the United States against the two towns in the United States District Court for the Northern District of California, seeking to enjoin enforcement of the ordinances on the grounds that the ordinances violated the Supremacy Clause. In response to the Government's motion for judgment on the pleadings, the district court held the ordinances invalid and permanently blocked enforcement of the ordinances on Supremacy Clause grounds.

On appeal, the Ninth Circuit unanimously agreed. In addition to affirming the Supremacy Clause ruling, it addressed new challenges to the district court's subject matter jurisdiction. It rejected the cities' claim that the court lacked subject matter jurisdiction, finding that the Government met the injury requirements to show Article III standing. Additionally, the Court of Appeals rejected the cities' claim disputing federal question jurisdiction because the Government had an independent basis of subject matter jurisdiction under 28 U.S.C. § 1345, which provides the district courts with jurisdiction over civil actions commenced by the United States.

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10. *U.S. v. Bissonette*, Civil Action No. 1:16 CV1070 (E.D. Va. 2016).

I was involved in the United States' efforts to bring a complaint and obtain a consent decree against Matthew Bissonette, a former Navy Seal who participated in the raid that killed Osama bin Laden. Mr. Bissonette violated the terms of his non-disclosure agreement by publishing the book *No Easy Day: The Firsthand Account of the Mission That Killed Osama bin Laden* without first complying with his prepublication review obligations. As a result of the action, Mr. Bissonette was required to pay the United States millions of dollars in proceeds he had received from his unlawful publication, and the United States also obtained a constructive trust over future proceeds that the defendant might obtain as well as an injunction against any future violations of his prepublication review requirements. The judgment, entered in the United States District Court for the Eastern District of Virginia, was the largest-ever prepublication review recovery by the United States.

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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.

From February 1986 to Summer 1986, I taught English as a second language to graduate students at the Jiangsu Academy of Agricultural Sciences in Nanjing, China. I do not have a syllabus for the course.

During my third year of law school in 1988 to 1989, I taught a class about the law to middle school students in the Harlem School District in New York City (and for which I received credit toward my course work at Columbia Law School). I do not have a syllabus for the course.

During my clerkship in 1989 and 1990, I taught an introductory course in International Politics and a course in Constitutional Law at the University of Alabama at Birmingham. I do not have a syllabus for either course.

At various times over the years I taught Sunday School classes at churches where I was a member. I do not have a syllabus for any of the classes I taught.

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 do not have any such deferred income or future benefits as described.

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, I have no plans, commitments, or agreements to pursue such outside employment.

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 copy of OGE 278 financial disclosure.

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

See attached Net Worth Statement, including schedules.

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 nominations process I have consulted with the Department of Justice ethics office. If confirmed, I will continue to consult with the Department of Justice ethics office 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.

If confirmed, I will consult with the Department of Justice ethics office and will recuse myself 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.

Approximately two-thirds of my legal career has been devoted exclusively to public service. Before becoming a career civil servant, I represented individual clients before courts on a pro bono basis with respect to their legal rights concerning immigration and domestic abuse. Since becoming a career public servant in 1999, moreover, I also have undertaken various volunteer roles, most often through the churches in which I have been a member. In recent years (2013-2016), I also have volunteered my time as a baseball

“coach” for a team of physically and/or mentally challenged young people who play weekly baseball games on Sunday afternoons during the spring months (March, April, and May). On some occasions in the past I also have baked cookies and delivered them locally to a shelter for battered or abused women (the Montgomery County Women’s Shelter).