

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

James Emanuel ("Jeb") Boasberg

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

United States District Judge for the District of Columbia

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.

District of Columbia Superior Court  
500 Indiana Avenue, N.W.  
Washington, D.C. 20001

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

San Francisco, California; 1963.

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.

1987-1990, Yale Law School; J.D., 1990  
1985-1986, Oxford University; M.St., 1986  
1981-1985, Yale College; B.A. (*magna cum laude*), 1985

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.

2002 – Present  
District of Columbia Superior Court  
500 Indiana Avenue, NW  
Washington, D.C. 20001  
Associate Judge

2003  
George Washington University Law School  
720 20<sup>th</sup> Street, NW  
Washington, D.C. 20052  
Visiting Lecturer (spring term)

1996 – 2002  
United States Attorney's Office for the District of Columbia  
555 4<sup>th</sup> Street, NW  
Washington, D.C. 20530  
Assistant United States Attorney

1995 – 1996  
Kellogg, Huber, Hansen, Todd & Evans  
1615 M Street, NW  
Washington, D.C. 20036  
Associate

1991 – 1994  
Keker & Van Nest  
710 Sansome Street  
San Francisco, California 94111  
Associate

1990-1991  
United States Court of Appeals for the Ninth Circuit  
125 South Grand Avenue  
Pasadena, California 91105  
Law Clerk to Hon. Dorothy W. Nelson

1989  
Wilmer, Cutler & Pickering  
1875 Pennsylvania Avenue, NW  
Washington, D.C. 20006  
Summer Associate

1989  
Williams & Connolly  
725 12<sup>th</sup> Street, NW  
Washington, D.C. 20005  
Summer Associate

1989  
Yale College  
One Prospect Street  
New Haven, Connecticut 06520  
Visiting Lecturer (spring term)

1988  
Munger, Tolles & Olson  
355 South Grand Avenue  
Los Angeles, California 90071  
Summer Associate

1986-1987  
The Horace Mann School  
231 West 246<sup>th</sup> Street  
Riverdale, New York 10471  
History Teacher and Girls' Varsity Basketball Coach

Uncompensated  
St. Albans School Governing Board  
Member (2010 – present)

Yale Law School Class of 1990  
20<sup>th</sup> Reunion Co-Chair (2010)

St. Albans School Parents' Association  
Vice President (2009-2010)

Yale Law School Association of Washington, D.C. (1995 – present)  
Vice President (1997 – 2001)

St. Albans School, Class of '81 Bishop John T. Walker Fellowship Committee  
Chair (1995 – present)

Boasberg Historic Preservation Fund  
Vice President (1995 – 2006)

Yale Class of 1985  
Secretary (1995 – 2000)

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 registered for selective service, but never enlisted in the Military.

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.

United States Attorney's Office, Special Achievement Awards  
Yale Law School, Sutherland Cup (moot court)  
Yale College, Dick Derby Award

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.

Edward Bennett Williams Inn of Court  
Superior Court of the District of Columbia  
Committee on Judicial Education (2003 – present)  
Committee on the Selection and Tenure of Magistrate Judges (2003 – present)  
Chair, Committee on Criminal Jury Instructions (2006 – present)  
Committee to Select Criminal Justice Act Attorneys (2009)

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.

California, 1991  
District of Columbia, 1996

I have been an inactive member of the California Bar since 1997. There has been no lapse in membership.

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

United States Court of Appeals for the D.C. Circuit, 1997  
United States Court of Appeals for the Fourth Circuit, 1995  
United States Court of Appeals for the Ninth Circuit, 1991  
United States District Court for the Central District of California, 1993  
United States District Court for the District of Arizona, 1995; deactivated 1999

11. **Memberships:**

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

St. Albans School Governing Board (2010 – present)

Yale Law School Class of 1990

20<sup>th</sup> Reunion Chair (2010)

St. Albans School Parents' Association

Vice President (2009-2010)

Lawyers' Club (2008 – present)

Yale Law School Association of Washington, D.C. (1995 – present)

Vice President (1997-2001)

Yale Club of Washington, D.C. (1995 – present)

St. Albans School, Class of '81 Bishop John T. Walker Fellowship Committee

Chair (1995 – present)

Boasberg Historic Preservation Fund

Vice President (1995 – 2006)

Ellington Development Council (1995 – 2001)

Yale Class of 1985

Secretary (1995 – 2000)

25<sup>th</sup> Reunion Attendance Committee (2010)

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

St. Albans School is a school for boys. None of the organizations discriminates.

## 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.

*Product Placement in Movies Cannot Be Regulated as Commercial Speech Under the First Amendment*, WLF Legal Backgrounder (Jan. 22, 1993) (co-author).

*With Malice Toward None: A New Look at Defamatory Republication and Neutral Reportage*, 13 COMM/ENT 455 (Spring 1991) (cited in 5 published opinions)

*Seditious Libel v. Incitement to Mutiny: Britain Teaches Hand and Holmes A Lesson*, 10 Oxford J. Legal Studies 106 (1990), *republished with Spanish translation* in 28 Comp. Juridical Review 77 (1991).

*Chancery as Megalosaurus: Lawyers, Courts, and Society in Bleak House*, 21 University of Hartford Studies in Literature 38 (1989).

While at Oxford, I wrote a movie review for a magazine called *Isis* in November 1985. In college, I wrote two pieces on the Washington Redskins for the *Yale Daily News* in January 1984. In high school, I wrote many sports articles for the *St. Albans News*. I did not retain copies.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

June 26, 2002, Hearing before the Committee on Governmental Affairs, United States Senate, "Nomination of James 'Jeb' E. Boasberg."

A transcript of the hearing on my confirmation to Superior Court of the District of Columbia is available at:

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_senate\\_hearings&docid=f:80608.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_senate_hearings&docid=f:80608.wais)

- 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.

During my time at the U.S. Attorney's Office and on the Superior Court, I have spoken to a variety of different groups on legal topics. I have searched my files and public databases in an effort to identify every occasion, but it is possible I have omitted some. I have attached all of the notes, outlines, or speech texts that I have been able to find. They are indicated in bold.

**May 24, 2010 – United States District Court for the District of Columbia – remarks at the investiture of U.S. Attorney Ronald C. Machen, Jr.**

April 28, 2010 – Superior Court of the District of Columbia – talk to St. Albans School 7<sup>th</sup> Grade, about how the court works. I spoke without notes.

**April 1, 2010 – Georgetown University Law Center, Washington, D.C. – talk to a first-year Criminal Procedure class on Fourth Amendment issues. (The same or similar notes were used for all of my talks to these classes over the years.)**

**December 4, 2009 – Superior Court of the District of Columbia – talk to other judges in the Criminal Division on self-defense issues.**

**November 5, 2009 – Georgetown University Law Center, Washington, D.C. – talk to a first-year Criminal Procedure class on Fourth Amendment issues.**

**July 16, 2009 – Office of the U.S. Attorney, Washington, D.C. – talk to Assistant U.S. Attorneys about prosecuting Domestic Violence cases.**

**April 24, 2009 – Office of the U.S. Attorney, Washington, D.C. – talk to police officers of the Metropolitan Police Department of Washington, D.C., about courtroom testimony.**

**February 25, 2009 – Georgetown University Law Center, Washington, D.C. – talk to a first-year Criminal Procedure class on Fourth Amendment issues.**

December 17, 2008 – Superior Court of the District of Columbia – lecture to members of the Criminal Justice Act Bar on the mechanics of jury selection. The

session was not recorded, and any handwritten notes from which I spoke have been discarded.

**July 31, 2008 – D.C. Circuit Historical Society, Washington, D.C. – In a program on technology in the courtroom, I gave a mock closing argument at the assassination trial of Charles Guiteau, the murderer of President James Garfield.**

**April 4, 2008 – Georgetown University Law Center, Washington, D.C. – talk to a first-year Criminal Procedure class on Fourth Amendment issues.**

March 20, 2008 – Superior Court of the District of Columbia – talk to Sidwell Friends School 7<sup>th</sup> and 8<sup>th</sup> Graders about being a judge and the criminal law. I spoke without notes.

**March 9, 2008 – Kehila Congregation, Chevy Chase, MD – speech on the topic of “Dickens and the Jews.”**

**December 12, 2007 – Superior Court of the District of Columbia – lecture to members of the Criminal Justice Act Bar on trial tips.**

**December 7, 2007 – Superior Court of the District of Columbia – talk to judges entering the Felony II assignment about criminal procedure issues.**

March 17, 2007 – Superior Court of the District of Columbia – talk to middle school students attending the 2007 Youth Law Fair about how the court works. I spoke without notes.

February 22, 2007 – Superior Court of the District of Columbia – talk to the Law Students in Court class on judging and tips for being a good courtroom advocate. Any notes from which I spoke have been discarded.

**February 15, 2007 – Georgetown University Law Center, Washington, D.C. – talk to a first-year Criminal Procedure class on Fourth Amendment issues.**

January 26, 2007 – Superior Court of the District of Columbia – participation on a panel with former jurors, who recounted how the Court could have improved their experience. Any notes from which I spoke have been discarded.

**December 1, 2006 – Superior Court of the District of Columbia – talk to judges in the Criminal Division on issues relating to joinder and severance.**

November 2, 2006 – Catholic University Law School, Washington, D.C. – participation on a panel, “Becoming a Lawyer.” I am not aware if the session was recorded; I had no prepared notes or outline.

**May 22, 2006 – Office of the U.S. Attorney, Washington, D.C. – talk to Assistant U.S. Attorneys about prosecuting felony cases.**

**April 13, 2006 – Georgetown University Law Center, Washington, D.C. – talk to the Criminal Justice Clinic class on judging and tips for being an effective advocate.**

**April 12, 2006 – George Washington University Law School, Washington, D.C. – talk to seminar class on homicide cases.**

March 23, 2006 – Superior Court of the District of Columbia – participation on a panel of judges who spoke to the Charlotte E. Ray American Inn of Court on “Techniques of Litigation – A View from the Bench.” Any notes from which I spoke have been discarded.

March 2, 2006 – First District of the Metropolitan Police Department, Washington, D.C. – talk to new officers about testifying in court. Any notes from which I spoke have been discarded.

November 3, 2005 – Georgetown University Law Center, Washington, D.C. – participation on a panel in a program entitled “Litigating and Resolving Employment Cases: Views from the Bench.” Any notes from which I spoke have been discarded.

October 26, 2005 – Superior Court of the District of Columbia - talk to 9<sup>th</sup> Grade students from Paul Public Charter School about the court system. I spoke without notes.

February 2005 – Georgetown University Law Center, Washington, D.C. – participation on a panel in an ALI-ABA sponsored program on Evidence Issues and Jury Instructions in Employment Cases. I am not aware if the session was recorded; I had no prepared notes or outline.

**December 2004 – Superior Court of the District of Columbia – talk to judges in the Criminal Division on recent Fourth and Fifth Amendment decisions.**

March 31, 2004 – Yale Law School Association, Washington, D.C. – speech at a regular meeting of the association on being a judge in the Superior Court. The session was not recorded, and any handwritten notes from which I spoke have been discarded.

**March 19, 2004 – D.C. Bench-Bar Conference, Washington, D.C. – participation on a panel on closing arguments.**

February 11, 2004 – George Washington University Law School, Washington, D.C. – talk to a seminar class on homicide cases. I spoke without notes.

January 14, 2004 – Superior Court of the District of Columbia – talk to students from Georgetown Day School on criminal law issues. I spoke without notes.

November 11, 2003 – Yale Law School, New Haven, CT – participation on a career-development panel, speaking about life as an Assistant United States Attorney. Any notes from which I spoke have been discarded.

**October 10, 2003 – George Washington University Law School, Washington, D.C. – speech to a CLE seminar on automobile negligence cases.**

May 6, 2003 – District of Columbia Bar – participation on a panel at a CLE class on closing arguments. I am not aware if the session was recorded; I had no prepared notes or outline.

**Since 2005, I have supervised the annual two-day September training for all new law clerks at the Superior Court. During that training, I have been on a panel of judges that discusses the judge-clerk relationship, and I have lectured on drafting judicial opinions. Any materials I have kept from those sessions is attached.**

When I was an Assistant United States Attorney, I occasionally participated in office training of new or more junior AUSAs on trial skills – e.g., opening statements, closing arguments, direct and cross-examination. I have retained no notes from such sessions.

- 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.

As an Assistant United States Attorney, I gave a few brief interviews after homicide trials I conducted. I have listed below and attached all of these interviews that I could identify through a search of my records and internet databases, but it is possible that I have not been able to find them all.

Neely Tucker and Alia Ibrahim, “*Mesa Gets Life Terms in Gallaudet Slayings*,” The Washington Post, July 11, 2002, at B01.

Arlo Wagner, “*Gallaudet Killer Gets Life Sentence*,” The Washington Times, July 11, 2002, at B01.

Susan Roth, “*Mesa Sentenced to Life in Prison*,” Gannett News Service, July 11, 2002.

“*Former Student Gets 6 Life Terms in the Murders of 2 Classmates*,” The Miami Herald, July 11, 2002, at A15.

Gary Martin, "*Deaf Teens' Killer Gets Life*," San Antonio Express-News, July 11, 2002, at 1B.

Derrill Holly, "*Six Life Terms for Murders of Two College Students*," AP, July 10, 2002.

Derrill Holly, "*Former Gallaudet Student Convicted of Killing Classmates*," AP, May 22, 2002.

Kevin Diaz, "*D.C. Jury Convicts Former Student of Gallaudet Murders*," Star Tribune, May 22, 2002, at 1A.

Susan Roth, "*Mesa Convicted in Gallaudet Murder Trial*," Gannett News Service, May 21, 2002.

Arthur Santana, "*Gallaudet Case Goes to Jury*," The Washington Post, May 21, 2002, at B05.

Arthur Santana, "*Man Gets Life, No Parole, in Slayings*," The Washington Post, Jan. 12, 2002, at B02.

Arthur Santana, "*D.C. Man Convicted of Women's Slayings*," The Washington Post, Oct. 3, 2001, at B07.

Neely Tucker, "*National Zoo Shooter Gets 25-Year Term*," The Washington Post, Mar. 17, 2001, at A01.

Arlo Wagner, "*Zoo Gunman Gets 25 Years in Prison*," The Washington Times, Mar. 17, 2001, at A1.

Petula Dvorak, "*A Home in Hearts Left Behind*," The Washington Post, Mar. 15, 2001, at B01.

Neely Tucker, "*17-Year-Old Admits to Shootings Outside Zoo*," The Washington Post, Oct. 26, 2000.

Arlo Wagner, "*Youth Pleads Guilty to Zoo Shooting Spree That Wounded 7*," The Washington Times, Oct. 26, 2000, at C1.

"*Black Fire Fighters Cleared*," The Sun Reporter, Aug. 4, 1994.

Jim Doyle, "*S.F. Probe Clears Leaders of Black Firefighter Groups*," The San Francisco Chronicle, July 23, 1994, at A21.

Laurie Becklund and Roxane Arnold, "*Law Students Aid the Homeless*," Los Angeles Times, Aug. 7, 1988, Metro; Part 2; Page 1.

I also had brief interviews with newspaper reporters after basketball games I played in college and high school. I did not keep those clippings.

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

I was appointed by President George W. Bush in September 2002 to be Associate Judge of the Superior Court of the District of Columbia, following confirmation by the United States Senate.

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

Approximately 500.

- i. Of these, approximately what percent were:

jury trials:	33%
bench trials:	65%
civil proceedings	20%
criminal proceedings	80%

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

The only published opinions are:

United States v. Powell, 2008 D.C. Super. LEXIS 2 (June 17, 2008)

Pardue v. Center City Consortium Schools, Inc., 2003 D.C. Super. LEXIS 30 (July 29, 2003).

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. United States v. Eric Gardner, 2004-FEL-7761. This was a homicide case in which the defendant was found guilty of killing a taxi driver during a robbery.

AUSA Michelle Jackson, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel Thomas Dybdahl, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

2. United States v. Gerard Parker, 2004-FEL-2605. This was a homicide case in which the defendant was found guilty of beating a man to death after a fight outside a bar.

AUSA Michelle Jackson, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel Thomas Dybdahl, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

3. United States v. Brian Copeland, 2008-CF1-3817. This was a first-degree sexual abuse case in which a man was convicted for raping his estranged wife.

AUSA Sharon Donovan, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel Maribeth Raffinan, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

4. United States v. Neal King, 2007-CF3-27842. This was a case in which the defendant was convicted of assault with intent to kill for shooting a man in the middle of the day in a public courtyard.

AUSA Sean Tonoli, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel Andrew Ferguson, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

5. United States v. James Brisbon, 2000-FEL-2555. This was a homicide case in which the defendant was found guilty of shooting a man to death in an alley.

AUSA William Frentzen, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel Eve Hanan and Anna Rodriques, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

6. United States v. Odell Powell, 2006-FEL-23645. Although this case was eventually tried, its importance was in the defense's challenge to the Superior Court's jury selection system on the ground of improper racial composition. After months of discovery, I upheld the current operation of the system in an opinion that is attached.

AUSA Amy Zubrensky, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel Jason Tulley, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

7. WDG v. District of Columbia, 00-5379. This was a property dispute between the District and a prominent developer regarding rights to certain valuable real estate. A lengthy trial ended with an award of over \$70 million to the developer.

Plaintiff's counsel: Michele Roberts, 1333 New Hampshire Ave., N.W.; Washington, DC 20036, 202-887-4306. Defense counsel: Daniel Rezneck, Office of Attorney General, 441 4<sup>th</sup> St., NW; Washington, DC 20001, 202-727-3401.

8. Pardue v. Center City, 02-5459. I granted summary judgment to the defense on subject matter jurisdiction grounds in a case pitting claims of discrimination against free exercise of religion.

Plaintiff's counsel: Scott Oswald, 888 17<sup>th</sup> St., NW; Washington, DC 20006, 202-331-3911; Defense counsel: Emmitt Flood and Lisa Duggan, 725 12<sup>th</sup> St., NW; Washington, DC 20005; 202-434-5000.

9. Kreuzer v. George Washington University, 03-3645. After many motions and a preliminary injunction hearing, I granted summary judgment to the defendant in a property dispute between the university and a neighbor.

Plaintiff's counsel: Michael Hannon, 1901 18<sup>th</sup> St., NW; Washington, DC 20009, 202-232-1907; Defense counsel, Vincent Mark Policy, 1620 L St., NW; Washington, DC 20036, 202-452-1400.

10. Wilson v. WMATA, 02-4638. In this negligence action, a jury awarded the plaintiff \$70,000 for injuries suffered while falling off of a Metrobus. I subsequently granted the defendant's motion for judgment as a matter of law, finding no causation, and vacating the verdict.

Plaintiff's counsel: Tony Shaw, deceased; Defendant's counsel: Frederic Schuster, 600 5<sup>th</sup> St., NW; Washington, DC 20001, 202-962-1093.

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. United States v. Powell, 2008 D.C. Super. LEXIS 2 (June 17, 2008). Counsel were AUSA Amy Zubrensky, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; and Defense Counsel Jason Tulley, Public Defender Service, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

2. Pardue v. Center City Consortium Schools, Inc., 2003 D.C. Super. LEXIS 30 (July 29, 2003). Counsel were Scott Oswald (Plaintiff's counsel), 888 17<sup>th</sup> St., NW; Washington, DC 20006, 202-331-3911, and Emmitt Flood and Lisa Duggan (Defense counsel), 725 12<sup>th</sup> St., NW; Washington, DC 20005; 202-434-5000.

3. United States v. Richard Purnell, 2007 CF2 022457, AUSA Robert Okun, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defense Counsel: George Rickman, 3814 13<sup>th</sup> St., NW; Washington, DC 20011, 202-723-3955.

4. United States v. Kacy Queen, 04-FEL-3431, AUSA Robert Okun, 555 4<sup>th</sup> St., N.W.; Washington, DC 20530, 202-514-7586; Defendant *pro se*.

5. United States v. Donovan Braxton, 2005 CTF 4611, AAG Duane M. Kokesch, 441 Fourth Street, NW; Room #450-N; Washington, DC 20001, 202-727-3401; Defense Counsel: Effie Forde, 1717 K St., NW; Suite 600; Washington, DC 20036, 202-508-1843.

6. Kreuzer v. George Washington University, 03-3645, Plaintiff's counsel: Michael Hannon, 1901 18<sup>th</sup> St., NW; Washington, DC 20009, 202-232-1907; Defense counsel: Vincent Mark Policy, 1620 L St., NW; Washington, DC 20036, 202-452-1400.

7. Hicks v. Howard, 02-7572, Plaintiff's counsel: Sarah Starrett, 1717 Massachusetts Ave., NW; Suite 704; Washington, DC 20036; 202-328-7300; Defense counsel: Daniel Prywes, 600 – 14<sup>th</sup> St., NW; Washington, DC 20005; 202-508-6094.

8. Fowler v. J.A. Jones, 02-8130, Plaintiff's counsel: Michael Hoare, 1400 K St., NW, Suite 1000; Washington, DC 20005; 202-408-7901; Defense counsel: Connie Bertram, 777 6<sup>th</sup> St., NW; Washington, DC 20001; 202-728-7122.

9. Cavaceppi v. Rock Creek Int'l School, 03-6490, Plaintiff's counsel: Michael Hoare, 1400 K St., NW, Suite 1000; Washington, DC 20005; 202-408-7901; Defense counsel: Thomas Mugavero, 515 King St.; Suite 450; Alexandria, VA 22314; 703-280-9273.

10. District of Columbia v. CVS Corp., 03-4431, Plaintiff's counsel: Don Resnikoff, AAG, 441 Fourth St., NW; Washington, DC 20001; 202-727-3401; Defense counsel: Deana Cairo, 500 8<sup>th</sup> St., NW; Washington, DC 20004; 202-799-4523.

e. Provide a list of all cases in which certiorari was requested or granted.

I am not aware of any case in which certiorari was either requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Digsby v. United States, 981 A.2d 589 (D.C. 2009) (reversal for admission of DEA report without chemist post-Crawford).

Teal v. United States, 974 A.2d 262 (D.C. 2009) (remanded for findings regarding government's possible interference with witness).

Bolton v. Bernabei & Katz, 954 A.2d 953 (D.C. 2008) (remanded for further consideration of motion to amend answer).

Doe v. Metropolitan Police Department, 948 A.2d 1210 (D.C. 2008) (reversal of grant of summary judgment on FOIA request).

Pratt v. DCHA, 942 A.2d 656 (D.C. 2008) (reversal of judgment of possession to Landlord in Landlord-Tenant case).

Callaham v. United States, 937 A.2d 141 (D.C. 2007) (reversal for admission of DEA report without chemist post-Crawford).

Howard v. United States, 929 A.2d 839 (D.C. 2007) (reversal for admission of DEA report without chemist post-Crawford).

Valdez v. United States, 906 A.2d 284 (D.C. 2006) (reversed and remanded for defendant to have opportunity to prove entitlement to withdraw plea).

Washkoviak v. SLMA, 900 A.2d 168 (D.C. 2006) (reversal of grant of motion to dismiss).

Zuurbier v. MedStar, 895 A.2d 905 (D.C. 2006) (reversal in part of summary judgment order).

Medrano v. Osterman, 885 A.2d 310 (D.C. 2005) (vacating and remand of determination of binding contract).

Levitt v. D.C. Office of Employee Appeals, 869 A.2d 364 (D.C. 2005) (reversal of affirmance of OEA Board).

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Every decision I have issued (with the exception of the two listed in subsection (b)) has been unpublished. I have electronic copies of most of these. In addition, the Superior Court's electronic database has electronic copies of all orders and opinions issued since 2005. Before the Court implemented an electronic database in late 2005, paper copies of orders were maintained in files, which should be in off-site storage.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I handle constitutional issues – specifically, 4<sup>th</sup> and 5<sup>th</sup> Amendment suppression claims – on a regular basis in my criminal cases. I routinely hold evidentiary hearings and issue oral rulings from the bench. I have not written any opinions in these cases. My two published opinions also concern constitutional issues.

Pardue v. Center City Consortium Schools, Inc., 2003 D. C. Super. LEXIS 30 (July 29, 2003), deals with the Free Exercise Clause of the First Amendment. The D.C. Court of Appeals affirmed my ruling at 875 A.2d 669 (D.C. 2005). United States v. Powell, 2008 D.C. Super. LEXIS 2 (June 17, 2008), addresses the jury-selection system in the Superior Court. If the case has been appealed, no ruling from the Court of Appeals has yet issued.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

The only two cases that I can recall are Cafritz v. Sibley Memorial Hosp., 01-006294, a medical malpractice action brought by Peggy Cooper Cafritz., and the case of Kreuzer v. George Washington University, 03-3645. In the former, I recused myself because I knew Ms. Cafritz socially. In the latter, the plaintiff moved that I recuse myself because I had taught at George Washington Law School, and the university was the defendant. I denied the motion on the grounds

that my association with the university had all but ended at the time the suit was filed, the motion was filed over a year after the plaintiff had been informed of my association, and the motion was legally deficient by failing to include the necessary certificate of good faith. The District of Columbia Court of Appeals affirmed my decision not to recuse in a published opinion at 896 A.2d 238, 249-50 (D.C. 2006).

There is no court electronic database for cases prior to 2006, which is the time period when I was on a civil calendar. I have checked the electronic database for recusals from 2006 to the present, and none appear.

In all cases I have attempted to abide by the District of Columbia Code of Judicial Conduct, which requires recusal where a judge's impartiality might reasonably be questioned.

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

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

I was appointed to be an Assistant United States Attorney for the District of Columbia from December 6, 1996, to August 14, 2002. I was initially appointed by then-United States Attorney Eric Holder.

I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

None.

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
  - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as clerk to Circuit Judge Dorothy W. Nelson of the United States Court of Appeals for the Ninth Circuit from 1990 to 1991.

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

I have not practiced law alone.

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

1991 – 1994  
Keker & Van Nest  
710 Sansome Street  
San Francisco, California 94111  
Associate

1995 – 1996  
Kellogg, Huber, Hansen, Todd & Evans  
1615 M Street, NW  
Washington, D.C. 20036  
Associate

1996 – 2002  
United States Attorney's Office for the District of Columbia  
555 4<sup>th</sup> Street, NW  
Washington, D.C. 20530  
Assistant United States Attorney

- 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.

In private practice, I was a litigator working on a variety of complex business and some white-collar defense matters. As an Assistant United States Attorney, I prosecuted criminal matters.

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

In private practice, I specialized in First Amendment defamation law and worked on cases for clients such as NBC and The Recorder, a legal newspaper. I also represented other corporate entities, such as insurance companies and banks, in business litigation. As a prosecutor, I specialized in homicide cases.

- 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.

As a lawyer, I have always practiced 100% of my time in litigation and have never done any transactional work. In private practice, I appeared in court occasionally; as a prosecutor, I appeared in court almost every day.

- i. Indicate the percentage of your practice in:

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

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 40% |
| 2. criminal proceedings: | 60% |

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

I have tried approximately 40-45 cases to jury verdict. In 90% of the cases I was the lead or sole trial counsel, and in 10% I was associate counsel. I have also tried approximately 25-30 bench trials to verdict. Again, in about 90% of the cases I was the lead or sole trial counsel, and in 10% I was associate counsel.

- i. What percentage of these trials were:
  - 1. jury: 60%
  - 2. non-jury: 40%
- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:
- a. the date of representation;
  - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
  - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Each of the following cases was a homicide jury trial that went to verdict in 2000-2002 in D.C. Superior Court. I was the sole prosecutor in each trial unless a co-counsel is listed. All cases resulted in guilty verdicts.

- 1. United States v. Mesa, F-1002-01 (Judge Robert Richter). Co-counsel: Jennifer M. Collins, Wake Forest School of Law, 1834 Wake Forest Road; Winston-Salem, NC 27109, 336-758-3852. Defense counsel: Ferris Bond, Box 83699, Gaithersburg, MD 20883, 202-682-4100.

The defendant was a freshman at Gallaudet University, the nation's premier college for the deaf, when he murdered a classmate by beating him to death with a chair. Five months later, he killed another classmate by stabbing him multiple times. Both of these murders occurred in dormitories and led to a state of great anxiety on campus. After the defendant was ultimately caught, his prosecution involved a number of complicated legal issues, including the assertion of the marital privilege by his girlfriend, deaf-interpreter questions surrounding his confession, DNA evidence, and the prior arrest of another suspect. At trial, the defendant ultimately asserted an insanity defense, and several experts testified to

his mental state at the time of the crime. In addition, the defendant himself testified and threatened to kill me during my cross-examination of him. After a trial lasting several weeks, he was convicted of both murders and sentenced to life without parole.

2. United States v. Weldon, F-6482-99 (Judge Robert Richter): Defense counsel: Kenny Robinson, 717 D St., NW; 4th Floor; Washington, D.C. 20004, 202-347-5901.
3. United States v. Lewis, F-6780-99 (Judge Lee Satterfield): Co-counsel: Glenn Kirschner, United States Attorney's Office, 555 4<sup>th</sup> St., NW; Washington, DC 20530, 202-514-7425. Defense counsel: John Copacino, Georgetown Legal Clinic; 111 F St., NW; Washington, D.C. 20001, 202-662-9500.

Defendant Weldon and Lewis hatched a plan to rob an elderly man who was paying them for sex in his house. When the robbery went awry, the two men killed the victim by stabbing him with an array of sharp instruments. The victim lived with his sister, who responded to the commotion by coming downstairs, only to end up being killed as well by near decapitation. Both killers were apprehended and gave statements blaming each other. This required severance of the trials because the statement of each could not be used against the other. Since there were no surviving eyewitnesses, the first trial of Lewis proceeded on circumstantial evidence and his admission of having been present at the scene. After he was convicted by a jury, he was convinced to admit his involvement and testify in Weldon's trial, which he did. Weldon, too, was convicted, and both received substantial prison sentences.

4. United States v. Evans, F-7638-00 (Judge Robert Richter): Defense counsel: Nathan Silver, 6300 Orchid Drive; Bethesda, MD 20817, 301-229-0189.

The defendant, jealous over his wife's friendship with another woman, entered her house and shot both women. While the friend died, the wife miraculously survived a gunshot wound to the head and testified at trial. At trial the significant legal issue involved the admissibility of other crimes evidence – namely, other incidents of violence by the defendant against his wife. In addition, there were cell-site records and other physical evidence tying the defendant to the murder. After his conviction, he was sentenced to a substantial prison term.

5. United States v. Turner, F-724-98 (Judge Nan Shuker): Co-counsel: Julie Grohovsky, Department of Justice, 950 Pennsylvania Avenue, NW; Washington, DC 20530, 202-514-2000. Defense counsel: Tanya Chutkan, 5301 Wisconsin Avenue, NW; Washington, DC 20015; 202-237-2727.

The defendant in this case was charged with the rape and murder of two women, to whom he had offered crack cocaine and then strangled during sex. The trial was one of the first in the District of Columbia Superior Court to rely primarily on

DNA evidence. There were no eyewitnesses to either crime since the defendant had lured homeless women to secluded areas for sex. As a result, the case included various forms of forensic evidence, including DNA, hair and fibers, and medical testimony regarding injuries and cause of death. In addition, another woman whom the defendant had attempted to rape and strangle testified about the defendant's *modus operandi*. The jury convicted the defendant of both murders, and he ultimately decided to forgo an appeal.

6. United States v. Butts, F-1804-00 (Judge Shellie Bowers): Defense counsel: Harold Martin, 1140 Connecticut Ave., NW; Suite 1100; Washington, DC 20036, 202-452-8080.

The defendant, who was an off-duty police sergeant, was driving her car late one night when she struck and killed a homeless man crossing the street. The sergeant was legally intoxicated at the time and was ultimately convicted of involuntary manslaughter. The trial involved an accident-reconstruction expert, as well as testimony regarding the effects of alcohol on a driver's vision and reactions. After conviction, the estranged family of the victim worked with me to craft an appropriate sentence, which the judge ultimately imposed. It required no jail time, but the sergeant lost her job and had to undergo treatment and perform significant alcohol-related community service.

7. United States v. Hager, F-8602-97 (Judge Judith Retchin): Defense counsel: Richard Gilbert, 601 Pennsylvania Avenue, NW; Suite 900 South; Washington, DC 20004, 202-898-0857.

This case involved the retrial of a case that another assistant had previously tried to a hung jury. The defendant, while wearing a mask, had invaded the home of a rival and shot him to death after dragging him from the bed in which he, his wife, and infant were lying. The case involved significant identification issues, which the jury had been unable to resolve in the first trial. In addition, in the retrial, a government witness, falsely attempted to inculpate himself to assist his friend, the defendant. Nonetheless, the jury ultimately convicted the defendant, who then faced the death penalty in Virginia for other murders he had committed there.

8. United States v. Mercer, F-1061-96 (Judge Judith Retchin): Defense counsel: Joseph Conte, 400 7<sup>th</sup> St., N.W.; Washington, DC 20004, 202-638-4100.

This case also involved the retrial of a case previously tried by another assistant. This time, however, the Court of Appeals had reversed the defendant's conviction because of an error the trial court had made regarding severance. The defendant and a co-defendant, whose conviction had been affirmed, shot a man to death in a dispute between two rival neighborhoods. This case involved a number of hostile witnesses who claimed a lack of memory and were impeached with prior testimony, as well as the cooperation of the co-defendant. In the middle of the trial, the defendant, who was not being held, fled the jurisdiction. The jury

convicted him *in absentia*, and he was ultimately found several months later and sentenced to a long prison term.

9. United States v. Donelson, F-1518-00 (Judge Pat Wynn): Defense counsel: Daniel McGuan, deceased.

The defendant here killed another man from the same neighborhood after a trivial dispute. Because the murder occurred in a public housing project, many of the witnesses knew both men and were reluctant to testify or get involved. The case featured important photographic evidence of the scene and other physical evidence that helped to tie the defendant to the murder. He was convicted and, after an unsuccessful motion for a new trial, sentenced to a lengthy term of incarceration.

10. United States v. Tyer, F-1499-00 (Judge Patricia Broderick): Defense counsel: Anna Rodrigues, 633 Indiana Avenue, NW; Washington, DC 20004, 202-628-1200.

The police who responded to this case initially thought that the victim had died accidentally during a house fire. They later realized that she had been strangled and that the fire had been intentionally set during a dispute about money and crack cocaine. The case was a sort of closed-house mystery in that 6-7 people (all related or close friends) had all been in the house at the time, no one else had entered or exited, and one or more of the group had to be guilty. Witnesses who had at first sought to protect the defendant, who was the patriarch, subsequently divulged his role, and he was convicted at trial. The case not only featured a closed set of witnesses whom both sides called, but also arson expert testimony. The defendant received a 20-year sentence.

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I represented the Government in numerous criminal matters that ended in plea dispositions. The most significant was the case of United States v. Jones, in which the defendant ultimately pleaded guilty to having shot several other teenagers in front of the National Zoo on Easter Monday. The case, which I prosecuted with another assistant, received substantial publicity because of the mid-afternoon shooting of students on Connecticut Avenue during a school holiday. The defendant was under 18 at the time, and plea negotiations were sensitive because of the publicity, the number of victims, and the substantial time the Government was seeking. He finally accepted the plea and was sentenced to 25 years' imprisonment.

I have never performed any lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

In the 2003 spring semester, I co-taught a seminar at George Washington University Law School entitled "Anatomy of a Homicide: Advanced Problems in Criminal Procedure" with Jennifer M. Collins, now a law professor at Wake Forest. She can be reached at Wake Forest School of Law, 1834 Wake Forest Road; Winston-Salem, NC 27109, 336-758-3852. We designed the course and taught it together. The course looked at homicide prosecutions in the District of Columbia. A draft syllabus is attached; I believe the final one had some alterations, but neither I nor my co-teacher can locate the final one.

In the 1989 spring semester, while attending Yale Law School, I taught a seminar at Yale College called "Law and Literature." The class read novels and discussed their depictions of lawyers and courts. I have not retained a syllabus.

In the academic year 1986-1987, I taught 8<sup>th</sup> and 9<sup>th</sup> grade at the Horace Mann School in New York. I taught Ancient and Medieval History to the 8<sup>th</sup> graders and Modern European History to the 9<sup>th</sup> graders. No syllabus for this course existed.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

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

I currently coach three youth basketball teams (unpaid). I hope to continue this. In addition, at some point, and consistent with the Code of Judicial Ethics, I may consider teaching as a visiting lecturer at a local law school.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

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

My father, Emanuel Boasberg, III, was for many years the chairman of the D.C. Historic Preservation Review Board. If any matters concerning the Board on which he worked came before me, I would recuse myself. If my former law firm, Kellogg, Huber, Hansen, Todd & Evans, appeared before me, I would inform the parties and recuse myself if any party so requested.

- 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 follow the federal Judicial Code of Conduct in all potential conflicts of interest.

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

While working in private practice, I represented a number of clients *pro bono*.

For example, I acted as an *amicus* for an indigent man named Christopher Small, who had been convicted in California of a felony. I appeared in the trial court in California in an unsuccessful effort to obtain a new trial. Then, after I moved back to Washington, I acted as an *amicus* on his appeal and returned to California to argue in front of the California Court of Appeals, which resulted in the conviction being overturned. I also represented *pro bono* the San Francisco Black

Firefighters Association, which was being investigated for fraud, and I was able to get the District Attorney's Office to dismiss the case. In addition, I represented *pro bono* an indigent man accused of property crimes, ultimately obtaining a dismissal of those charges as well.

I co-founded, and have for over 15 years chaired a committee that annually awards, the Class of 1981/Bishop John T. Walker Fellowship. The Fellowship was created to honor Bishop Walker, Washington's first black bishop and a classmate's father. Each year, we award a grant of \$2000-5000 to students for social service in a lesser developed area of the world or in the United States. Past winners have worked, *e.g.*, at an AIDS clinic in Africa, an orphanage in India, schools in Haiti and Nicaragua, and an Indian reservation.

As an AUSA I never technically represented any individual because my client was always the United States. Yet, particularly when prosecuting homicides and other violent crimes, I interacted every day with the disadvantaged: family members whose loved ones had been brutally murdered, victims who had been attacked and severely injured themselves, and witnesses who had seen heinous acts, yet who were now terrified of assisting the government lest they themselves be killed. My role was to seek justice on their behalf and to do what I could to assist them in extremely difficult times.

26. **Selection Process:**

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

D.C. Delegate Eleanor Holmes Norton established a 17-person D.C. Judicial Nominations Commission ("JNC") to screen applicants for federal judgeships in the District of Columbia. The JNC invited interested applicants to fill out a lengthy application in the Spring of 2009. I submitted my application in May 2009 and was interviewed by the JNC in June. The JNC then forwarded nine names to Del. Norton, who interviewed those finalists. My interview with her took place on October 13.

I was informed in late November by an official in the Department of Justice's Office of Legal Policy that I was under consideration, and he forwarded me several forms to begin filling out. Since that time I have remained in contact with other pre-nomination officials at OLP. On January 28, 2010, I interviewed at the

Department of Justice with OLP officials and a member of the White House Counsel's Office. The President submitted my nomination to the Senate on June 17, 2010.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, **JAMES EMANUEL BOASBERG**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

June 15, 2010

(DATE)

[Signature]  
(NAME)

Linda Y. Gray  
(NOTARY)

My Commission expires  
January 31, 2015