

12262 Rue Cheaumont
San Diego, CA 92131

January 6, 2014

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the questionnaire that I previously filed in connection with my nomination on August 1, 2013, to be United States Circuit Judge for the Ninth Circuit. Incorporating the additional information listed below, I certify that the information contained in these documents is, to the best of my know ledge, true and accurate.

Q. 12(d)

Since my previously-submitted questionnaire, I have given the following presentation:

December 12, 2013: An Assistant United States Attorney and I discussed closing argument strategies and relevant case law with prosecutors at the U.S. Attorney's Office for the Southern District of California. PowerPoint and outline supplied.

I am also forwarding an updated net worth statement and financial disclosure report as requested in the questionnaire. I thank the Committee for its consideration of my nomination.

Yours Truly,



John B. Owens

cc: The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Byron Owens

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

United States Circuit Judge for the Ninth Circuit

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

Office: Munger, Tolles & Olson LLP
 355 South Grand Avenue, 35th Floor
 Los Angeles, California 90071

Residence: San Diego, California

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

1971; Washington, District of Columbia

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.

1993 – 1996, Stanford Law School; J.D. (with distinction), 1996

1989 – 1993, University of California, Berkeley; B.A. (with high distinction), 1993

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2012 – present
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor

Los Angeles, CA 90071
Partner

2004 – 2012
U.S. Attorney's Office
Southern District of California
880 Front Street
San Diego, CA 92101
Chief, Criminal Division (2010 – 2011)
Deputy Chief, Major Frauds Section (2008 – 2010)
Assistant U.S. Attorney (2004 – 2008)

2001 – 2004
U.S. Attorney's Office
Central District of California
312 North Spring Street
Los Angeles, CA 90012
Assistant U.S. Attorney

2000 – 2001
O'Melveny & Myers LLP
1625 Eye Street, N.W.
Washington, DC 20006
Litigation Associate

1998 – 1999
U.S. Department of Justice
Office of Consumer Litigation
(now Consumer Protection Branch)
1331 Pennsylvania Avenue, N.W.
Washington, DC 20530
Trial Attorney

1997 – 1998
Supreme Court of the United States
One First Street, N.E.
Washington, DC 20543
Law Clerk to Associate Justice Ruth Bader Ginsburg

1996 – 1997
Ninth Circuit Court of Appeals
940 Front Street
San Diego, CA 92101
Law Clerk to Judge J. Clifford Wallace

Summer 1995
McCutchen, Doyle, Brown & Enersen
(now Bingham McCutchen)
Three Embarcadero Center
San Francisco, CA 94111
Summer Associate

Summer 1993
Golden State Warriors
101 Broadway
Oakland, CA 94607
Marketing Assistant

Other affiliations (uncompensated)

2013 – present
Harker School
500 Saratoga Avenue
San Jose, CA 95128
Board of Fellows

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 U.S. Military. I timely 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.

Director's Award, U.S. Department of Justice (Superior Performance in a Managerial or Supervisory Role as Chief of the Criminal Division) (2011)

Secret Service Honor Award from the Director of the U.S. Secret Service (as lead counsel in *United States v. Cao*) (2011)

United States Postal Service Office of Inspector General (Award for Prosecutorial Efforts) (2010)

Internal Revenue Service, Criminal Investigation Division (Recognition Award) (2010)

Director's Award, U.S. Department of Justice (Superior Performance as an Assistant United States Attorney in the *U.S. v. Treadwell* trial) (2009)

Harker School Distinguished Alumni Award (2007)

Poway Boxing Club Member of the Year (2007)

United States Department of Justice (Special Achievement) (2005)

United States Postal Inspection Service (Award for Efficient Prosecution) (2003)

Federal Bureau of Investigation (Award for Excellence) (2001)

Nathan Abbott Scholar (highest cumulative grade point average for Class of 1996)

Second-Year Honor (highest cumulative grade point average for second-year student) (1996)

Order of the Coif (1996)

Steven M. Block Award (1996)

Stanford Law Review Board of Editors Award (1996)

Phi Beta Kappa Honors Society (1993)

Phi Alpha Theta Honors Society (1993)

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

American Bar Association

Association of Business Trial Lawyers (San Diego and Los Angeles Chapters)

Los Angeles County Bar Association

Los Angeles Criminal Justice American Inn of Court

San Diego County Bar Association

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, 1996

District of Columbia, 2000 (inactive)

There have been no lapses in membership although my status in the District of Columbia remains inactive.

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

Supreme Court of the United States (2001)

United States Court of Appeals for the Seventh Circuit (2000)

United States Court of Appeals for the Ninth Circuit (2002)

United States District Court for the Central District of California (2001)

United States District Court for the Southern District of California (2004)

To the best of 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.

Chantemar Homeowners' Association (2010 – present)
Facilities Committee

Stanford Law School 2011 Reunion Committee for Class of 1996 (2011)

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

To the best of my knowledge, the organization listed in response to 11a above does not currently discriminate nor did it formerly discriminate 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.

The following list reflects my best efforts to identify any titles, publishers, or dates of books, articles, reports, letters to the editor, editorial pieces, or other published material I have written or edited, including material published only on the Internet. To compile this list, I searched my own records and Internet sources.

The Clerk, The Thief, His Life as a Baker: Ashton Embry and the Supreme Court Leak Scandal, 27 J. SUP. CT. HIST. 14 (2002). Copy supplied.

Grisham's Legal Tales: A Moral Compass For The Young Lawyer, 48 UCLA L. REV. 1431 (2001). Copy supplied.

"Just My Blonde Luck," *Legal Times*, July 30, 2001. Copy supplied.

The Clerk, The Thief, His Life as a Baker: Ashton Embry and the Supreme Court Leak Scandal of 1919, 95 NW L. REV. 271 (2000). Copy supplied.

"Tell All Clerkarazzi," *Daily Journal*, Apr. 27, 2000. Copy supplied.

Have We No Shame?: Thoughts on Shaming, White Collar Criminals, and the Sentencing Guidelines, 50 AMER. U. L. REV. 1047 (2000). Copy supplied.

The Simple Truth about 9 Scorpions and The Tenth Justice: Supreme Court Law Clerks in Legal Suspense Novels, 87 CAL. L. REV. 233 (2000). Copy supplied.

Westec Story: Gated Communities and the Fourth Amendment, 34 AM. CRIM. L. REV. 1127 (1997). Copy supplied.

Judge Baer and the Politics of the Fourth Amendment: An Alternative to Bad Man Jurisprudence, 8 STAN. L. & POL'Y REV. 189 (1997). Copy supplied.

"In Life, Nothing Is Automatic," *Stanford Law Journal*, Dec. 1995. Copy supplied.

"Worth The Nosebleed: In Defense of the 'Cheap Seats,'" *Warriors Playbook* (undated, approximately 1992 or 1993). Copy supplied.

"A Game Called Horse," *Warriors Playbook* (March 1992). Copy supplied.

"My Game With Manute," *Warriors Playbook* (Jan. 1992). Copy supplied.

“A Man Called Shane,” *Warriors Playbook* (undated, approximately 1991 or 1992). Copy supplied.

From 1993 through approximately 1998, I occasionally wrote short articles for a series named “You Make The Call” that appeared in various professional basketball team magazines, including *Warriors Playbook*. The articles examined certain obscure rules of the National Basketball Association. The articles do not have individual titles, and many are undated. Copies supplied.

I also recall writing similar articles for *Warriors Playbook* about the NBA Draft and a Warriors preseason game, but I could not locate copies of these articles.

- 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.

I have not prepared or contributed to the preparation of any such reports, memoranda or policy statements.

- 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.

The following list reflects my best efforts to identify any communications to public bodies or public officials on matters of public policy or legal interpretation that I issued or provided or that others presented on my behalf. To compile this list, I searched my own records and Internet sources.

Joint letter to Senate Judiciary Committee supporting nomination of Rachel Barkow to join the United States Sentencing Commission (May 2, 2013). Copy supplied.

Joint letter to Senate Judiciary Committee supporting nomination of Sri Srinivasan to become a judge on the United States Court of Appeals for the District of Columbia Circuit (April 4, 2013). Copy supplied.

Joint letter to Senate Judiciary Committee supporting nomination of Caitlin Halligan to become a judge on the United States Court of Appeals for the District of Columbia Circuit (February 28, 2011). 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.

The following list reflects my best efforts to identify any speeches or talks that I have given. To compile this list, I searched my own records and Internet sources.

April 9, 2013: I met with students at Stanford Law School, Stanford, California, to discuss Ashton Embry. I also answered questions about serving as a federal prosecutor. PowerPoint supplied.

October 9, 2012: Remarks at the U.S. Department of Justice’s Investor Fraud Summit held at Rossmoor, California. Video supplied.

November 2011: I served as a moot court judge for the National Criminal Procedure Tournament, held at the University of San Diego, San Diego, California. I have no notes, transcript, or recording. The address of University of San Diego Law School is 5998 Alcalá Park, San Diego, CA 92110.

February 23, 2001: Remarks at the *UCLA Law Review*’s Symposium on Law and Popular Culture, which was held at UCLA Law School, Los Angeles, California. My talk focused on my article, “Grisham’s Legal Tales,” which appeared in the *UCLA Law Review*. Copy of article on which discussion was based supplied in response to Question 12a.

1998 or 1999: I spoke at Stanford Law School with students about federal clerkships, Stanford, California. I have no notes, transcript, or recording. The address of Stanford Law School is Crown Quadrangle, 559 Nathan Abbott Way, Stanford, CA 94305.

Approximately 1998 and 1999: I spoke about the legal system with high school students visiting Washington D.C. I do not recall the sponsorship organization for this talk. I have no notes, transcript, or recording, and I do not recall the address of where the talks occurred.

1997 or 1998: I spoke on campus with University of California, Berkeley undergraduate students about law school on approximately two occasions. I have no notes, recording, or transcript of my talks. The address of the University of California, Berkeley is 101 Sproul Hall, Berkeley, CA 94704.

Over the years, I have spoken with clients, law students, summer interns, and colleagues about my article, *The Clerk, The Thief, His Life as a Baker: Ashton Embry and the Supreme Court Leak Scandal of 1919*, 95 NW L. Rev. 271 (2000). I used the same PowerPoint supplied for the April 9, 2013 entry.

Also over the years, I have guest lectured at law schools in San Diego about appellate and white collar criminal matters. I do not have a complete record from every one of these appearances, but I have supplied copies of outlines from lectures that I gave on March 26, 2010, May 27, 2012, and November 13, 2012, as well as PowerPoints that I used during these lectures, which I was able to locate in my records.

- 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.

The following list reflects my best efforts to identify the interviews I have given to newspapers, magazines, or other publications, or radio or television stations. To compile this list, I searched my own records and Internet sources. Some of these stories were reprinted in other media sources. As an Assistant U.S. Attorney, I occasionally granted brief interviews to local radio stations about convictions and sentencing hearings. I do not recall the dates of these interviews or the stations that conducted them, and I have been unable to obtain copies or transcripts of these radio interviews or records of the relevant dates.

Hugh B. Kaplan, *Sixth Amendment Jury-Trial Right Applies To Facts That Trigger Mandatory Minimum*, Bloomberg BNA Criminal Law Reporter, June 19, 2013. Copy supplied.

Henry Meier, *Rare Ralph Lauren Non-Prosecution Agreement Fuels Debate Over Disclosure to SEC*, Daily Journal, Apr. 24, 2013. Copy supplied.

Henry Meier, *Defense Tactics in KPMG Insider Trading Case Raise Legal Eyebrows*, Law360, Apr. 15, 2013. Copy supplied.

Sandra Dibble & Lily Leung, *Suspicious Home Purchase Went Unnoticed*, UTSanDiego.com, Mar. 23, 2013. Copy supplied.

Henry Meier, *San Diego Lawyers Face SEC Stock Manipulation Charges*, Daily Journal, Mar. 18, 2013. Copy supplied.

American Greed, "Wealth Builders Club," originally aired on CNBC on Feb. 28, 2013. Video supplied.

Henry Meier, *In Unusual Ruling, Judge Allows FCPA Bribery Suit*, Daily Journal, Feb. 12, 2013. Copy supplied.

KNSD 7 San Diego News, remarks on ICE law enforcement policy, Dec. 5, 2012. I have been unable to obtain a copy.

Hadley Robinson, *Government's New FCPA Guidelines Leave Prosecutors Plenty of Flexibility, Defense Lawyers Say*, Daily Journal, Nov. 27, 2012. Copy supplied.

American Greed: "The Fugitives, Raiders of the Lost Retirement," originally aired on CNBC on Aug. 22, 2012. Video supplied.

Tony Mauro, *Secretive U.S. Supreme Court Has Seen Its Leaks*, Law.com, July 11, 2012. Copy supplied.

Josh Gerstein, *Justice Department Dropped Case Charging Threats to Barack Obama*, Politico.com, Mar. 30, 2012. Copy supplied.

Chief of Criminal Division for U.S. Attorney's Office Set to Join Munger, Tolles & Olson, JD Journal, Dec. 5, 2011. Copy supplied.

Ginny LaRoe, *Munger, Tolles Snags San Diego Federal Prosecutor*, The Recorder, Nov. 29, 2011. Copy supplied.

Camille DeMere, *Munger Tolles Adds Calif. Prosecutor To Litigation Team*, Law360, Nov. 29, 2011. Copy supplied.

Sara Randazzo, *The Churn: Lateral Moves and Promotions in the Am Law 200*, The American Lawyer, Nov. 29, 2011. Copy supplied.

Kristina Houck, *Sentencing Rescheduled for Former Navy Man Guilty of Cyberstalking*, City News Service, Oct. 17, 2011. Copy supplied.

John B. Owens, JD '96 Advises Students Aspiring to Federal Prosecution, Summer of 2011 Issue of Create Change – Stanford Law School. Copy supplied.

Greg Moran & Ryan Gabrielson, *Tax Convictions Comparatively Low In San Diego*, San Diego Union Tribune, Mar. 28, 2011. Copy supplied.

Solana Beach money trader sentenced in currency scam, Del Mar Times, May 26, 2010. Copy supplied.

Mike Allen, *Fallbrook Man Owes \$862,000 in Restitution*, San Diego Business Journal, Mar. 1, 2010. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding Technology Employee Sentenced for Mail Fraud and Filing False Tax Return, Mar. 1, 2010. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding Former Employee of San Diego Financial Institution Sentenced for Bank Fraud, Sep. 21, 2009. Copy supplied.

Kelly Thornton, *Pension Cases Slow Going, Even By Court's Standards*, voiceofsandiego.org, May 19, 2009. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding Sentencing of Former President of Investment Company, Apr. 15, 2009. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding President of 'Brixon Group' Ponzi Scheme Pleading Guilty, Jan. 16, 2009. Copy supplied.

Neal Putnam, *\$45K Fine in Tax Evasion Case*, La Jolla Village News, Oct. 9, 2008. Copy supplied.

Untitled Story on Marjan Pousti Prosecution, City News Service, Oct. 3, 2008. Copy supplied.

Untitled Story on Marjan Pousti Prosecution, City News Service, July 17, 2008. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding Two Sentenced to Serve 78 Months in Prison for Alien Smuggling, Apr. 7, 2008. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding Former Attorney Sentenced to Federal Prison and Ordered to Pay \$4.5 Million in Restitution to Victims, Apr. 4, 2008. Copy supplied.

Press Release, Office of the United States Attorney – Southern District of California, Regarding Fugitive Apprehended in Nicaragua Arraigned on Fraud Charges, Feb. 28, 2008. Copy supplied.

Emily Grant, *Learning from the Best: Judge Wallace and His Clerks*, San Diego Lawyer, Sept./Oct. 2007. Copy supplied.

Attorney Pleads Guilty to Scam, Faces 10 Years, SDNews.com, Approximately 2007. Copy supplied.

Neil Putnam, *Point Loma Couple Sentenced for Fraud*, SDNews.com, Nov. 1, 2006. Copy supplied.

Untitled Story on Brunning Prosecution, City News Service, Oct. 23, 2006. Copy supplied.

Kelly Thornton, *Report's Effect on Criminal Cases Likely to Be Small*, San Diego Union Tribune, Aug. 9, 2006. Copy supplied.

Kelly Thornton, *Pension Case Legal Aid OK'd, but Records Remain Sealed*, San Diego Union Tribune, May 25, 2006. Copy supplied.

Las Vegas Father and Son Sentenced in Sports Memorabilia Fraud Case, North County Times, Mar. 22, 2006. Copy supplied.

Press Release, Federal Bureau of Investigation – San Diego Field Office, Regarding Sentencing of Scheinmans in Sports Memorabilia Fraud Case, Mar. 22, 2006. Copy supplied.

Jan. 6, 2006: I participated in a press conference regarding *U.S. v. Saathoff et al.* I have no notes, transcript, or recording, but press coverage is supplied.

SD Sports Memorabilia, Aug. 12, 2005. Copy supplied.

John Ryan, *Feds Agree Not to Use Interviews in Spy Case*, Daily Journal, Mar. 17, 2004. Copy supplied.

Counterfeit Viagra, City News Service, Jan. 26, 2004. Copy supplied.

Man Faces Federal Trafficking Charges for Faux Sex Drugs, Daily News of Los Angeles, Jan. 10, 2004. Copy supplied.

Counterfeit Viagra, City News Service, Jan. 9, 2004. Copy supplied.

Air Rage, City News Service, Jan. 6, 2003. Copy supplied.

Matt Krasnowski, *El Cajon man sentenced to probation in air rage after 202 days in custody*, Copley News Service, Jan. 6, 2003. Copy supplied.

Allison Lomas, *Palestinian Sentenced to Prison for Making False Threats to Crash Plane*, Metropolitan – News Service, Nov. 15, 2002. Copy supplied.

Jennifer English, *Flight Interference*, City News Service, Nov. 14, 2002. Copy supplied.

Matt Krasnowski, *Palestinian Sentenced to 8 Months in Prison*, Copley News Service, Nov. 14, 2002. Copy supplied.

Flight Interference, City News Service, Oct. 29, 2002. Copy supplied.

Laura Loh, *Man Admits Making Threats on Plane*, Los Angeles Times, July 9, 2002. Copy supplied.

Matt Krasnowski, *Palestinian Man Pleads Guilty in Airplane Threat*, Copley News Service, July 8, 2002. Copy supplied.

Joan Osterwalder, *Flight Interference*, City News Service, July 8, 2002. Copy supplied.

Matt Krasnowski, *El Cajon Man Convicted in Air Rage Case*, Copley News Service, May 23, 2002. Copy supplied.

Tony Mauro, *High Court's Look at Death Penalty Apt to Shift in Wake of Recent State Decision*, Legal Times, Aug. 13, 2001. Copy supplied.

Hoyt Sze, *Cal Candidates – If David Duke is elected governor of Louisiana, should UC Berkeley go to the Sugar Bowl?*, Daily Californian, Nov. 12, 1991. Copy supplied.

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

I have not held any judicial office.

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

- i. Of these, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]
civil proceedings:	_____%
criminal proceedings:	_____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the

case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

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

I have not been a judge.

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

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

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

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

I have not held any public offices. 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.

I have not held any offices in nor rendered any services for any political party, election committee, or political campaign.

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;

From 1996 to 1997, I was a law clerk for the Honorable J. Clifford Wallace, Circuit Judge of the Ninth Circuit Court of Appeals.

From 1997 to 1998, I was a law clerk for the Honorable Ruth Bader Ginsburg, Associate Justice of the Supreme Court of the United States.

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

I have never 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.

1998 – 1999
U.S. Department of Justice
Office of Consumer Litigation
(now Consumer Protection Branch)
1331 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney

2000 – 2001
O'Melveny & Myers LLP
1625 Eye Street, N.W.
Washington, DC 20006
Litigation Associate

2001 – 2004
U.S. Attorney's Office
Central District of California
312 North Spring Street
Los Angeles, CA 90012
Assistant U.S. Attorney

2004 – 2012
U.S. Attorney's Office
Southern District of California
880 Front Street
San Diego, CA 92101
Chief, Criminal Division (2010 – 2011)
Deputy Chief, Major Frauds (2008 – 2010)
Assistant U.S. Attorney (2004 – 2008)

2012 – present
Munger, Tolles & Olson LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071
Partner

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

I have not served as a mediator or arbitrator.

b. Describe:

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

From 1998 until 1999, I worked as a trial attorney for the Office of Consumer Litigation at the Department of Justice, handling white collar criminal investigations and affirmative civil litigation around the country. I investigated violations of the Federal Food, Drug and Cosmetic Act and other criminal consumer protection laws.

From 2000 until 2001, I worked as an associate at O'Melveny & Myers LLP in Washington, DC. I worked primarily on appellate and trial matters, including several Supreme Court cases and white collar jury trials.

From 2001 until 2004, I worked as an Assistant United States Attorney in the Central District of California. I began in the General Crimes Section, prosecuting a wide variety of violent crimes, narcotics crimes, white collar crimes, and other crimes. I transferred to the Complaints Section in 2002, and then into the Public Corruption and Government Fraud Section in approximately 2003. In addition to my line duties, which included drafting and arguing appeals for my own cases, I also volunteered to handle additional appeals before the Ninth Circuit. As a prosecutor in the Central and Southern Districts, I was counsel of record in more than 20 cases before the Ninth Circuit, and regularly participated in moot courts to prepare other attorneys for argument.

From 2004 until 2012, I worked as an Assistant United States Attorney in the Southern District of California. My primary focus was investigating and prosecuting complex white collar crimes, including fraud, health care, money laundering, public corruption, tax, intellectual property, and national security cases, as well as alien smuggling and narcotics offenses. I also drafted appellate briefs and argued cases before the Ninth Circuit. In 2008, I became the Deputy Chief of the Major Frauds Section, and received a Director's Award in 2009 for my work on *United States v. Treadwell*. In 2010, I became the Chief of the Criminal Division. As the Chief of the Criminal Division, I supervised more than 100 attorneys and was responsible for overseeing more than 5,000 prosecutions each year in one of the busiest offices in the United States. As Criminal Chief, I regularly interacted with district court judges, federal magistrates, and top law enforcement officials in the Southern District of California. I also would review each Ninth Circuit brief written by my office. I received the 2011 Director's Award for my service as Criminal Chief.

Since January 2012, I have worked as a partner at Munger, Tolles & Olson LLP. At Munger, I have represented various individuals and corporations in a wide variety of civil, criminal, and administrative matters. I also have filed pro bono briefs with the Supreme Court of the United States in

criminal matters. I regularly participate in moot courts for appeals filed in state and federal courts around the country.

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

At the Office of Consumer Litigation, I investigated and prosecuted a variety of federal white collar crimes, including the manufacture and sale of GHB and odometer fraud. At O'Melveny & Myers LLP, I represented individuals in civil and criminal litigation in the trial court, and corporations in the trial and appellate courts, including the Supreme Court of the United States. At the U.S. Attorney's Offices in the Central and Southern Districts, I worked with numerous local, state, and federal law enforcement agencies. At Munger, Tolles & Olson LLP, I have focused on civil litigation, administrative matters, white collar criminal defense, appellate litigation, and internal investigations on behalf of corporate and individual clients. I also have handled appellate matters for pro bono clients.

- 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.

100% of my practice has been in litigation. As a federal prosecutor, I appeared in federal court on a daily or weekly basis. In private practice, my court appearances have been more limited.

- i. Indicate the percentage of your practice in:

1. federal courts:	95%
2. state courts of record:	2.5%
3. other courts:	0%
4. administrative agencies:	2.5%

- ii. Indicate the percentage of your practice in:

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

- 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 14 cases to verdict or final decision. Four were as sole counsel, eight were as lead or co-counsel, and two were as associate counsel. I also have tried two cases that settled after extensive proceedings before a jury. I also have tried

between 10 and 20 petty offense trials to verdict before federal magistrate judges. I served as sole counsel in these trials.

- i. What percentage of these trials were:
 1. jury: 85%
 2. non-jury: 15%

- 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.

As an associate at O'Melveny & Myers, I participated in the drafting of certiorari petitions in the following cases:

United Airlines, Inc. v. Frank, No. 00-0948 (2000) (petition for writ of certiorari, 2000 WL 34000446) (cert. denied).

Advanced Stretchforming International, Inc. v. NLRB, No. 00-1829 (2001) (petition for writ of certiorari, copy supplied) (cert. denied).

Memorial Hospitals Association v. Humphrey, No. 00-1860 (2001) (petition for writ of certiorari, 2001 WL 34125239) (cert. denied).

As a partner at Munger, Tolles & Olson LLP, I have served as counsel of record for three amicus briefs:

Alleyne v. United States, 11-9335 (amicus brief for National Association of Criminal Defense Lawyers in support of petitioner, 2012 WL 5884896).

United States v. Davila, 12-16 (amicus brief for National Association of Criminal Defense Lawyers in support of respondent, 2013 WL 1491548).

Kaley v. United States, 12-464 (amicus brief for California Attorneys for Criminal Justice in support of petitioner, 2013 WL 3362081).

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.

I have listed these matters in reverse chronological order.

1. *United States v. Cao*, 2013 WL 2367782 (9th Cir. 2013) (Trial in December 2010).

Cao was charged with conspiracy and wire fraud in a complex investment fraud scheme, in which Cao defrauded his victims of millions of dollars. After a week-long trial in which more than 20 witnesses from around the country testified, Cao was convicted of multiple counts. Judge Larry A. Burns of the Southern District of California sentenced Cao to 360 months, one of the longest white collar sentences in the history of the Southern District of California. The Ninth Circuit affirmed the conviction and sentence. I represented the United States in this case at trial.

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2. *United States v. Hauze*, 2012 WL 6758068 (9th Cir. 2012) (Trial in January 2010).

Hauze was charged with mail fraud, wire fraud, and filing false tax returns arising from a complex currency trading investment scheme. Hauze defrauded his victims out of millions of dollars, and attempted to cover up his fraud and tax issues with false records. After a two-week trial featuring more than 25 witnesses from around the country, Hauze was convicted of all counts. Judge Thomas J. Whelan of the Southern District of California sentenced Hauze to 108 months, and the Ninth Circuit affirmed the conviction and sentence. I represented the United States in this case at trial and wrote the appellate brief.

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3. *United States v. Treadwell*, 593 F.3d 990 (9th Cir. 2010) (Trial in May 2008).

Treadwell, Sluder, and Saturday were charged with conspiracy and wire fraud for their roles in a complex investment scheme, in which investors nationwide lost over \$40 million. More than 40 witnesses from around the country testified at trial, and all defendants were convicted of conspiracy and wire fraud counts. Judge Thomas J. Whelan of the Southern District of California sentenced the defendants to 300, 188, and 63 months. The Ninth Circuit affirmed the convictions and sentences. I represented the United States in this case at trial and assisted with the appeal. Co-counsel and I received a Director's Award in 2009 for our work on this case, and it was featured on the CNBC program "American Greed."

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4. *United States v. Hanes et al.*, 2009 WL 2016634 (Trial in March 2008).

The defendants were charged with conspiracy and income tax evasion for diverting profits from a chiropractic business into so called “pure trusts.” After a two-week trial involving numerous exhibits and witnesses from around the country, the jury convicted both defendants, and Judge Thomas J. Whelan of the Southern District of California sentenced K. Hanes to 18 months imprisonment, and M. Hanes to 5 months imprisonment. On appeal, defendant M. Hanes challenged the search warrant and related

seizures of evidence, evidentiary rulings, and loss calculations at sentencing. The Ninth Circuit affirmed the conviction and sentence of one defendant, and the other defendant eventually did not pursue her appeal. I represented the United States in this case at trial and in the briefing and argument on appeal.

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5. *United States v. Campbell et al.*, 06CR1021-BTM (2006-09).

This was an investment fraud case involving a prominent local attorney and executives of the Brixon Investment Group. The defendants defrauded their victims out of millions of dollars through a complex Ponzi scheme. After extensive investigation and trial preparation, defendant Campbell and co-defendant Manning eventually pled guilty in 2008 and 2009. Co-defendant McCool remains a fugitive. The case involved a successful operation to locate and retrieve co-defendant Manning from Nicaragua. Judge Barry Ted Moskowitz of the Southern District of California sentenced both defendants to 63 months. Defendant Manning filed a notice of appeal with the Ninth Circuit, but later

withdrew his appeal. I represented the United States in this case before the district court and the Ninth Circuit.

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6. *United States v. Hernandez-Orellana et al.*, 539 F.3d 994 (9th Cir. 2008).

The defendants were charged with operating an extensive alien smuggling network. After a week-long trial, the jury convicted the defendants of conspiracy and alien smuggling counts. The case featured extensive smuggling records and threats to the material witnesses during the proceedings. Judge Napoleon Jones of the Southern District of California (now deceased) sentenced each defendant to 60 months. On appeal, issues included whether severance was required, the standard for establishing the "bringing for financial gain" element of the alien smuggling statute, and the sufficiency of the evidence. The Ninth Circuit affirmed in part and reversed in part based on an intervening change in law, and the defendants were later resentenced. I represented the United States in this case at trial and wrote the appellate brief.

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7. *United States v. Scheinman et al.*, 04CR2865-BTM (2004-06). The defendants (father and son) were charged in the Southern District of California with conspiracy, mail fraud, and wire fraud arising from their sale of memorabilia bearing forged celebrity signatures. The prosecution arose out of a wiretap and search warrant. After the government prevailed in extensive litigation over the validity of the search warrant and other issues, the defendants pleaded guilty before Judge Barry Ted Moskowitz and were sentenced to probation and six months imprisonment, respectively. I represented the United States in this case.

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8. *United States v. Messano*, 2004 WL 2473877 (9th Cir. 2004), vacated and remanded in light of *United States v. Booker*, 540 U.S. 1030 (2005).

I argued this appeal before the Ninth Circuit on behalf of the United States, which involved a defendant convicted of attempting to induce a minor to engage in criminal sexual activity. The appeal included numerous evidentiary issues, including whether the trial court properly excluded certain evidence that the defendant wished to admit, and whether the admission of certain evidence was reversible error. The Ninth Circuit (Canby, Rawlinson, and Hansen (by designation)) affirmed the conviction and sentence.

Opposing Counsel

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9. *United States v. Rearden*, 349 F.3d 608 (9th Cir. 2003).

I argued this appeal on behalf of the United States, which involved several precedential child pornography issues, before the Ninth Circuit. These issues included whether the Government had offered sufficient evidence that the images were of actual, rather than virtual, children and whether the conditions of supervised release, including proximity to children and restrictions on Internet usage, were reasonable. The Ninth Circuit (Wallace, Rymer, and Tallman) affirmed the conviction and sentence on all grounds, including important supervised release restrictions for defendants who have violated child pornography laws.

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10. *United States v. Kim*, 01CR1239-MMM (Trial in 2002).

The defendant was charged with interfering with a flight crew by threatening to blow up an airplane over the Pacific Ocean. After a week-long trial before Judge Margaret Morrow of the Central District of California involving witnesses from Korea, the jury returned a guilty verdict, and the defendant declined to file an appeal. The defendant received a time-served sentence. I represented the United States in this case.

Opposing Counsel

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

The overwhelming focus of my practice has involved litigation or preparation for litigation.

In terms of significant litigation that did not reach trial, I was the lead prosecutor assigned to *United States v. Saathoff et al.* in the Southern District of California. The indictment alleged traditional and honest services mail and wire fraud charges against several board members and employees of the San Diego City Employees' Retirement System. After years of litigation, Judge Benitez dismissed the charges as impermissibly vague. After the Supreme Court's decision in *Skilling v. United States*, the government declined to appeal the dismissal.

As the Chief of the Criminal Division, I oversaw numerous changes to policies and procedures in the U.S. Attorney's Office, including changes to our model plea agreement, the indictment review process, and AUSA movement within the Office.

In private practice, I currently represent clients in civil, administrative and criminal matters. I also counsel clients on legal strategy and conduct privileged internal investigations into alleged corporate misconduct and violations of state and federal law. I regularly meet with corporate general counsel, other in-house counsel, and outside counsel for various audit committees.

I have not performed lobbying activity on behalf of any client or organization, and I am not and have never been a registered lobbyist.

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

I have not taught any courses.

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

Munger, Tolles & Olson LLP does not provide pension or retirement benefits. Upon withdrawal from the partnership, a partner is entitled to receive a "fair share" of firm net income for the current year, reflecting the partner's contributions to date, less amounts previously drawn. In addition, a partner withdrawing from the partnership is entitled to a return of the partner's capital contributions. The current value of my capital contributions to the firm is reflected in the attached Net Worth Statement.

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 have no such plans, commitments, or agreements if confirmed.

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).

Please 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).

Please see attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

a. Identify the family members or other persons, parties, categories of litigation, and

financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I would recuse myself from any case in which I had previously participated as an attorney. I am unaware of any individuals, whether relatives or otherwise, who would be likely to present a conflict of interest. I would review, on a case-by-case basis, the existence of a potential conflict of interest arising from any personal or former client relationships or financial interests, and would apply generally applicable principles and rules concerning ethics and conflicts of interest in conducting such an inquiry and assessing whether a recusal is warranted.

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

I would consult applicable rules, canons, and decisions addressing conflicts of interest, including 28 U.S.C. § 455 and the Code of Conduct for United States Judges, and any resources on addressing conflicts of interest and appearances of conflicts of interest, with an eye towards developing a general framework to be applied in any case. I would also make case-specific supplemental inquiries where warranted.

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.

From 1998 to 1999 and from 2001 to 2011, I served the public as a federal prosecutor. As a federal prosecutor, opportunities to provide traditional pro bono legal activities are more limited than for attorneys in private practice. In light of these limitations, I focused my volunteer efforts on working with high school students so they could learn about different aspects of the legal system. For example, I participated in question and answer sessions with high school students about the legal system and legal careers, and I played the role of a prosecutor in a high school mock trial. I also worked with representatives of the San Diego Unified School District to design a legal training course for high school students. I also volunteered (and continue to volunteer) at my daughters' schools.

In private practice, I have provided more traditional pro bono services. As an associate at O'Melveny & Myers, I provided pro bono service by reviewing and editing pro bono briefs written by other attorneys. Since joining Munger, Tolles & Olson as a partner in January 2012, I have focused my pro bono efforts on amicus Supreme Court litigation. I have served as counsel of record in three pro bono matters since October 2012 on behalf of the National Association of Criminal Defense Lawyers and the California Attorneys for Criminal Justice.

26. **Selection Process:**

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

In late February 2013, I discussed the openings on the Ninth Circuit with a member of Senator Feinstein's Ninth Circuit Committee. On February 23, 2013, I submitted my resume to the Chair of the Committee. On March 5, 2013, I met with the Committee in San Diego, California. On May 7, 2013, I received an email from an official from the White House Counsel's Office asking about my interest in serving on the Ninth Circuit, and I spoke with him on May 10, 2013. Since May 10, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On June 12, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On August 1, 2013, the President submitted my nomination to the Senate.

- 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, John B. Owens, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/6/13
(DATE)

John B. Owens
(NAME)

Cynthia S. Soden
(NOTARY)

