

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Katherine (Katie) Amber Crytzer

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

United States District Judge for the Eastern District of Tennessee

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: United States Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530

Residence: Alexandria, Virginia

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

1984; Texarkana, Texas

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.

2006 – 2009, George Mason University, Antonin Scalia Law School; J.D., 2009 (*magna cum laude*)

2002 – 2006, Middle Tennessee State University, B.S., 2006 (*summa cum laude*)

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.

2017 – Present

United States Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
Principal Deputy Assistant Attorney General (2020 – Present)
Acting Deputy Assistant Attorney General (2019 – 2020)
Chief of Staff (2017 – 2019)
Acting Chief of Staff (2017)

2014 – 2017
United States Department of Justice
United States Attorney's Office for the Eastern District of Kentucky
260 West Vine Street, Suite 300
Lexington, Kentucky 40507
Assistant United States Attorney

2010 – 2014; 2009; 2008
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, Northwest
Washington, D.C. 20004
Associate (2010 – 2014)
Law Clerk (2009)
Summer Associate (2008)

2009 – 2010
The Honorable Raymond W. Gruender
United States Court of Appeals for the Eighth Circuit
111 South 10th Street
St. Louis, Missouri 63102
Law Clerk

2008 – 2009
George Mason University, Antonin Scalia Law School
3301 Fairfax Drive
Arlington, Virginia 22201
Research Assistant

2007
Law Office of Virginia Vile
211 North Union Street, Suite 100
Alexandria, Virginia 22314
Law Clerk

2006
Wiley & Wilson
2850 Eisenhower Avenue, Suite 200

Alexandria, Virginia 22314
Administrative Assistant

Uncompensated Affiliations:

2012
Lawyers for Romney
Boston, Massachusetts 02101
Part-Time Volunteer

2012
Republican National Committee
310 First Street SE
Washington, DC 20003
Part-Time Volunteer

2008
The Honorable Gerald Bruce Lee
United States District Court for the Eastern District of Virginia
401 Courthouse Square
Alexandria, Virginia 22314
Legal Intern

2007
United States Department of Justice
United States Attorney's Office for the District of Columbia
555 4th Street, Northwest
Washington, D.C. 20001
Legal Intern

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

I have not served in the military. I was not required to register for the selective service.

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

Attorney General's Award for Distinguished Service (2019)

United States Attorney's Office Performance Award (2017)

United States Attorney's Office Time Off Award (2017)

United States Attorney's Office Time Off Award (2016)

United States Attorney's Office Time Off Award (2015)

Kirkland & Ellis LLP Pro Bono Service Award (2013)

Kirkland & Ellis LLP Pro Bono Service Award (2012)

Kirkland & Ellis LLP Pro Bono Service Award (2011)

George Mason University, Antonin Scalia Law School

George Mason University Law Review, Managing Editor (2008 – 2009)

Federal Bar Association Thurgood Marshall Moot Court Competition, Winner
and Best Oralist (2008)

Phi Kappa Phi Graduate Fellowship (2006)

Middle Tennessee State University

Presidential Scholar (2002 – 2006)

Norman L. Parks Award (2006)

Phi Kappa Phi Honor Society (2005)

Kappa Delta Sorority Dorothy Ramage Scholarship (2005)

Alumni Endowment Scholarship (2005)

Phi Eta Sigma Recognition Scholarship (2003)

Phi Eta Sigma Honor Society (2003)

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.

Federalist Society for Law and Public Policy Studies (2008 – Present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Virginia, 2009

District of Columbia, 2011

Tennessee, 2020

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse

in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the Eighth Circuit, 2010

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.

Middle Tennessee State University Honors College Board of Visitors, Board Member (2013 – Present)

George Mason University, Antonin Scalia Law School Alumni Association Board, Board Member (2017 – Present)

Kappa Delta Sorority (2002 – Present)

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

Kappa Delta sorority is a panhellenic women's organization that limits its membership to women. There were no formal membership exclusions based on race, religion, or national origin. I have never witnessed or experienced any racially discriminatory conduct of any kind with respect to Kappa Delta. To the best of my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published

material to the Committee.

Successfully Preparing and Filing a Qui Tam Action Under the False Claims Act, Ky. Bench and Bar (Dec. 2016). Copy supplied.

You're Fired! Bishop v. Wood: When Does a Letter in a Former Public Employee's Personnel File Deny a Due Process Liberty Right?, 16 Geo. Mason L. Rev. 447 (2009). Copy supplied.

- 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.

Hearing on the Nominations of Beth Harwell and Brian Noland to be Members of the Board of Directors, and Katherine Crytzer to be Inspector General of the Tennessee Valley Authority Testimony Before the S. Comm. on Env't & Pub. Works, Subcomm. on Clean Air & Nuclear Safety, 116th Congress (2020).

Written Statement for the Record supplied. Recording available at: <https://www.epw.senate.gov/public/index.cfm/hearings?ID=BC706CD0-0BB7-4FEB-9D09-B8E99DFC3205>.

- 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.

November 6, 2019: Presenter, "DTOs & Gangs Operating in Prisons with Cell Phones (Contraband Cellphones in Prisons: Current Efforts and Next Steps)," United States Department of Justice, Drug Enforcement Administration, Southwest Region Organized Crime Drug Enforcement Task Force, Regional Advisory Council Meeting, San Diego, California. Notes supplied.

August 20, 2019: Presenter, "Professional Development 101," George Mason University, Antonin Scalia Law School, Arlington, Virginia. Notes supplied.

July 1, 2019: Speaker, "Pen and Pad on Fentanyl Class Scheduling," United States Department of Justice, Washington, D.C. Notes supplied.

June 26, 2019: Presenter, "Contraband Cellphones in Prisons," Association of State Correctional Administrators, 2019 ASCA on the Hill, Washington, D.C. Notes supplied.

June 18, 2019: Presenter, "Contraband Cellphones in Prisons: Current Efforts and Next Steps," United States Department of Justice, Drug Enforcement Administration, Southeast & Florida Caribbean Regions Organized Crime Drug Enforcement Task Force, Regional Advisory Council Meeting, New Orleans, Louisiana. Notes supplied.

August 17, 2017: Presenter, "Fueling Addiction – Feeding Greed: The *United States v. Lonnie Hubbard* Investigation and Prosecution," National Association of Drug Diversion Investigators (NADDI), Kentucky Training Conference, Frankfort, Kentucky. The presentation was on the investigation and prosecution of *United States v. Lonnie Hubbard*. I have no notes, transcript, or recording. The address for NADDI is 1810 York Road, Number 435, Lutherville-Timonium, Maryland 21093.

June 6, 2017: Presenter, "*United States v. Lonnie Hubbard*," National Association of Drug Diversion Investigators and NPLeX, Annual Conference, Savannah, Georgia. The presentation was on the investigation and prosecution of *United States v. Lonnie Hubbard*. I have no notes, transcript, or recording. The address for NPLeX, which now appears to be run by Appriss Health, is 9901 Linn Station Road, Suite 500; Louisville, Kentucky 40223. The address for the National Association of Drug Diversion Investigators (NADDI) is 1810 York Road, Number 435, Lutherville-Timonium, Maryland 21093.

September 14, 2016: Presenter, "Individual Accountability and the 'Yates Memorandum,'" Department of Justice, United States Attorneys' Annual Health Care Fraud Task Force Meeting, Frankfort, Kentucky. Notes supplied.

- 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.

Class Notes, Middle Tennessee State University Magazine, Winter 2020.
Available at <https://issuu.com/mtsumag/docs/22381mtsumagazinewinter2020>.

Clare Hymes, *DOJ pushes Congress to permanently close loophole for knock-off fentanyl*, CBS News, July 2, 2019. Available at <https://www.cbsnews.com/news/doj-pushes-congress-to-permanently-close-loophole-for-knock-off-fentanyl/>. Reported in other outlets.

James Anderson, *From the 'Boro to the Beltway*, Areté Magazine, University Honors College, Middle Tennessee State University, Spring 2019. Available at https://issuu.com/mtsumag/docs/arete_spring_2019.

Courtney Gundry, *Renewable energy to be available for Middle Tennessee State U.*, Sidelines, Apr. 21, 2005. 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 served as a judge.

- 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 served as 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.

On April 6, 2020, President Donald J. Trump nominated me to serve as the

Inspector General of the Tennessee Valley Authority. That nomination was withdrawn when the President nominated me to serve as a United States District Judge for the Eastern District of Tennessee.

- 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.

Lawyers for Romney, Part-time Unpaid Volunteer, Provided part-time unpaid legal counsel (2012)

Republican National Committee, Part-time Unpaid Volunteer, Provided part-time unpaid legal counsel (2012)

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 2009 to 2010, I clerked for the Honorable Raymond W. Gruender, United States Circuit Judge for the Eighth Circuit Court of Appeals.

- 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.

2010 – 2014
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, Northwest
Washington, D.C. 20004
Associate

2014 – 2017
United States Department of Justice
United States Attorney's Office for the Eastern District of Kentucky
260 West Vine Street, Suite 300
Lexington, Kentucky 40507

Assistant United States Attorney

2017 – Present

United States Department of Justice

Office of Legal Policy

950 Pennsylvania Avenue, Northwest

Washington, D.C. 20530

Principal Deputy Assistant Attorney General (2020 – Present)

Acting Deputy Assistant Attorney General (2019 – 2020)

Chief of Staff (2017 – 2019)

Acting Chief of Staff (2017)

- 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.

The majority of my legal career has been focused on civil and criminal litigation in federal court at the trial and appellate levels.

I began my legal career as a law clerk, where I maintained a docket of federal criminal and civil appeals. I helped prepare my judge for oral argument by conducting legal research and drafting bench memoranda and legal memoranda. I also assisted in drafting opinions and orders.

Following my clerkship, I returned to Kirkland & Ellis LLP, where my practice focused on litigation. There, I represented clients in complex civil litigation in federal and state courts at trial and appellate levels. I had direct and management experience with various stages of litigation from initial pleadings to appeals. From 2010 to 2011, I was the sole associate on a trial team whose work culminated in a four-day federal bench trial (*Vienna Metro LLC v. Pulte Home Corp.*, No. 1:10-cv-502 (E.D. Va.)), where I prepared and second-chaired numerous trial witnesses. In that case, prior to trial, I briefed dispositive motions and motions in limine, among other things. I also drafted post-trial briefing. Then again from 2011 to 2014, I was on a trial team whose work culminated in a four-week federal bench trial (*In re Oil Spill by the Oil Rig Deepwater Horizon in the Gulf of Mexico on April 20, 2010*, No. MDL-2179 (E.D. La) (Phase II)), where I prepared and second-chaired an expert witness who testified at trial. In that case, I drafted significant trial and post-trial briefs. While at

Kirkland, I also served as national coordinating counsel for litigation for a global Fortune 500 company. In that role, I managed over 140 cases in 20 jurisdictions and was responsible for case strategy and management of local counsel. In addition to the above, I drafted various pleadings, motions, and appellate briefs in state and federal courts.

In 2014, I left private practice to join the United States Department of Justice, United States Attorney's Office for the Eastern District of Kentucky. As an Assistant United States Attorney, I represented the United States of America in criminal and civil cases at the trial and appellate levels. I served as a member of the Fraud Unit and my work focused on sophisticated drug crimes and health care fraud as we battled the opioid epidemic.

While serving as an AUSA, I represented the United States in two trials. The most recent was an eight-day criminal federal jury trial (*United States v. Hubbard, et al.*, No. 5:15-CR-104 (E.D. Ky.)), involving 71 charges. I conducted examination of 26 witnesses. I assisted in developing this case from the initial investigation through sentencing. My first trial as an AUSA was a five-day civil federal bench trial (*Stanford v. United States*, No. 6:12-cv-93 (E.D. Ky.)), during which I conducted direct and cross-examinations of lay and expert witnesses. I also drafted pre-trial and post-trial briefing.

While serving at the United States Attorney's Office, I had the opportunity to detail to the United States Department of Justice, Office of Legal Policy. I currently serve as the Principal Deputy Attorney General at the Office of Legal Policy, where I provide legal and policy advice to the Assistant Attorney General and Department of Justice leadership. Throughout my time at the Office of Legal Policy, I have maintained a policy portfolio with principal focus on issues related to the opioid epidemic (including fentanyl), violent crime, contraband cellphones, religious liberty, and regulatory reform. I have also been involved in judicial nominations work.

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

For the majority of my legal career, I have specialized in complex litigation. In private practice, my clients tended to be Fortune 500 companies and larger corporations engaged in bet-the-company litigation. At the United States Attorney's Office, I represented the United States of America, and the vast majority of my cases (both criminal and civil) involved complex fraud. At the Office of Legal Policy, I represent the United States of America and maintain a policy portfolio.

- 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.

Approximately 75% of my practice has been in litigation. From 2009 to 2014, I appeared in court occasionally. From 2014 to 2017, I appeared in court frequently. From September 2017 to present, I have not appeared in court, but I maintain a policy portfolio.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 10% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 70% |
| 2. criminal proceedings: | 30% |

- 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 four cases to verdict or judgement in federal district court. In two cases, I served as co-lead counsel. In two cases, I served as associate counsel.

- i. What percentage of these trials were:

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

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

I have not appeared 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.

1. *United States v. Hubbard, et al.*, No. 5:15-CR-104 (E.D. Ky.)

I represented the United States of America in this multi-year investigation and multi-defendant criminal case, which culminated in the jury trial of Lonnie Hubbard. After an eight-day trial, the jury found Mr. Hubbard, a registered pharmacist, guilty of 71 counts, including sophisticated drug crimes involving opioids and methamphetamine precursors and money laundering. With co-counsel, I prepared the case for trial. At trial, I argued the lone motion in limine and elicited the testimony of 26 witnesses. I also drafted significant pre- and post-trial briefing, including the United States's opposition to Mr. Hubbard's motion for new trial and United States's sentencing memorandum regarding Mr. Hubbard. Mr. Hubbard was sentenced to 30 years' imprisonment, and his conviction and sentence were upheld by the Sixth Circuit in toto on appeal (2019 U.S. App. LEXIS 21311 (6th Cir. 2019)). In addition to the trial of Mr. Hubbard, I assisted in prosecuting the broader case against Mr. Hubbard's co-conspirators and associated actors. In total, six additional defendants were also convicted in this case.

Dates of Representation: 2016 – 2017

Presiding Judge: Hon. Danny C. Reeves

Defendant's Counsel [Lonnie Hubbard]:

James D. Hodge
Hodge Law Firm
Post Office Box 1746
London, Kentucky 40743
(606) 864-3004

Defendant's Counsel: [Meggan Ashley Hubbard]

Jerry L. Wright
Jerry L. Wright, PSC
153 Market Street
Lexington, Kentucky 40507
(859) 333-1931

Defendant's Counsel: [Charles McKinney Jr.]

John C. Helmuth
155 East Main Street, Suite 101
Lexington, Kentucky 40507
(859) 231-1560

Defendant's Counsel: [Joseph A. McKinney]

Joyce A. Merritt
Embry Merritt Shaffar Womack, PLLC
155 East Main Street, Lion Building, Suite 260
Lexington, Kentucky 40507
(859) 543-0453

Mark Anthony Flores
Littler Mendelson, P.C.
2001 Ross Avenue, Suite 1500, Lock Box 116
Dallas, Texas 75201
(214) 880-8100

Robert L. Abell
120 North Upper Street
Post Office Box 983
Lexington, Kentucky 40588
(859) 254-7076

Defendant's Counsel: [Darrell G. Gabbard]

Thomas C. Lyons
Thomas C. Lyons Law Offices
201 West Short Street, Suite 800
Lexington, Kentucky 40507
(859) 231-0055

Defendant's Counsel: [Jody Earl Gabbard]

Mary Ann Leichty
205 Peach Orchard Circle
Fisherville, Kentucky 40023
(859) 536-8405

Rachel Diane Yavelak
Oeltgen & D'Ambruoso, PLLC
120 North Mill, Suite 300
Lexington, Kentucky 40507
(859) 523-1606

Defendant's Counsel: [Lavada Jessica Jones]

Pam Ledgewood
271 West Short Street, Suite 403
Lexington, Kentucky 40507
(859) 233-7323

Defendant's Counsel: [Darryl Jones]

Benjamin P. Hicks
300 West Short Street
Lexington, Kentucky 40507
(859) 420-1675

Jeffrey C. Rager
Rager Law, PLLC
444 Lewis Hargett Circle, Suite 180
Lexington, Kentucky 40503
(859) 963-2929

Co-Counsel:

Ron L. Walker, Jr.
Lauren Tanner Bradley
United States Attorney's Office, Eastern District of Kentucky
260 West Vine Street, Suite 300
Lexington, Kentucky 40507
(859) 233-2661

2. *Stanford v. United States*, No. 6:12-cv-93 (E.D. Ky.)

I represented the United States of America in this complex defensive civil case with third-party defendants and cross claims. The case involved a civilian individual who was severely injured when using a zip line at a training center designed for the military and national guard. I joined the case as co-counsel in the month before trial to prepare the case for trial and present the case at trial. I represented the United States during a five-day bench trial, where I elicited testimony from four witnesses, including direct and cross examinations of lay and expert witnesses. I also drafted significant pre-trial briefing, including a motion in limine, deposition designations and objections, and proposed exhibits and objections. Following trial, the case was settled.

Dates of Representation: 2015 – 2016

Presiding Judge: Hon. Amul R. Thapar

Plaintiff's Counsel: [Matthew Stanford]

Douglas H. Morris
Lea A. Player
Robyn Bell Stanton
Morris & Player PLLC
1211 Herr Lane, Suite 205
Louisville, Kentucky 40222
(502) 426-3430

Christopher P. Evensen
Joshua Erik Abell

Evensen Law Office
6011 Brownsboro Park Boulevard, Suite A
Louisville, Kentucky 40207
(502) 719-3145

William J. Driscoll
Driscoll & Associates, P.S.C.
6011 Brownsboro Park Boulevard, Suite A
Louisville, Kentucky 40207
(502) 587-1983

Cross-Defendant's and Third-Party Defendant's Counsel: [Commonwealth of Kentucky,
Department of Military Affairs]

Benjamin Adam Long
Office of the Kentucky Attorney General
700 Capital Avenue, Capitol Building, Suite 118
Frankfort, Kentucky 40601
(502) 696-5300

Cross-Defendant's and Third-Party Defendant's Counsel: [United States Army Cadet
Corps, Inc. & Joseph H. Gorman & Joseph M. Land, Sr. (third party defendant only),
William R. Nordan]

Erwin Roberts
Frost Brown Todd LLC
400 West Market Street, Suite 3200
Louisville, Kentucky 40202
(502) 882-4972

Intervenor-Plaintiff's & Cross-Claimant's Counsel: [Kentucky Association of Counties
Workers' Compensation Fund]

Cristina Francesca Keith
301 East Main Street, Suite 1000
Lexington, Kentucky 40507
(323) 842-3086

Scott M.B. Brown
Timothy J. Walker
Tighe Alexander Estes
Fogle, Keller, Purdy, PLLC
300 East Main Street, Suite 400
Lexington, Kentucky 40507
(859) 253-4700

Third-Party Defendant's Counsel: [Bluegrass Area Development District, Inc. and David
Lee Parker]

Shelby C. Kinkead, Jr.

John G. Irvin, Jr.
Robert Coleman Stilz, III
Kinkead & Stilz, PLLC
301 East Main Street, Suite 800
Lexington, Kentucky 40507
(859) 296-2300

Co-Counsel:

Callie R. Owen
United States Attorney's Office, Eastern District of Kentucky
260 West Vine Street, Suite 300
Lexington, Kentucky 40507
(859) 233-2661

Anna R. Gwinn
1124 Sheffield Place
Lexington, Kentucky 40509
(859) 263-7303

3. *United States v. Kennedy*, No. 13-6011, 595 F. App'x 584 (6th Cir. 2015)

I represented the United States of America in this criminal appeal. Following his conviction, James Raymond Kennedy challenged his sentence related to the preparation and filing of false and fraudulent tax returns and asserted that he received ineffective assistance of counsel at trial. I briefed the United States's opposition to Mr. Kennedy's appeal, and I argued the appeal on behalf of the United States in the Sixth Circuit. The Sixth Circuit issued an opinion affirming Mr. Kennedy's sentence and declined to review Mr. Kennedy's ineffective-assistance-of-counsel claim.

Dates of Representation: 2014 – 2015

Presiding Judges: Hon. Martha Craig Daughtrey, Hon. Karen Nelson Moore, and Hon. Eric L. Clay

Defendant-Appellant's Counsel:

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4. *United States v. Ezekiel Akande*, No. 6:17-CR-13 (E.D. Ky.)

I represented the United States of America in this criminal case. Ezekiel Akande was a registered physician and owner of a pain clinic. The grand jury indicted Mr. Akande on eight counts, including counts for illegally distributing opioids, healthcare fraud, and money laundering. I prosecuted the case on behalf of the United States, with co-counsel, including drafting the indictment, handling discovery, and preparing the case for an anticipated trial. I left the United States Attorney's Office before the case concluded, but I understand that a plea deal was negotiated, and Mr. Akande pled guilty to one count in the indictment.

Dates of Representation: 2017

Presiding Judge: Hon. Gregory VanTatenhove

Defendant's Counsel

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5. *United States v. Appalachian Regional Healthcare, Inc.*, No. 5:16-cv-132, 246 F. Supp. 3d 1184 (E.D. Ky. 2017)

I represented the United States of America in this affirmative civil enforcement action alleging violations of the Controlled Substances Act related to Appalachian Regional Healthcare (ARH) permitting a physician working at one of its facilities to write, and its pharmacies to fill, prescriptions for a controlled substance for employees without a legitimate medical purpose. I investigated the case and engaged in pre-filing negotiations. I also drafted and filed the complaint, directed discovery, took depositions, and drafted the United States's successful opposition to defendant's motion to dismiss. The matter was ultimately settled with ARH making a monetary payment to the United States and agreeing to train its physicians and staff on the proper prescribing and filling of controlled substances.

Dates of Representation: 2016 – 2017

Presiding Judge: Hon. Joseph M. Hood

Defendant's Counsel:

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6. *United States ex rel. Levine et al v. Avnet, Inc.*, No. 2:14-cv-17, 2015 WL 1499519 (E.D. Ky. 2015)

I represented the United States of America in this False Claims Act case involving then-novel legal questions related to the United States's decision to move to dismiss a *qui tam* action. I served as the lead AUSA on the case, working with law enforcement to investigate the allegations in the *qui tam* action. Following that investigation, I briefed, filed, and argued the United States's motion to dismiss the case. The court granted the United States's motion to dismiss. A party in the case subsequently filed an appeal to the Sixth Circuit. I represented the United States of America in the Sixth Circuit, and the appeal was dismissed for want of prosecution (*Evan Levine, et al. v. Avnet, Inc. et al.* (6th Cir. 15-5498)).

Dates of Representation: 2014 – 2015

Presiding Judge: Hon. William O. Bertelsman

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7. *United States v. Averill*, No. 15-5068, 636 F. App'x 312 (6th Cir. 2016), *United States v. Earls*, No. 15-5081, 636 F. App'x 312 (6th Cir. 2016), *United States v. Mills*, No. 15-5087, 636 F. App'x 312 (6th Cir. 2016)

I represented the United States of America in the above three criminal appeals, which were consolidated before the Sixth Circuit. Ronald Averill, Jennifer Earls, and Clarence Mills filed appeals following their respective guilty pleas for conspiring to distribute opioids. Mr. Averill, Ms. Earls, and Mr. Mills each challenged the amount of opioids attributed to him or her at sentencing based on the evidence elicited at trial. In addition, Mr. Averill challenged the substantive reasonableness of his sentence. I briefed all three cases on appeal. The Sixth Circuit issued an opinion affirming the district court's judgment in all three cases in all respects.

Dates of Representation: 2015 – 2016

Presiding Judges: Hon. Danny J. Boggs, Hon. Julia Smith Gibbons, and Hon. Richard Allen Griffin

Defendant-Appellant's Counsel [Averill]:

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Defendant-Appellant's Counsel [Earls]:

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Defendant-Appellant's Counsel [Mills]:

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8. *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, No. MDL-2179 (E.D. La) (Phase II)

I represented BP in Phase II of the Deepwater Horizon multi-district litigation, which culminated in a four-week federal bench trial. Prior to trial, I engaged in all stages of litigation, including, without limitation, significant discovery, lay and expert witness depositions, and pre-trial briefing. I also represented BP at the four-week trial, where I prepared and second-chaired an expert witness who testified at trial. I also assisted with the preparation of various other trial witnesses. After trial, I drafted significant post-trial briefing including proposed findings of fact and conclusions of law. The Phase II trial involved the assessment of BP's efforts to control the Deepwater Horizon well and the quantification of oil from the well. Following the trial and post-trial briefing, the court concluded that BP was not grossly negligent in its source control planning and preparation and made a finding on quantification.

Dates of Representation: 2011 – 2014

Presiding Judge: Hon. Carl J. Barbier

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9. *Pease et al. v. Abbott Laboratories, Inc.*, 12-cv-1844, 2013 WL 174478 (D. Md. 2013)

I represented Abbott Laboratories, Inc., in this case involving allegations of strict liability and negligence for the manufacture, design, and marketing of a prescription drug. I briefed a motion to dismiss plaintiffs' claims involving strict liability for manufacturing the drug and issues involving Maryland's Consumer Protection Act. The court granted the motion to dismiss, issuing a ground-breaking opinion. I also drafted Abbott Laboratories, Inc.'s answer and engaged in subsequent investigation of the plaintiffs' allegations and discovery. I left the firm before the case was concluded, but I understand that the case was settled.

Dates of Representation: 2012 – 2013

Presiding Judge: James K. Bredar

Plaintiff's Counsel:

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Jonathan Barry Nace
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Co-Counsel:

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10. *Vienna Metro LLC v. Pulte Home Corp.*, No. 1:10-cv-502 (E.D. Va.)

I represented Vienna Metro LLC in this sophisticated breach of contract dispute that culminated in a four-day bench trial. Prior to trial, I worked on all stages of litigation, including, without limitation, significant discovery, lay and expert witness depositions, dispositive motions, and motions in limine. At trial, I prepared and second-chaired numerous trial witnesses. I also first-chaired two witnesses who did not ultimately testify at trial. After trial, I drafted post-trial briefing, including a successful fee petition. The court ultimately concluded that the defendant breached the parties' contract and ordered specific performance of the contract.

Dates of Representation: 2010 – 2011

Presiding Judge: Hon. Gerald Bruce Lee

Defendant's Counsel:

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Elizabeth Warner Whip Grau
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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.)

Prior to September 2017, my legal practice consisted almost entirely of litigation and strategic counseling in anticipation of litigation. From September 2017 to the present, I have served at the United States Department of Justice in the Office of Legal Policy. In that role, I have maintained a policy portfolio with principal focus on issues related to the

opioid epidemic (including fentanyl), violent crime, contraband cellphones, religious liberty, and regulatory reform. I have also been involved in judicial nominations work.

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

I have not taught any courses.

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

I continue to participate in a 401K plan associated with my former employer, Kirkland & Ellis LLP. The plan sponsor ended contributions once my employment ended with the firm in 2014.

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 plans, commitments, or agreements to pursue outside employment during my service with the court.

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.

If confirmed, I will recuse in any case where Joseph R. Oliveri, my husband and a practicing attorney, participated at any stage of the proceedings. I am unaware of any financial arrangements or categories of litigation that are likely to present potential conflicts-of-interest if I am confirmed. I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of a conflict, on a case by case basis and determine appropriate action, including recusal where necessary.

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

If confirmed, I would evaluate any potential conflicts of interest under the standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges, both of which address the question whether federal judges must disqualify themselves due to conflicts. In considering those rules, I would further consult any judicial decisions or Judicial Conference opinions applying the rules to particular cases or circumstances.

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

Even before I began the practice of law, I endeavored to devote time to participate in serving the disadvantaged and my community. This commitment has continued throughout my legal career. In private practice, I regularly maintained an active pro bono practice. That practice included, among other things, representation of a disabled military veteran seeking Veterans Administration compensation related to his service-connected disabilities, legal services for Catholic Charities, and assistance to the Washington Middle School for Girls (now the expanded Washington School for Girls), an independent Catholic Middle School in Washington, D.C., focused on providing support and education for young girls who are living in underserved areas and are at risk of leaving school prematurely. In 2011, 2012, and 2013, I earned the Kirkland & Ellis LLP Pro Bono Service Award for my work. I have also been recognized on the Capital Pro Bono Honor Roll for my commitment to pro bono service.

Once I entered the United States Department of Justice in 2014, I continued pro bono service as permitted in my government role. As an Assistant United States Attorney, I developed and managed an office-wide reading and outreach program at a local underserved elementary school. I also served as a member of the United States Attorney's Office's community outreach team. In this capacity, I participated in events designed to educate United States servicemembers and veterans about their rights and the protections available to them under federal law. More recently, I have dedicated a

portion of my portfolio to access to justice issues including, among other things, elder 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.

On July 8, 2019, I sent a resume and letter to staff in Senator Blackburn's office to be considered for a vacancy on the United States District Court for the Eastern District of Tennessee. On August 1, 2019, I met with Senator Blackburn to discuss my interest. On September 24, 2019, I interviewed with attorneys from the Office of White House Counsel and the Department of Justice's Office of Legal Policy. On September 16, 2020, President Trump announced his intent to nominate me to serve as a Judge on the United States District Court for the Eastern District of Tennessee. Since then, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

- 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.