

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Paul Brian Matey

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

United States Circuit Judge for the Third 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.

Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, New Jersey 07068

Residence: West Caldwell, New Jersey

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

1971; Edison, New Jersey

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.

1997 – 2001, Seton Hall University School of Law; J.D. (*summa cum laude*), 2001

1989 – 1993, University of Scranton; B.A., 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.

2018 – present
Lowenstein Sandler LLP
One Lowenstein Drive

Roseland, New Jersey 07068
Partner

2015 – 2018
University Hospital
150 Bergen Street, D-225
Newark, New Jersey 07101
Senior Vice President & General Counsel (2015 – 2018)
Corporate Secretary (2016 – 2018)

2010 – 2015
Office of Governor Chris Christie
125 West State Street
Trenton, New Jersey 08608
Deputy Chief Counsel (2012 – 2015)
Senior Counsel (2010 – 2012)
Assistant Counsel (2010)

2005 – 2009
United States Attorney's Office for the District of New Jersey
970 Broad Street, 7th Floor
Newark, New Jersey 07102
Assistant United States Attorney

2003 – 2005
Kellogg, Hansen, Todd, Figel & Frederick PLLC
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
Associate (2003 – 2005)

2002 – 2003
Hon. Robert E. Cowen
United States Court of Appeals for the Third Circuit
Clarkson S. Fisher Judicial Complex
402 East State Street, Room 207
Trenton, New Jersey 08608
Law Clerk

2001 – 2002
Hon. John C. Lifland
United States District Court for the District of New Jersey
Martin Luther King Building and U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102
Law Clerk

Summer 2000
Mayer Brown LLP
1999 K Street, N.W.
Washington, D.C. 20006
Summer Associate

Summer 1999
United States Department of Justice, Antitrust Division
601 Walnut Street
Philadelphia, Pennsylvania 19106
Summer Law Clerk

Summer 1998 – Summer 1999
Professor Howard M. Erichson
Seton Hall University School of Law
1109 Raymond Boulevard
Newark, New Jersey 07102
Research Assistant

Summer 1998
Hon. Joseph A. Greenaway, Jr.
United States District Court for the District of New Jersey
Frank R. Lautenberg Post Office and Courthouse
Federal Square and Walnut Street, Room 411
Newark, New Jersey 07102
Summer Intern

1993 – 1997
Marvel Entertainment / Heroes World Distribution
135 West 50th Street
New York, New York 10020
Director of Business Development (1997)
Retail Communications Manager (1993 – 1996)

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 did not serve in the military. I registered for the selective service upon turning eighteen.

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.

NJBIZ, General Counsel of the Year, Finalist (2016)

United States Department of Justice, Director's Award for Superior Performance (2009)

Seton Hall Law Award for Appellate Advocacy (2001)

West Publishing Company Award for Academic Achievement (2001)

Seton Hall University School of Law, Presidential and Centennial Scholarships (1997 – 2000)

Seton Hall Law Review, Editor-in-Chief, Volume Thirty-One (2000-2001)

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.

New Jersey Bar Association (2012; 2018)

10. **Bar and Court Admission:**

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

New Jersey, 2001

District of Columbia, 2004 (currently in inactive status)

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.

Supreme Court of the United States, 2007

United States Court of Appeals for the Third Circuit, 2003

United States District Court for the District of New Jersey, 2002

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.

American College of Healthcare Executives (2016 – present)

American Enterprise Institute Leadership Network (2014 – present)

Federalist Society for Law & Public Policy Studies (2001 – present)

State Courts Project (2001 – 2003)

New Jersey Chapter Leader (2001 – 2003; 2005 – 2009)

Knights of Columbus (2014 – present)

Knights of Columbus Motorcycle Ministry (2015 – present)

Hospital Alliance of New Jersey (2015 – 2018)

Republican National Lawyers Association (2005 – 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.

The Knights of Columbus is a Catholic fraternal organization limited to men, although there is a corresponding organization for women. 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.

With Neil M. Gorsuch, *Settlements in Securities Fraud Class Actions: Improving Investor Protection* (Wash. Legal Found, Working Paper No. 128, 2005). Copy supplied.

With Neil M. Gorsuch, *No Loss, No Gain*, Legal Times, Jan. 31, 2005. Copy

supplied.

Abundant Media, Viewer Scarcity: A Marketplace Alternative to First Amendment Broadcast Rights and the Regulation of Televised Presidential Debates, 36 Ind. L. Rev. 101 (2003). Copy supplied.

Surveys of Recent Developments in New Jersey Law: Torts – The Discovery Rule, 30 Seton Hall L. Rev. 1336 (2000). Copy supplied.

Truth: The Most Ethical Principle, Aquinas (Univ. of Scranton), Nov. 15, 1990, at 4. Copy supplied.

In 2000 and 2001, as Editor-in-Chief of the *Seton Hall Law Review*, I supervised the editing of articles prepared from presentations at a symposium sponsored by the Federalist Society for Law & Public Policy Studies entitled *Tort Liability, the Structural Constitution, and the States*. In 2000, as Editor-in-Chief of the *Seton Hall Law Review*, I supervised the editing of a panel discussion at a symposium sponsored by the Law Review entitled *Negotiating the Constitution Symposium: Fresh Considerations on Federalism and Separation of Powers*. These articles, which I did not write, are available online.

- 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 policy statements on behalf of any bar association, committee, conference, or organization of which I have been a member.

- 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.

I have not testified, or provided other official statements or communications, regarding matters of public policy or legal interpretation to any public bodies or public officials, with the exception of appearances before the Board of Directors of University Hospital. Copies of the minutes from these meetings are 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.

December 22, 2014: Panelist, U.S. Supreme Court and New Jersey Supreme Court Year End Review; Legislative Session Year End Review, New Jersey Attorney General's Advocacy Institute, Trenton, New Jersey. I spoke about recent Supreme Court cases and New Jersey legal developments. I have no notes, transcript, or recording. The address for the New Jersey Attorney General's Advocacy Institute is RJ Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08625.

May 22, 2013: Panelist, Cornerstone Panel, New Jersey State Chamber of Commerce, Trenton, New Jersey. I spoke on a panel about legislative and administrative matters pending in New Jersey. I have no notes, transcript, or recording. The address for the New Jersey Chamber of Commerce is 216 West State Street, Trenton, New Jersey 08608.

April 23, 2013: Panelist, Meet the Decision Makers Panel, New Jersey Business and Industry Association, Trenton, New Jersey. I spoke on a panel about legislative and administrative matters pending in New Jersey. I have no notes, transcript, or recording. The address for the New Jersey Business and Industry Association is 10 West Lafayette Street, Trenton, New Jersey 08608.

November 30, 2012: Speaker, Perspectives from the Governor's Office, Rutgers University Eagleton Institute of Politics, New Brunswick, New Jersey. I have no notes, transcript, or recording of the event. The Rutgers University Eagleton Institute of Politics is located at 191 Ryders Lane, New Brunswick, New Jersey 08901.

September 17, 2012: Panelist, Governor's Office Oversight of Agency Rulemaking, New Jersey Attorney General's Advocacy Institute, Trenton, New Jersey. I spoke on a panel about legislative and administrative matters pending in New Jersey. I have no notes, transcript, or recording. The address for the New Jersey Attorney General's Advocacy Institute is RJ Hughes Justice Complex, 25 Market Street, Trenton, New Jersey 08625.

June 20, 2012: Panelist, Cornerstone Panel, New Jersey State Chamber of Commerce, Trenton, New Jersey. I spoke on a panel about legislative and administrative matters pending in New Jersey. I have no notes, transcript, or recording. The New Jersey Chamber of Commerce is located at 216 West State Street, Trenton, New Jersey 08608.

April 18, 2012: Panelist, Meet the Decision Makers Panel, New Jersey Business

and Industry Association, Trenton, New Jersey. I spoke on a panel about legislative and administrative matters pending in New Jersey. I have no notes, transcript, or recording. The address for the New Jersey Business and Industry Association is 10 West Lafayette Street, Trenton, New Jersey 08608.

April 10, 2012: Panelist, Spring Membership Luncheon, New Jersey Civil Justice Institute, Trenton, New Jersey. I spoke on a panel about legislative and administrative matters pending in New Jersey. I have no notes, transcript, or recording. The address for the New Jersey Civil Justice Institute is 112 West State Street, Trenton, New Jersey 08608.

October 16, 2009: Panelist, Annual Student Health Law Conference Seton Hall University School of Law, Newark, New Jersey. I spoke about the work of the United States Attorney's Office for the District of New Jersey. I have no notes, transcript, or recording. The address for Seton Hall University School of Law is 1109 Raymond Boulevard, Newark, New Jersey 07102.

- 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.

Jeannie O'Sullivan, *Trump's 3rd Circ. Nominee Joins Lowenstein Sandler In NJ*, Law360, Aug. 21, 2018. Copy supplied.

Lowenstein Sandler Adds New Partner, N.J. Bus., Aug. 21, 2018. Copy supplied.

Paul B. Matey, Former AUSA and University Hospital GC, Joins Lowenstein Sandler, Commerce and Industry Assoc. of N.J., Aug. 20, 2018. Copy supplied. Reprinted in multiple outlets.

Eric Strauss, *University Hospital's Matey is joining Lowenstein Sandler*, Aug. 20, 2018. Copy supplied.

UH Senior VP is a Finalist, @University Hospital, July 2016. Copy supplied.

Anjalee Khemlani, *Healthcare Panel Points to Problematic Priorities as Reason for High Costs*, NJBIZ, Oct. 28, 2015. Copy supplied.

Martin Bricketto, *Attorney in NJ Gov's Office Departs for Hospital Exec Job*, Law360, Sept. 4, 2015. Copy supplied.

Christie's Deputy Chief Counsel Leaving Administration, The Bergen Record, Sept. 4, 2015. Copy supplied.

Michael Booth, *Christie's Deputy Chief Counsel Leaves for Hospital GC Job*,

N.J.L.J., Sept. 4, 2015. Copy supplied.

Gary Koellhoffer, *Tattoos for You, and Fashion Too!*, Aquinas (Univ. of Scranton), Feb. 25, 1993, at 9. Copy supplied.

Philip Naimoli, *Illicit Drugs Included with Drinking in New Alcohol Policy*, Aquinas (Univ. of Scranton), Sept. 6, 1989, at 1. 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.

I have not held public office. I have had no unsuccessful candidacies for public 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 position or played a role in any 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 2001 to 2002, I served as a law clerk to the Honorable John C. Lifland, United States District Judge for the District of New Jersey. From 2002 to 2003, I served as a law clerk to the Honorable Robert E. Cowen, Circuit Judge of the United States Court of Appeals for the Third Circuit.

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.

2003 – 2005

Kellogg, Hansen, Todd, Figel & Frederick PLLC
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
Associate

2005 – 2009

United States Attorney's Office for the District of New Jersey
970 Broad Street, 7th Floor
Newark, New Jersey 07102
Assistant United States Attorney

2010 – 2015

Office of Governor Chris Christie
125 West State Street
Trenton, New Jersey 08608
Assistant Counsel (2010)
Senior Counsel (2010 – 2012)
Deputy Chief Counsel (2012 – 2015)

2015 – 2018
University Hospital
150 Bergen Street, D-225
Newark, New Jersey 07101
Senior Vice President & General Counsel (2015 – 2018)
Corporate Secretary (2016 – 2018)

2018 – present
Lowenstein Sandler LLP
One Lowenstein Drive
Roseland, New Jersey 07068
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.

In 2003, I joined the Washington, D.C. law firm of Kellogg, Huber, Hansen, Todd, Evans, and Figel, PLLC (now known as Kellogg, Hansen, Todd, Figel & Frederick PLLC) as an associate. At the firm, I enjoyed a wide variety of experience in trial and appellate litigation involving foreign relations, international law, federal securities regulation, telecommunications, and commercial and entertainment matters. My work ranged from small cases for individuals involving commercial disputes to assisting a small business in an unfair trade practices action against a Fortune 10 company, representing a foreign government, and defending an individual in a federal criminal prosecution. My practice also included authorship of numerous briefs in matters pending before the Supreme Court of the United States and the United States Courts of Appeals.

In 2005, I joined the Office of the United States Attorney for the District of New Jersey as an Assistant United States Attorney. As an attorney in the Justice Department, I prosecuted dozens of criminal cases to verdict in the Securities and Health Care Fraud and the Public Protection Units, including complex white-collar crimes involving investor fraud, securities fraud, healthcare fraud, and the Foreign Corrupt Practices Act; I also prosecuted domestic and international child pornography networks and child exploitation. I routinely briefed and argued motions in district court,

and regularly appeared before federal judges and magistrates on a wide variety of substantive and procedural matters. I tried three cases as lead counsel, briefed a criminal appeal before the Third Circuit, and assisted in developing litigation strategy, and reviewing and editing legal briefs.

In 2010, I joined the Office of the Chief Counsel to New Jersey Governor Chris Christie as an Assistant Counsel, later serving as Senior Counsel, and then Deputy Chief Counsel to the Governor. As the Deputy Chief Counsel, I served as member of Governor Christie's Senior Staff, and as the second most senior attorney in the Governor's Office, supervising the development of all legal advice for the Governor, including analysis of all legislation, administrative regulations, and executive orders. My duties also included management of significant litigation, legislative inquiries, and internal investigations for the executive branch. In addition, I served as a senior negotiator with the New Jersey State Legislature and the federal government on matters including the annual state budget, disaster recovery contracts, interstate transportation agreements, energy distribution, and healthcare and hospital services.

In September 2015, I was named Senior Vice President and General Counsel for University Hospital. I was named Secretary in March 2016. University Hospital is an independent medical center with more than 500 licensed beds, an active medical staff of more than 600, and over 3,000 employees. Located on a sixty-acre campus, University Hospital is a Level One Trauma Center, and a regional resource for advanced care in a wide range of medical specialties. At University Hospital, I directed the development of all legal guidance, served as counsel for the hospital's internal compliance program and corporate code of ethics, and managed all litigation. In addition, I was responsible for legal and policy support to the hospital's eleven-member Board of Directors, all Board committees, and served as a member of the hospital's Executive Leadership Group.

In September 2018, I joined 2018 Lowenstein Sandler LLP, a national law firm with approximately 300 lawyers working from five offices in New York, Palo Alto, New Jersey, Utah and Washington, D.C. My practice includes matters involving commercial litigation, criminal defense, and health care.

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

I have been privileged to enjoy a varied and diverse mix of private and public clients throughout my legal career. I have advised public officials, designed legal solutions for Fortune 50 corporations and foreign governments, represented individuals and small businesses, and achieved significant, successful prosecutions against large and small companies.

My legal career includes experience in private practice focusing on international claims, energy and telecommunications, investor fraud, criminal defense, and commercial disputes in the federal district and appellate courts, and state courts. I have also served the public as a federal prosecutor, concentrating on large-scale investigations into commercial and financial matters, and the protection of exploited children. I was also a senior member of Governor Christie's leadership team, and the second highest lawyer in the Executive Branch, managing high-profile litigation, legislative inquiries, and internal investigations. In my role as a hospital general counsel, I managed an active litigation portfolio, supervised corporate transactions, counseled medical professionals, and worked across the hospital's internal departments to mitigate risk and enhance compliance.

- 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.

The percentage of my practice devoted to litigation has varied throughout my career. As an attorney in private practice, I have appeared occasionally in federal court, and devoted all of my time to trial and appellate litigation. As a federal prosecutor, I appeared in federal court regularly. In my roles as counsel to the Governor, and as counsel to a hospital, I have not appeared in court, as my practice has involved preparation for litigation, review and interpretation of statutes, regulations, and other authorities, and strategic guidance on policy and business decisions based on the risk of legal dispute.

- i. Indicate the percentage of your practice in:

1. federal courts:	90%
2. state courts of record:	5%
3. other courts:	0%
4. administrative agencies:	5%

- ii. Indicate the percentage of your practice in:

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

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

As an Assistant United States Attorney, I tried three jury trials as chief counsel, two involving a felon in possession of a firearm, and one involving a scheme to commit mail fraud. In all three matters, I served as lead counsel, with another Assistant United States Attorney serving as co-counsel.

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury: 0%

- 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.

Powerex Corp. v. Reliant Energy Servs., Inc., 551 U.S. 224 (2007) (counsel for petitioner). Copies supplied.

Dura Pharms., Inc. v. Broudo, 544 U.S. 336 (2005) (counsel for Chamber of Commerce of the United States as amicus in support of petitioner). Copies supplied.

On The House Syndication, Inc. v. Federal Express Corp., 541 U.S. 938 (2004) (counsel for petitioner). Copies supplied.

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. Smith*, 09-MJ-04057 (D.N.J. 2009). Hon. Mary L. Cooper.

I opened this investigation into a financial advisor and broker suspected of defrauding his clients. The investigation determined that for more than two decades, the defendant had diverted investments to his own bank accounts, where he used the investors' money for his personal use, including dining, entertainment, gambling, and international travel. In total, the investigation revealed that the defendant defrauded his clients out of more than \$9 million. I drafted and presented the five-count criminal information charging Smith with mail fraud and obtained a guilty plea. The defendant was later sentenced to eighty-four months imprisonment.

Opposing Counsel:

Robert A. Weir
Weir & Plaza LLC
25 Sycamore Avenue, Suite 103
Little Silver, New Jersey 07739
732-741-8181

2. *United States v. Valenzuela*, 07-CR-00412 (D.N.J. 2007). Hon. Stanley R. Chesler.

I opened this investigation into a Chilean citizen who filmed his sexual abuse of a seven-year-old child and transported the material into the United States. I drafted and presented the criminal information charging him with transportation of child pornography, obtained a guilty plea, and argued the Government's position at his sentencing hearing, resulting in a significant sentence of 220 months in federal prison.

Opposing Counsel:

John Yauch
Federal Public Defender
972 Broad Street, 4th Floor
Newark, New Jersey 07102
973-645-6347

3. *Powerex Corp. v. Reliant Energy Servs., Inc.*, 551 U.S. 224 (2007).

I assisted in the drafting of a petition for writ of certiorari on behalf of a Canadian power company, created by the Province of British Columbia, to sell electricity in the United States under international treaty obligations with the United States. The case concerned the meaning and application of the Foreign Sovereign Immunities Act of 1976, and the need for a uniform platform for international trade and relations with the United States. The petition argued that the Ninth Circuit's ruling finding Powerex to be a private corporation, rather than an organ of a foreign state, conflicted with the decisions of three other circuits and misapplied the Foreign Sovereign Immunities Act under the Supreme Court's precedent. The Supreme Court granted the petition and, later, concluded the Court of Appeals lacked jurisdiction to review the trial court order.

Co-Counsel:

David C. Frederick
Kellogg, Hansen, Todd, Figel & Frederick PLLC
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
202-236-7900

Opposing Counsel:

Leonard B. Simon
Lerach Coughlin Stoia Geller Rudman & Robbins LLP

655 West Broadway, Suite 1900
San Diego, California 92101
619-231-1058

4. *United States v. Adams*, 07-CR-00859 (D.N.J. 2007). Hon. Dennis M. Cavanaugh.

I opened this investigation concerning the potential abuse of a minor as part of an international inquiry into the production and distribution of child pornography. Working with investigators and using electronic evidence obtained through court-ordered warrants, we identified the victim of active and ongoing sexual abuse and charged the defendant with sexual abuse of a minor. I drafted and presented the criminal information, obtained a guilty plea, and argued the Government's position at his sentencing hearing, resulting in a sentence of 235 months in federal prison.

Opposing Counsel:

K. Anthony Thomas
Federal Public Defender
972 Broad Street, 4th Floor
Newark, New Jersey 07102
973-645-6347

5. *United States v. Wynn*, 214 Fed. Appx. 118 (3d Cir. Jan. 25, 2007). Hon. Thomas L. Ambro, Hon. Gene E.K. Pratter, and Hon. Marjorie O. Rendell.

I briefed the Government's opposition to this appeal alleging errors in the district court's sentencing decisions. The case raised the novel question whether, in light of the Supreme Court's emerging jurisprudence on the constitutional right of confrontation and its then-recent decisions in *Crawford v. Washington*, 541 U.S. 36 (2004), and *United States v. Booker*, 543 U.S. 220 (2005), the Confrontation Clause of the Sixth Amendment applies at sentencing. In a unanimous opinion, the panel accepted my argument that the Supreme Court's decisions on the applicability of the Confrontation Clause did not alter the long-standing conclusion that the Sixth Amendment does not prohibit a sentencing court from considering reliable and reasonable hearsay in determining an appropriate sentence.

Co-Counsel:

Hon. George S. Leone
Superior Court of New Jersey (formerly with U.S. Attorney's Office)
Appellate Division, Part G
101 South Fifth Street, 1st Floor
Camden, New Jersey 08103
856-379-2371

Opposing Counsel:

Justin T. Loughry
Loughry & Lindsay

330 Market Street
Camden, New Jersey 08102

6. *Operation Emissary*

United States v. Bracht, 06-MJ-08204 (D.N.J. 2006); *United States v. Brown*, 06-MJ-08205 (D.N.J. 2006); *United States v. Domingo Santos*, 06-MJ-08214 (D.N.J. 2006); *United States v. Dulak*, 06-MJ-08218 (D.N.J. 2006); *United States v. Faccibene*, 06-MJ-08206 (D.N.J. 2006); *United States v. Harris*, 06-MJ-08217 (D.N.J. 2006); *United States v. Knorr*, 06-MJ-08209 (D.N.J. 2006); *United States v. Lasher*, 06-MJ-08210 (D.N.J. 2006); *United States v. Morehouse*, 06-MJ-08211 (D.N.J. 2006); *United States v. Montemayor*, 06-MJ-08219 (D.N.J. 2006); *United States v. Payne*, 06-MJ-08212 (D.N.J. 2006); and *United States v. Reagor*, 06-MJ-08213 (D.N.J. 2006). Hon. Madeline C. Arleo.

United States v. McMichael, 07-CR-00211 (D.N.J. 2007). Hon. Stanley R. Chesler.

United States v. Burke, 06-MJ-06074 (D.N.J. 2006). Hon. Ronald J. Hedges.

United States v. Fahey, 07-CR-00216 (D.N.J. 2007); *United States v. Hale*, 07-CR-00166 (2007). Hon. Judge Joseph E. Irenas.

United States v. Gambale, 07-CR-00241 (D.N.J. 2007). Hon. Robert B. Kugler.

Over the course of more than a year, I participated in an international investigation into an organized network of child pornography production and distribution. Using confidential sources, we worked to develop electronic evidence of the network's activities using a combination of court-ordered surveillance, search warrants, banking records, and cooperator testimony. The investigation uncovered a commercial website offering access to videos and images of hardcore child pornography involving children and infants engaged in sexual activities with adults. At the conclusion of the investigation, more than 125 individuals in more than twenty-two states were arrested, and more than 225 search warrants (drafted off a template I created) were executed. The arrests included a significant number of individuals previously convicted of sex offenses against minors. I drafted and presented sixteen criminal complaints and indictments against defendants arrested in New Jersey. I obtained convictions and briefed and argued the Government's position at sentencing in *Fahey*, *Gambale*, *Hale*, and *McMichael*, resulting in terms of imprisonment ranging from 41 to 51 months.

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7. *United States v. Diamond*, 06-CR-00892 (D.N.J. 2006). Hon. Susan D. Wigenton.

I assisted in this trial on charges of mail fraud related to a scheme to defraud federal employees. During the pendency of the defendant's appeal of a 2004 conviction for wire fraud, he sent a series of mailings to persons involved in his prior prosecution, as well as the presiding federal judge, in an attempt to file liens against each. I presented numerous witnesses on direct and cross-examination, including an expert witness, and presented the Government's opening and rebuttal closing arguments. The jury returned a guilty verdict on three counts of mail fraud, and the defendant's conviction and sentence of 45 months' imprisonment was affirmed on appeal.

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8. *Dura Pharms., Inc. v. Broudo*, 544 U.S. 336 (2005).

In this case, I assisted in the drafting on an amicus brief on behalf of the United States Chamber of Commerce addressing a unique issue concerning the proper application of the loss-causation principle in securities litigation. The brief highlighted an emerging legal question concerning the causal relationship between the fraudulent acts alleged, and the decline in stock value claimed as a loss. The amicus brief examined whether a securities fraud plaintiff can sustain a cause of action without demonstrating proximate causation to the loss. Our client argued that such claims are not viable under federal law, and the Supreme Court concurred in a unanimous opinion.

Co-Counsel:

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9. *Lentell v. Merrill Lynch & Co., Inc.* 396 F.3d 161 (2d Cir.) *cert. denied*, 564 U.S. 935 (2005). Hon. Dennis G. Jacobs, Hon. Barrington D. Parker, and Hon. Sonia M. Sotomayor.

In this case, I assisted in the drafting of an amicus brief on behalf of the United States Chamber of Commerce and the Business Roundtable concerning uniform application of the requirements of the federal securities laws. The case involved the economic fallout caused by the collapse of the Internet stock bubble of the late 1990s. Merrill Lynch had long offered its investment customers a variety of research materials for use in evaluating market options, and its Internet research group published reports on both general industry trends and specific company profiles. When Internet stocks declined, dozens of class action suits were filed against Merrill Lynch, alleging that these analyst reports were materially misleading. The amicus brief argued that the claims against Merrill Lynch were properly dismissed, noting lack of reliance on the investment reports, and the wild fluctuations of the stock market during the putative class period. Moreover, the brief noted that allowing the suit to proceed to class certification threatened to deprive the securities market of the research and analysis necessary for private and institutional investments. Our client's position was accepted by the Second Circuit.

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10. *On the House Syndication, Inc. v. Federal Express Corp.*, 541 U.S. 938 (2004).

I assisted in the preparation of this petition for certiorari seeking to address a circuit conflict concerning the applicability of federal common law to assert jurisdiction over state law contract claims involving interstate air carriers subject to the Airline Deregulation Act of 1978. The case involved a commercial dispute over late deliveries filed in state court, which had been removed to federal court on the theory that breach-of-contract claims involving an air carrier's duties are governed by federal common law. The petition argued that by permitting these purely state-law contract claims to be heard in federal court, the Ninth Circuit deepened a growing circuit conflict regarding the appropriateness of adjudicating routine contract claims under federal law and raised the question whether the Airline Deregulation Act preempts or accommodates state-law contract claims. While the Supreme Court did not grant the petition, it would visit the issue of federal preemption of state contract claims in a later term.

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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.)

I have not performed lobbying activities on behalf of any client or organization, and I have never been registered as a lobbyist. While my work in private practice and the Justice Department has been devoted almost exclusively to litigation, my work as corporate counsel to a hospital involved counseling, strategic development, and risk mitigation in a variety of legal areas. For example, I assisted in the design, marketing, and closure of a \$255 million tax-exempt bond offering and successfully transitioned University Hospital's Camden-based EMS service to another healthcare facility, including negotiating the sale of property and assets. I also counseled the negotiation of a \$60 million contract to provide physician services, and the establishment of the first academic medical oncology center in Newark. Finally, I established a partnership with the United States District Court, the United States Probation Office, and the Office of the Federal Public Defender on a work program for former federal inmates.

My work on behalf of the State of New Jersey regularly involved significant legal work not involving court appearances. For example, I worked to settle a \$250 million claim by the United States Department of Transportation for the State's participation in a bi-state rail project. I also assisted in the reform of the State's criminal justice detention standards, including an approved constitutional amendment establishing an alternative pre-trial release system to avoid the unnecessary incarceration of individuals unable to post bail.

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.

From 2010 until 2018, I participated in a mandatory State of New Jersey pension fund in which I am not yet vested. My contributions to date may be rolled into another qualified retirement plan. Otherwise, I have no deferred income arrangements, stock, options, uncompleted contracts, or other future benefits I expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

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 in the future.

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 the 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 the 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 litigation where I have ever played a role. For a period of time, I anticipate in recusing in all cases involving my current employer, Lowenstein Sandler LLP. I will also evaluate recusal in cases involving University Hospital, the Office of the Governor of New Jersey, the United States Attorney's Office for the District of New Jersey, Kellogg, Hansen, Todd, Figel &

Frederick PLLC. I would also recuse myself in matters involving my family, close friends, and my own financial interests. Lastly, I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action, with the advice of parties and their counsel, 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.

In consultation with any guidance provided by the Chief Judge of the Third Circuit and the Administrative Office for the United States Courts, I would seek to follow the Code of Conduct for United States Judges, the Ethics Reform Act of 1989, the Ethics in Government Act of 1978, and all other relevant guidelines. In all cases, I would anticipate recusing in matters that might give rise to an actual or apparent conflict of interest based on my participation.

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.

My work on behalf of public entities, including the State of New Jersey, the United States Department of Justice, and the United States Courts has precluded the acceptance of pro bono assignments. As a student at Seton Hall University School of Law, however, I participated in Seton Hall's Appellate Litigation Clinic, representing an inmate in a suit against prison officials alleging discrimination and retaliation for exercise of religious freedoms under the Constitution of the United States. The suit, filed in federal court in Pennsylvania, claimed that prison officials retaliated against the plaintiff by cutting his wages and denying him parole when he declined to participate in prison programs based on his firmly held religious beliefs. The trial court dismissed the suit, and the plaintiff engaged Seton Hall to file an appeal. In a unanimous precedential opinion, the United States Court of Appeals for the Third Circuit reversed the dismissal, and accepted our formulation for a new test specifying the elements of a prisoner's cause of action for retaliation and the burden of proof needed to succeed on a retaliation claim. The Third Circuit's opinion in *Rauser v. Horn*, 241 F.3d 330 (3d Cir. 2001), has now been cited by courts over 1,400 times.

26. **Selection Process**:

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or

communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On or about February 17, 2017, I was contacted by Governor Chris Christie, who advised that he had recommended me as a possible candidate for judicial service to White House. Since February 19, 2017, I have been in contact with officials from the White House Counsel's Office. On February 23, 2017, I was interviewed by attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. On April 12, 2018, 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.