

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Matthew Hillel Solomson

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

Judge, U.S. Court of Federal Claims

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.

Anthem, Inc.
Federal Government Solutions
7133 Rutherford Road
Suite 210
Baltimore, Maryland, 21244

Residence: Silver Spring, Maryland

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

1974; Hartford, Connecticut.

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.

1998 – 2002, University of Maryland School of Law and University of Maryland Robert H. Smith School of Business; J.D. / M.B.A., May 2002

1997 – 1998, The Yeshiva College of the Nation's Capital (non-degree student)

1992 – 1995, Brandeis University; B.A. (*cum laude*), 1996

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.

2015 – present

Anthem, Inc.

7133 Rutherford Road, Suite 210

Baltimore, Maryland 21244

Chief Legal Officer, Federal Government Solutions

2008 – present

University of Maryland Francis King Carey School of Law

500 West Baltimore Street

Baltimore, Maryland 21201

Adjunct Professor, Government Contracts Law

2012 – 2015

Booz Allen Hamilton Inc.

8283 Greensboro Drive

McLean, Virginia 22102

Associate General Counsel (2012 – 2015)

Practice Group Lead, Government Contracts (2014 –2015)

2013

Schlam Stone and Dolan LLP

26 Broadway

New York, New York 10004

Consulting/expert witness (government contracts)

2011 – 2012

Sidley Austin LLP

1501 K Street, NW

Washington, DC 20005

Counsel, Government Contracts, Appellate, and Complex Commercial Litigation groups

2007 – 2011

United States Department of Justice

Commercial Litigation Branch

1100 L Street, NW

Washington, DC 20530

Trial Attorney, National Courts Section

2005 – 2007; 2003 – 2004; Summer 2001

Arnold & Porter LLP

601 Massachusetts Avenue, NW

Washington, DC 20001

Associate, Government Contracts & Litigation (2005 – 2007; 2003 – 2004)

Summer Associate (Summer 2001)

2004 – 2005
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, NW
Washington, DC 20005
Associate, Patent and Technology Litigation

2002 – 2003
Chambers of Hon. Francis M. Allegra
U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20005
Judicial Law Clerk

Summer 2000
Deloitte & Touche LLP
100 South Charles Street
12th Floor
Baltimore, Maryland 21201
Summer Intern, Tax Services / Assurance & Advisory Services

Summer 1999
Deloitte & Touche LLP
1750 Tysons Boulevard
McLean, Virginia 22102
Summer Intern, Tax Services / Assurance & Advisory Services

1996 – 1997
National Economic Research Associates
1255 23rd Street, NW
Suite 600
Washington, DC 20037
Research Associate, Mergers & Acquisitions / Antitrust Group

Other Affiliations (Uncompensated):

2011 – 2016
U.S. Court of Federal Claims Bar Association
455 Massachusetts Avenue, NW
Suite 335 Washington, DC 20001
Treasurer (2012 – 2016)
Board of Governors (2011 – 2012)

2002 – 2003 (estimated)
Southeast Hebrew Congregation
10900 Lockwood Drive

Silver Spring, Maryland 20901
Board of Directors

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

I have not served in the military. I registered for selective service.

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

University of Maryland School of Law

Graduated with honors and Order of the Coif (2002)

Editorial Staff, *The Business Lawyer* (published by the American Bar Association) (2000 – 2002)

Member, Moot Court Board (2001 – 2002)

Strahorn Memorial Prize for Evidence (2001)

Finalist, 31st Annual Myerowitz Moot Court Competition (2001)

Coonan Memorial Prize for Legal Method & Contracts (2000)

Brandeis University

Graduated *cum laude* (1996)

Selected to Omicron Delta Epsilon, The International Economics Honor Society
(approximately 1994 – 1995)

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.

Association of Corporate Counsel (approximately 2012 – present)

Federal Bar Association (approximately 2010 – 2013)

Section Chair, Government Contracts (2012 – 2013)

Contract Disputes Standing Committee Chair, Government Contracts Section (2010 – 2012)

U.S. Court of Federal Claims Bar Association (approximately 2003 – present)

Treasurer (2012 – 2016)

Board of Governors (2011 – 2012)

American Bar Association Section of Public Contract Law (approximately 2003 – 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.

Maryland, 2002

District of Columbia, 2004

Virginia, 2013

There have been no lapses in membership. Under Virginia rules, I was no longer eligible for Corporate Counsel status upon my departure from Booz Allen Hamilton Inc. in April 2015 because I was no longer employed in the Commonwealth of Virginia.

- 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.

U.S. Court of Federal Claims, 2003

U.S. Court of Appeals for the Federal Circuit, 2004

U.S. District Court of the District of Columbia, 2004

U.S. Court of International Trade, 2009

There have been no lapses in membership. I did not renew my membership in the U.S. District Court of the District of Columbia after departing Arnold & Porter in 2007, because I no longer had a need to practice before that court. I did not renew my membership with the U.S. Court of International Trade after departing the U.S. Department of Justice in 2011, because I no longer had a need to practice before that court.

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.

Commission to Modernize State Procurement (2016)

Southwest Hebrew Congregation Board of Directors (2002 – 2003)

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

To the best of my knowledge, none of the 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.

Court of Federal Claims: Jurisdiction, Practice, and Procedure (Bloomberg BNA December 2016). Copy supplied.

2012 Government Contract Law Decisions of the Federal Circuit, 62 Am. U. L. Rev. 907 (2013). Copy supplied.

A User's Guide to Contract Disputes Act Claim Preparation: Tips and Tactics, 59 Fed. Law. 29 (Oct./Nov. 2012). Copy supplied.

Something for everyone: the Court of Federal Claims issues decision in long-running, complex government contracts fraud case, Sidley Austin LLP (August 1, 2012) (available at www.lexology.com, <https://fcablog.sidley.com>, and www.Law360.com). Copy supplied.

Good enough for government work – Court of Federal Claims rejects government's FCA challenge to contractor's estimates, Sidley Austin LLP (July 24, 2012) (available at www.lexology.com and <https://fcablog.sidley.com>). Copy supplied.

D.C. Circuit Decision May Throw Wrench Into Qui Tam Settlement Efforts, Sidley Austin LLP (April 30, 2012) (available at www.lexology.com and <https://fcablog.sidley.com>). Copy supplied.

Fourth Circuit vacates and remands jury verdict on Stark violations in FCA case, Sidley Austin LLP (April 5, 2012) (available at www.lexology.com and <https://fcablog.sidley.com>). Copy supplied.

2011 Government Contract Law Decisions of the Federal Circuit, 61 Am. U. L. Rev. 1013 (2012). Copy supplied.

Department of Defense Transportation Contracts – The Rules of the Road, Def. Transp. J. (2012). Copy supplied.

When the Government's Best Defense Is a Good Offense: Litigating Fraud and Other Counterclaim Cases Before the U.S. Court of Federal Claims, Briefing Papers No. 11-12 (Nov. 2011). Copy supplied.

Office of Government Ethics proposes to severely restrict registered lobbying organizations from hosting free educational and social events for government employees, Sidley Austin LLP (September 28, 2011) (available at www.lexology.com). Copy supplied.

Fiscal Matters: An Introduction To Federal Fiscal Law & Principles, Briefing Papers No. 10-7 (July 2010). Copy supplied.

Congress Declares Checkmate: How the Fraud Enforcement and Recovery Act of 2009 Strengthens the Civil False Claims Act and Counters the Courts, 5 J. Bus. & Tech. L. 295 (2010). Copy supplied.

The Keys to the Kingdom: Obtaining Injunctive Relief in Bid Protest Cases Before the U.S. Court of Federal Claims, Briefing Papers No. 08-13 (Dec. 2008). Copy supplied.

Contributor, The U.S. Court of Federal Claims Deskbook for Practitioners (5th ed. 2008). Copy supplied.

What Would Scalia Do? – A Textualist Approach to the Qui Tam Settlement Provision of the False Claims Act, 36 Pub. Cont. L.J. 39 (2006). Copy supplied.

Current Issues in False Claims Litigation, Briefing Papers No. 06-10 (Sept. 2006). Copy supplied.

Subcontractor Challenges to Federal Agency Procurement Actions, Briefing Papers No. 06-3 (Feb. 2006). Copy supplied.

Patently Confusing: The Federal Circuit's Inconsistent Treatment of Claim Scope as a Limit on the Best Mode Disclosure Requirement, 45 IDEA 383 (2005). Copy supplied.

Editorial, *Running Ad Reflected Poor Judgment*, *The Justice* (Jan. 18, 1994).
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.

Report of the Commission to Modernize State Procurement (December 1, 2016).
Copy supplied.

The Performance Issues and Contract Disputes Subcommittee, *Federal Circuit Bar Association Study of Best Practices and Opportunities for Improvements in Federal Procurement Contracting: Performance Issues and Contract Disputes Subcommittee Report*, 24 Fed. Circuit B.J. 223 (2014). Copy supplied.

- 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.

Prepared Statement, *Oversight of the False Claims Act: Hearing Before the Subcommittee on the Constitution and Civil Justice of the Committee on the Judiciary House of Representatives*, 114th Cong., Serial No. 114-72 at 102 (April 28, 2016). Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

January 28, 2019: Panelist, *A Tale of Two Memos: Devising Strategies to Avoid Dismissal in View of the Granston and Brand Memoranda*, Sixth Annual Advanced Forum on False Claims and *Qui Tam* Enforcement, American Conference Institute, New York, NY. I spoke about the referenced memoranda and some misconceptions about them. I have no notes, transcript, or recording. The address of the American Conference Institute is 45 West 25th Street, 11th Floor, New York, NY 10010.

January 30, 2018: Panelist, *Effective Strategies for Dealing with a Whistleblower who is a Current or Former Employee*, Fifth Advanced Forum on False Claims & *Qui Tam* Enforcement, American Conference Institute, New York, NY. PowerPoint supplied.

March 17, 2017: Panelist, *Swimming Upstream: Issues Keeping Government and In-House Counsel Struggling Against the Current*, Section of Public Contract Law's 23rd Annual Federal Procurement Institute, American Bar Association, Annapolis, MD. Handout supplied.

January 31, 2017: Panelist, *How are False Claims Cases Internally Assessed and Best Practices for Managing Internal Investigations*, Fourth Advanced Forum on False Claims & *Qui Tam* Enforcement, American Conference Institute, New York, NY. I spoke about internal investigations, internal assessment of cases, and settlement strategies. I have no notes, transcript, or recording. The address of the American Conference Institute is 45 West 25th Street, 11th Floor, New York, NY 10010.

March 14, 2013: Panelist, *Opening Remarks and Introductions*, Section of Public Contract Law's 23rd Annual Federal Procurement Institute, American Bar Association, Annapolis, MD. I gave brief opening remarks and introduced speakers to the conference. I have no notes, transcript, or recording. The address of the American Bar Association's DC Office is 1050 Connecticut Avenue NW, Suite 400, Washington, DC 20036.

October 30, 2012: Panelist, *False Claims Act settlement discussions*, Section of Public Contract Law, Procurement Fraud Committee, American Bar Association, Washington, DC. I spoke about the role of settlement in False Claims Act matters. I have no notes, transcript, or recording, but a Procurement Fraud Committee report containing coverage of the panel is supplied. The address of the American Bar Association's DC Office is 1050 Connecticut Avenue NW, Suite 400, Washington, DC 20036.

June 26, 2012: Moderator, *It Ain't Over 'til It's Over: The Review of GAO Decisions in Follow-On COFC Bid Protests*, U.S. Court of Federal Claims Bar Association & Sidley Austin, LLP, Washington, DC. I moderated a panel on recent GAO decisions. I have no notes, transcript, or recording. The address of the U.S. Court of Federal Claims Bar Association is 455 Massachusetts Avenue NW, Suite 335, Washington, DC 20001.

October 26, 2011: Panelist, *Enforcement Pitfalls in the Modern Procurement Marketplace: Fraud and Related Counterclaims before the COFC*, Annual Program, Boards of Contract Appeals Bar Association, Washington, DC. I spoke about remedies available to the government under the counterclaim statutes. I have no notes, transcript, or recording. The address of the Boards of Contract Appeals Bar Association is P.O. Box 66612, Washington, DC 20035.

March 24, 2011: Speaker, *Enforcement Pitfalls In The Modern Procurement Marketplace: Government Counterclaims*, NCMA Tysons and the Government Contracts Section of the Federal Bar Association, McLean, Virginia. PowerPoint supplied.

December 15, 2010: Moderator, *E-Discovery in Federal Government Litigation* panel, Government Contracts Section of the Federal Bar Association, Washington, DC. I moderated a panel about conducting discovery in government litigation. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Federal Bar Association is 220 North Fillmore Street, Suite 444, Arlington, VA 22201.

December 1, 2010: Panelist, *Recent Developments and Considerations in Battlespace Contracting Claims*, American Bar Association's Public Contract Law Section, Contract Claims and Disputes Resolution Committee, Battle Space and Contingency Contracting Committee, and Young Lawyers Committee, Washington, DC. I spoke about recent developments in battlespace contracting claims. I have no notes, transcript, or recording. The address of the American Bar Association's DC Office is 1050 Connecticut Avenue NW, Suite 400, Washington, DC 20036.

June 29, 2010: Panelist, *Using Your Internship or Clerkship to Springboard Your Legal Career*, U.S. Court of Federal Claims Bar Association, Washington, DC. I gave career advice to new and aspiring lawyers at this panel. I have no notes, transcript, or recording. The address of the U.S. Court of Federal Claims Bar Association is 455 Massachusetts Avenue NW, Suite 335, Washington, DC 20001.

- 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.

May 13, 2014: *The Tenacious Technocrat: Judge Francis Allegra*, Law360. Copy supplied.

February 2012: Government Contractors Face Compliance Verification Rule, *Compliance Week*. Copy supplied.

December 20, 2011: New Compliance Verification Requirement for Defense Contractors, *Compliance Week*. Copy supplied.

September 8, 2011: *Sidley Adds Ex-DOJ Atty To Government Contracts Group*, Law360. Copy supplied.

September 6, 2011: *Government Contracts Counsel Matthew Solomson Joins Sidley Austin LLP in Washington, D.C.*, Business Wire (Press Release from Sidley Austin LLP). Copy supplied.

September 11, 1994: *For Some, Dorm Life is Made-to-Order*, The Boston Globe. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which

you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

- 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.

I have not held judicial office.

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

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

I have not held any other public office. I have had no candidacies for public office. I have had no unsuccessful nominations for appointed office.

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

including the candidate, dates of the campaign, your title and responsibilities.

I have not held any offices in or rendered services to any political party or election committee. I have not held a position or played a role in a 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;

I served as a law clerk to Judge Francis M. Allegra of the United States Court of Federal Claims, from 2002 to 2003.

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

I have never practiced alone.

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

2003 – 2004; 2005 – 2007
Arnold & Porter LLP
601 Massachusetts Avenue, NW
Washington, DC 20001
Associate, Government Contracts & Litigation

2004 – 2005
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, NW
Washington, DC 20005
Associate, Patent and Technology Litigation

2007 – 2011
United States Department of Justice
Commercial Litigation Branch
1100 L Street, NW
Washington, DC 20530
Trial Attorney, National Courts Section

2011 – 2012
Sidley Austin LLP
1501 K Street, NW

Washington, DC 20005
Counsel, Government Contracts, Appellate, and Complex Commercial
Litigation

2012 – 2015
Booz Allen Hamilton Inc.
8283 Greensboro Drive
McLean, Virginia 22102
Associate General Counsel (2012 – 2015)
Practice Group Lead, Government Contracts (2014 – 2015)

2013
Schlam Stone and Dolan LLP
26 Broadway
New York, New York 10004
Consulting/expert witness (government contracts)

2015 – present
Anthem, Inc.
7133 Rutherford Road, Suite 210
Baltimore, Maryland 21244
Chief Legal Officer, Federal Government Solutions

- 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 never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

My law practice has focused primarily on government contracts litigation, compliance, and counseling, and on a variety of trial and appellate matters before the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit.

Currently (since 2015), I serve as the Chief Legal Officer of a multibillion dollar business unit – Federal Government Solutions (FGS) – within a Fortune 30 healthcare company, Anthem, Inc., where I lead and manage a team of attorneys. I previously also managed teams of contract management and compliance professionals (including privacy and internal audit functions). I serve as a member of the FGS senior management

team. In that capacity, I provide legal and business counsel on a broad range of subjects, including, but not limited to, government contracts, litigation, regulatory compliance, healthcare, privacy, internal investigation, transactional, and cybersecurity matters.

Prior to my current role, I led the government contracts practice group within Booz Allen Hamilton Inc.'s law department. There, I also served as the primary business counsel to both the company's intelligence community business unit, as well the company's engineering subsidiary.

Before entering in-house practice in 2012, I served as Counsel at Sidley Austin LLP (2011-2012), as a Trial Attorney with the United States Department of Justice (Commercial Litigation Branch) (2007-2011), and as an Associate at Arnold & Porter LLP (2003-2004 & 2005-2007). I spent a brief period practicing intellectual property litigation at Skadden, Arps, Slate, Meagher & Flom LLP.

I have first-chair trial court and appellate litigation experience involving just about every aspect of the Federal government procurement process and contract lifecycle. I am an expert in Tucker Act jurisdiction, having authored the only major treatise on the U.S. Court of Federal Claims. During law school and as an Associate at Arnold & Porter, I successfully handled, respectively, two *pro bono* criminal cases: a jury trial in Federal district court (District of Maryland), and, following a writ of certiorari, an appeal before the Maryland Court of Appeals, the state's highest court.

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

In private practice, the client matters on which I worked typically involved companies (ranging from small to very large) doing business, or seeking to do business, with the U.S. Federal government. In addition to counseling and compliance matters, I have litigated cases before the U.S. Government Accountability Office, the U.S. Court of Federal Claims, and the U.S. Court of Appeals for the Federal Circuit. I also had an active *pro bono* docket in private practice, representing an indigent plaintiff against the District of Columbia in a tort case, as well as a criminal defendant in appeals before both the Maryland Court of Special Appeals and the Maryland Court of Appeals. At Sidley Austin, I successfully represented an individual appellant against the U.S. Department of Housing and Urban Development in an employment matter before the U.S. Court of Appeals for the Federal Circuit.

During my time as a Trial Attorney with the U.S. Department of Justice, my sole client was the United States, although the litigation I handled involved a wide range of both civilian and defense agencies. As a Trial

Attorney, I gained significant first-chair trial and appellate court experience, and was responsible for, among other things: conducting and managing all forms of discovery; selecting, retaining, and managing expert witnesses; drafting and arguing discovery, dispositive, procedural, and pre-trial motions; serving as first and second chair counsel at trial; preparing all required pleadings and filings; negotiating settlements; recommending appellate options to the Solicitor General and other senior DOJ officials; and briefing and arguing cases on appeal. In that regard, I handled matters not only at the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit, but also at the U.S. Court of International Trade. I also had the opportunity to counsel Justice Department officials regarding proposed government contracts legislation, the Executive Office of the President (Office of Management and Budget) on proposed legal reforms in a highly regulated industry, and the Federal Bureau of Investigation on electronic discovery and document retention issues in civil litigation matters.

As in-house counsel, my sole client has been my employing company (*i.e.*, either Booz Allen Hamilton Inc. or Anthem, Inc.).

As noted above, while my practice focus primarily has been on issues related to Federal procurement, it also has included a wide range of litigation matters within the jurisdiction of the Court of Federal Claims and the Federal Circuit, in addition to litigation before the Court of International Trade and the Government Accountability Office. I have experience with the Tucker Act, the Contract Disputes Act, the Competition in Contracting Act, the Prompt Payment Act, the Anti-Assignment Act, the Antideficiency Act, the Small Business Act, the Service Contract Act, and an extensive array of FAR provisions. I practiced patent litigation for a short period of time (in 2004 – 2005) before returning to government contracts law.

- 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.

With the exception of my time as in-house counsel, my practice has been primarily litigation-oriented. During my service as a Trial Attorney with the Department of Justice (2007 – 2011), I appeared in court frequently before the U.S. Court of Federal Claims, the U.S. Court of International Trade, and the U.S. Court of Appeals for the Federal Circuit. In private practice, as well, I participated in court proceedings, both as counsel of record and as second-chair in various appellate matters, and assisted in a variety of cases. As in-house counsel, I continue to play an active role in litigation matters, managing many such matters on behalf of the business units I have served, including patent litigation and bid protest matters before the U.S. Court of Federal Claims, bid protest litigation before the U.S. Government Accountability Office, as

well as a *qui tam* matter in both the Federal district and appellate courts, and a third-party discovery dispute before a Federal district court. Indeed, on behalf of an Anthem, Inc. subsidiary I support as in-house counsel, I recently led the briefing for, and argued, a bid protest case before the U.S. Court of Appeals for the Federal Circuit, on appeal from the U.S. Court of Federal Claims. I estimate my practice history as follows:

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 82% |
| 2. state courts of record: | 3% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 15% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 97% |
| 2. criminal proceedings: | 3% |

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 participated in at least four trials that I can recall. In at least two trials I served as counsel of record and lead counsel. In at least two trials I served as second-chair.

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 practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- the date of representation;
- 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) *Nat'l Gov't Servs., Inc. v. United States*, 137 Fed. Cl. 715 (2018), *appeal pending*, No. 18-1927 (Fed. Cir.).

In this pre-award bid protest, plaintiff National Government Services, Inc. (NGS) – an Anthem, Inc. subsidiary – challenged the terms of two solicitations issued by the Centers for Medicare and Medicaid Services (CMS), an agency of the United States Department of Health and Human Services, for Medicare Administrative Contractor (MAC) procurements. In particular, NGS argued that CMS improperly established a Contract Award Limitations policy – in essence limiting the number of such MAC awards that NGS could receive – in violation of the Competition in Contracting Act and its implementing provisions in the Federal Acquisition Regulation. While the court denied the government's motion to dismiss, the court granted defendant's cross-motion for judgment on the administrative record. Attorneys from Crowell & Moring LLP represented NGS as counsel of record before the trial court, and I managed the matter as in-house counsel. NGS timely appealed the trial court's decision to the U.S. Court of Appeals for the Federal Circuit, at which stage I served as counsel of record, led the briefing of the case, and presented oral argument in the matter before Chief Judge Prost, Judge Moore, and Judge Wallach on November 5, 2018. Crowell & Moring LLP attorneys served of counsel on the appeal. The parties currently are awaiting a decision from the Federal Circuit.

Co-counsel

Anuj Vohra
Monica Rose Sterling
Crowell and Moring LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 624-2502

Counsel for the United States

Will Rayel
U.S. Department of Justice
Civil Division, Commercial Litigation Branch
1100 L Street, NW
Washington, DC 20530
(202) 616-0302

(2) *Young v. Dep't of Hous. and Urban Dev.*, 706 F.3d 1372 (Fed. Cir. 2013).

I represented Mr. Young – a federal employee who was removed from service for a variety of alleged misconduct. Following an adverse arbitrator's decision, Mr. Young appealed to the U.S. Court of Appeals for the Federal Circuit. His counsel for the underlying arbitration, Mr. Jacob Statman, asked me to handle the matter on appeal.

Following briefing and oral argument, the Federal Circuit reversed the agency's (and arbitrator's) removal determination, primarily because Mr. Young's due process rights were violated when the agency obtained new and material information through *ex parte* communications to which Mr. Young did not have an opportunity to respond. I drafted, or managed the drafting of, the briefs, and presented oral argument. On the panel were Circuit Judges Prost, O'Malley, and Reyna. The opinion for the court was filed by Circuit Judge Reyna; a dissenting opinion was filed by Circuit Judge Prost. This case was discussed by the Merit Systems Protection Board in its 2013 Annual Report, submitted "to the President and the Congress on its activities" pursuant to 5 U.S.C. § 1206. See *Merit Systems Protection Board Annual Report for FY 2013* (May 30, 2014), at 26-27 ("Significant Opinions Issued by the U.S. Court of Appeals for the Federal Circuit").

Co-counsel

Kyle J. Fiet
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005
(202) 736-8446

Jacob Y. Statman
Snider & Associates, LLC
600 Reisterstown Road
Baltimore, MD 21208
(410) 653-9060

Counsel for HUD

Hillary A. Stern
U.S. Department of Justice
Civil Division, Commercial Litigation Branch
1100 L Street, NW
Washington, DC 20530
(202) 616-0177

(3) *Hernandez, Kroone and Associates, Inc. v. United States*, 2008 WL 4725433 (Fed. Cl. June 16, 2008); 85 Fed. Cl. 662 (2009); 2009 WL 5549368 (Fed. Cl. Oct. 5, 2009); 95 Fed. Cl. 392 (2010); 95 Fed. Cl. 395 (2010); 2011 WL 2784467 (Fed. Cl. July 14, 2011); 110 Fed. Cl. 496, 500 (2013); 2013 WL 3199299 (Fed. Cl. June 25, 2013); 2014 WL 261118 (Fed. Cl. Jan. 23, 2014).

In this long-running, contentious Contract Disputes Act (CDA) case, I represented the United States through the discovery, pre-trial, and trial phases, but departed DOJ prior to the completion of post-trial briefing. The basis for the complaint was a series of claims that plaintiff, Hernandez, Kroone and Associates (HKA), submitted to a U.S. Army Corps of Engineers (USACE) contracting officer (CO) related to a construction project in California. In response to the government's motion to dismiss

for lack of jurisdiction, Senior Judge Merow held that HKA's claims to the USACE CO, totaling at least \$972,810, qualified as proper CDA claims for jurisdictional purposes, including several certified CDA claims. During discovery, HKA abandoned a number of claim items to which HKA previously had certified entitlement, including approximately \$465,000 in alleged subcontractor costs. Because of HKA's abandonment of those claims after certifying entitlement to the sums at issue, and the absence of evidence supporting such claims, the USACE recommended that the Justice Department assert fraud counterclaims pursuant to 31 U.S.C. § 3729 (False Claims Act), 41 U.S.C. § 7103 (CDA fraud provision), and 28 U.S.C. § 2514 (Forfeiture of Fraudulent Claims). That recommendation was supported by the assigned counsel for the USACE, the USACE's District Counsel, the USACE Deputy Chief Counsel, as well as the Engineer Chief Trial Attorney, and authorized by the Directors of the Civil Frauds and National Courts sections of DOJ's Commercial Litigation Branch. Judge Merow conducted a two-week trial, where I served as counsel of record and first-chair. While Judge Merow ultimately rejected the government's counterclaims, he entered judgment in favor of plaintiff in the sum of just \$10,921, plus interest, an amount representing little more than 1% of the sums to which HKA originally had *certified* entitlement (*see* 110 Fed. Cl. at 530). Although HKA subsequently sought attorneys' fees under the Equal Access to Justice Act (EAJA), Judge Merow rejected that claim as well, holding that "that the government's position in this litigation, as a whole, was substantially justified for purposes of the EAJA fee application." *See* 2014 WL 261118, at *4.

DOJ Second Chair

Daniel Rabinowitz (then-Trial Attorney, Commercial Litigation Branch)
1305 Heather Crest Terrace
Silver Spring, MD 20902
(240) 274-1922

Counsel for USACE

Mark Weintraub (formerly USACE Deputy District Counsel, now retired)
1452 Vista Tesoro Place
Nipomo, CA 93444
(805) 619-7104

Counsel for HKA

Laurence "Larry" Lubka
222 East Huntington Drive
Suite 215
Monrovia, CA 91016
(626) 301-0700

(4) *Todd Construction, L.P. v. United States*, 94 Fed. Cl. 100 (2010) (Miller, J.), *aff'd*, 656 F.3d 1306 (Fed. Cir. 2011).

This case was one of several before the Court of Federal Claims (during roughly the

same period of time) in which the court addressed whether it has jurisdiction, pursuant to the Contract Disputes Act (CDA), to hear a contractor's challenge to an agency's performance evaluation. Following plaintiff's filing of its amended complaint in this case, I entered my appearance as counsel of record for the United States, and drafted and filed a motion to dismiss for lack of jurisdiction and failure to state a claim. Although the trial court held that it possessed subject matter jurisdiction to consider plaintiff's claims in general, the court dismissed plaintiff's complaint in its entirety, holding that plaintiff lacked standing to raise certain alleged procedural violations and that the remaining allegations failed to state a claim upon which relief could be granted. On appeal, in a case of first impression, the U.S. Court of Appeals for the Federal Circuit affirmed not only the trial court's determination that it had jurisdiction under the CDA, but also the dismissal of plaintiff-appellant's complaint on standing grounds and for failure to state a claim based upon *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). I drafted the Federal Circuit briefs and presented oral argument. Circuit Judge Dyk filed the opinion for the panel, which also included Circuit Judges Linn and Prost. The Federal Circuit decision issued in this case has been cited or discussed in more than 50 subsequent opinions.

Counsel for the U.S. Army Corps of Engineers

Mary L. Ashby
143 Nilsson Drive
Savannah, Georgia 31410
(912) 897-4119

Counsel for Todd Construction

Robert L. Magrini
Hayes Magrini & Gatewood
1220 North Walker Avenue
Oklahoma City, Oklahoma 73103
(405) 235-9922

(5) *McHugh v. DLT Solutions, Inc.*, 618 F.3d 1375 (Fed. Cir. 2010).

I represented the Secretary of the Army in its appeal to the U.S. Court of Appeals for the Federal Circuit of an adverse judgment entered by the Armed Services Board of Contract Appeals, holding that the government breached a non-substitution clause of a delivery order awarded to DLT Solutions, Inc. I presented oral argument in this case before the Federal Circuit, arguing that the contractor's software was never "replaced" within the meaning of the contract clause at issue, and that the Board's interpretation of the contract term "replace" to include continued use of preexisting software was contrary to the dictionary definition of the word "replace" as being "substituted for." The Federal Circuit agreed, and reversed the decision of the Board below. The court also agreed that, contrary to DLT's arguments, the government was justified in relying upon the termination for convenience clause in ending the contract at issue. Circuit Judge Lourie filed the opinion on behalf of the panel, which also included Circuit Judges Friedman and Moore.

Co-counsel

Meredyth Cohen Havasy
Current contact information unavailable

Counsel for the Secretary of the Army

Robert T. Wu
Procurement Law Division
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548
(202) 512-4517

Counsel for DLT Solutions

David C. Aisenberg
Looney, Cohen, Reagan & Aisenberg
33 Broad Street
Sixth Floor
Boston, Massachusetts 02109
(617) 371-1050

(6) *Maryland Enterprise, L.L.C. v. United States*, 91 Fed. Cl. 511, *recons. denied*, 93 Fed. Cl. 658 (2010).

I represented the United States as counsel of record in this real estate and construction dispute involving a contractor's cardinal change and breach of contract claims. The contractor alleged that the General Services Administration (GSA) unilaterally issued roughly 50 change requests that imposed approximately \$37,000,000 of expenditures over and above the lease's specified tenant improvement allowance. Plaintiff filed a complaint in the U.S. Court of Federal Claims seeking a declaratory judgment of a cardinal change and breach of contract. I briefed the motion to dismiss, and presented oral argument, following which Judge Braden held that the plaintiff was not entitled to a declaratory judgment and that, instead, plaintiff – pursuant to the CDA – first had to request a final decision of the contracting officer for a sum certain. Following the denial of plaintiff's motion for reconsideration, the court entered judgment, dismissing the complaint (without prejudice).

Counsel for GSA

Edith Toms
Christian A. Guzzano
Paula J. DeMuth
National Capital Region
General Services Administration
301 Seventh Street, SW
Washington, DC 20024
(202) 708-5841

Counsel for Maryland Enterprise

David S. Black
Holland & Knight
1650 Tysons Boulevard
Suite 1700
Tysons, VA 22102
(703) 720-8680

Robert C. MacKichan Jr.
Holland & Knight
800 17th Street, NW
Suite 1100
Washington, DC 20006
(202) 862-5962

(7) *Multiservice Joint Venture, LLC v. United States*, 85 Fed. Cl. 106 (2008), *aff'd*, 374 Fed. Appx. 963 (Fed. Cir. 2010).

I represented the United States as counsel of record. In this case, a contractor that had performed janitorial services for the Navy submitted a certified claim under Contract Disputes Act (CDA). Following discovery, I filed an amended answer and counterclaim, alleging that Multiservice submitted a false and fraudulent claim to the Navy. During a subsequent deposition of the contractor's general manager, I discovered that one or more of plaintiff's representatives or attorneys attending the deposition had tampered with a deposition exhibit. Thereafter, I received authorization from Department of Justice officials to pursue monetary and evidentiary sanctions. Accordingly, I drafted and filed a motion for sanctions against the contractor, alleging intentional spoliation of evidence during the deposition. Judge Wheeler held an evidentiary hearing and received additional testimony – essentially conducting a mini-trial – and granted the sanctions motion. The court imposed (1) an evidentiary sanction by precluding the witness at issue from testifying at trial on plaintiff's behalf, and (2) a monetary sanction against plaintiff's counsel for the government's reasonable attorney fees and costs in connection with the motion and deposition. On appeal, the U.S. Court of Appeals for the Federal Circuit affirmed Judge Wheeler's sanctions order in all respects. I briefed the case before the Federal Circuit, which issued a *per curiam* affirmance (the panel included Circuit Judges Rader, Gajarsa, and Prost).

Counsel for Multiservice

Janice Davis
Davis and Steele
1629 K Street, NW
Suite 300
Washington, DC 20006
(202) 508-1492

(8) *Cook v. United States*, 85 Fed. Cl. 820 (2009), *aff'd*, 368 Fed. Appx. 143 (Fed. Cir. 2010).

I represented the United States in its successful defense against a multimillion-dollar claim for the alleged breach of a settlement agreement concerning Fifth Amendment takings and complex mining law issues (including the distinction between patented and unpatented mining claims, and the authority of the Department of the Interior). Plaintiff also alleged a breach of the implied obligation of good faith and fair dealing inherent in any contract. I drafted the motion to dismiss and presented oral argument before the trial court. Judge Bruggink granted the motion, dismissing the complaint for failure to state a claim. On appeal before the U.S. Court of Appeals for the Federal Circuit, I briefed the case and presented oral argument, resulting in a *per curiam* summary affirmance. The Federal Circuit panel was comprised of Circuit Judges Mayer, Clevenger, and Moore.

Counsel for USDA
Patricia Leigh Disert
Office of the General Counsel
U.S. Forest Service
Department of Agriculture
500 Gold Avenue, SW
Room 11016
Albuquerque, NM 87103
(505) 248-6010

Andrew Varcoe
801 17th Street, NW
Suite 350
Washington, DC 20006
(202) 706-5488

Counsel for Cook, et al. and Copar Pumice Co.
Mr. Joseph E. Manges
Office of the Chief Counsel
Federal Aviation Administration
800 Independence Avenue, SW
Washington, DC 20591
(202) 267-3630

(9) *Distribution Postal Consultants, Inc. v. United States*, 90 Fed. Cl. 569 (2009).

I represented the United States, in its defense against a mail consolidation contractor, which filed a breach of contract action arising from the early termination of certain agreements with the United States Postal Service (USPS). The termination was prompted by fraud perpetrated by the contractor's agent, but without knowledge of

the contractor plaintiff. During discovery, I developed counterclaims for deficiencies that the contractor owed to the USPS on two remaining such agreements. Following trial, which I led as counsel of record and first-chair, Judge Bruggink entered judgment in favor of the government, including on its counterclaims. This case established that the government is entitled to rely upon the apparent authority of a contractor's agent, notwithstanding that the reverse does not hold true, *see H. Landau & Co. v. United States*, 886 F.2d 322, 324 (Fed. Cir. 1989) ("apparent authority will not suffice to hold the government bound by the acts of its agents").

Counsel for USPS

Laree K. Martin
United States Postal Service
475 L'Enfant Plaza, SW
Washington, DC 20260
(202) 268-3816

Counsel for Distribution Postal

Robert B. Scarlett,
Michael S. Myers
Scarlett, Croll & Myers, P.A
201 North Charles Street
Suite 600
Baltimore, MD 21201
(410) 468-3100

(10) *Smith v. State*, 394 Md. 184, 905 A.2d 315 (2006).

As an associate at Arnold & Porter LLP, I represented Mr. Smith, *pro bono*, as an assigned public defender. Mr. Smith had been held in direct, criminal contempt by the Circuit Court, Baltimore City, after he invoked the Fifth Amendment and refused to give testimony as a witness in the criminal trial of another. Based on an improper disclosure by Mr. Smith's appointed counsel, the Circuit Court determined that Mr. Smith could not refuse to testify, holding Mr. Smith in contempt when he persisted in his Fifth Amendment claim. In a separately docketed, subsequent contempt proceeding, the trial court sentenced Mr. Smith to five months additional imprisonment. I first handled the appeal – both the briefing and oral argument – before the Maryland Court of Special Appeals, which unanimously upheld the contempt conviction and sentence. I successfully petitioned the Maryland Court of Appeals – the state's highest court – for a writ of certiorari, and handled the subsequent briefing and oral argument on the merits. The Court of Appeals unanimously reversed the conviction in a 7-0 decision, holding not only that Mr. Smith received ineffective assistance of counsel when his attorney disclosed to the trial court the nature of his advice to Mr. Smith, but also that the trial judge committed multiple errors with respect to her determination that Mr. Smith did not have a valid basis for asserting his Fifth Amendment right against self-incrimination and with regard to the procedures the trial court employed in imposing contempt

sanctions. Judge Battaglia – a former U.S. Attorney for the District of Maryland – authored the decision, joined by Chief Judge Bell, and Judges Raker, Wilner, Cathell, Harrell, and Greene. The decision has been cited more than 60 times in subsequent cases and secondary sources.

Counsel for the State of Maryland

Brian Kleinbord (former Chief of the Criminal Appeals Division of the Maryland Attorney General)
Montgomery County States Attorney's Office
50 Maryland Avenue
Fifth Floor, North Tower
Rockville, MD 20850
(240) 777-7452

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.)

In my current role as Chief Legal Officer for Federal Government Solutions (FGS) of Anthem Inc. (a Fortune 30 company), I manage a team of attorneys in support of a multi-billion dollar business unit, providing healthcare management and technology services to the federal government. I am responsible for all FGS legal matters, including litigation, counseling, transactional, regulatory compliance, and internal investigation issues. In addition, I previously also managed two compliance teams (including internal audit and privacy functions), as well as the contracts, subcontracts, and procurement administration group. I have served as a member of the Anthem Law Department's Senior Leadership Team, and am the company's lead subject matter expert on federal procurement legal and compliance issues. I have advised the Chief Executive Officer, other members of Anthem's Executive Leadership Team, and frequently advise the General Counsel, on a variety of legal issues related to FGS. On behalf of an Anthem subsidiary that is part of the FGS business unit, a member of my team and I successfully managed the litigation of an approximately \$2 billion *qui tam* suit. On behalf of the same subsidiary, in 2018, I briefed and argued a bid protest case before the U.S. Court of Appeals for the Federal Circuit (on appeal from the U.S. Court of Federal Claims).

At Booz Allen Hamilton Inc., I led the law department's government contracts practice group, and served as lead government contracts counsel for the firm's engineering subsidiary, as well as for business units supporting intelligence community agencies and NASA, as part of the company's Defense and Intelligence Group. In that capacity, I managed bid protests, contract and subcontract disputes, and other litigation matters; engaged and supervised outside counsel; actively managed a U.S. Court of Federal Claims litigation matter involving patent and takings claims; drafted responses to DCAA audit findings; and drafted an ASBCA

complaint, resulting in the rescission of a contracting officer's adverse final decision. I also counseled senior executives regarding federal procurement laws and regulations with respect to the entire acquisition lifecycle, and was selected to represent the law department on a number of cross-functional business teams, including the corporate policy working group, the supply chain management steering committee, the standard task authorization steering committee, and the sequestration and government shutdown team. I worked closely with the corporate ethics and compliance manager to counsel senior business leaders on post-government employment issues. I frequently supported or co-managed internal investigations of alleged procurement-related misconduct and violations of corporate ethics policies, and I assisted the company's investigations unit to reengineer internal investigations, disciplinary, and disclosure processes. I coordinated responses to government investigations, presented matters to the company's Disciplinary Action Committee, and advised the General Counsel and Deputy General Counsel regarding the company's compliance with the Federal Acquisition Regulation's mandatory disclosure rule, as well as with an administrative corporate integrity agreement. I also designed and delivered government contracts legal, ethics, and compliance training across business units and company locations.

I have not engaged in lobbying activities.

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

I serve as an Adjunct Professor at the University of Maryland Francis King Carey School of Law. I have co-taught a Government Contracts course almost every year since 2008 (with the exception of 2014, 2016, and 2018); I currently am teaching the course in 2019. The course provides an overview of government contracts law. Representative copies of the syllabi, from 2017 and 2019, are supplied.

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.

My understanding is that any stock grants I have received from Anthem, Inc. that have not vested prior to, or upon, my departure from the company will be forfeited automatically. Upon any such vesting, however, I intend to sell such stock prior to the conclusion of the confirmation process.

I also periodically receive royalty payments from Bloomberg BNA based upon sales of my book, *Court of Federal Claims: Jurisdiction, Practice, and Procedure*, published by Bloomberg BNA in December 2016. The amount I receive depends upon sales, so I cannot

predict the amounts or dates of any future receipts.

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.

If confirmed, I hope that I will be able to continue to teach as time permits. I have no commitments or agreements to do so, and no other plans for outside activities.

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.

I do not anticipate encountering any conflicts of interest based on family, personal, or business relationships, although out of an abundance of caution and concern for any appearance of impropriety, I would propose to recuse myself from hearing any case or matter involving either Anthem, Inc. (or any of its affiliates or subsidiaries) for a period of time, or Bloomberg BNA (in light of the fact that it publishes the book I wrote and edited). Finally, out of an abundance of caution, I also would propose to recuse myself from any matter in which Chad Miller, my former co-professor and close friend, has a direct personal or professional interest in his capacity as a principal of, and counsel for, KPMG US LLP.

- 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 as a judge for the U.S. Court of Federal Claims, I would resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts, generally, and of the Court of Federal Claims, in particular. I also

would engage in prompt and immediate review of the parties, their affiliates, and the issues presented by any matter assigned to me – and in consultation with the Chief Judge, the Clerk of the Court, and/or the Administrative Office of the U.S. Courts, where necessary or prudent – so that I could make a prompt, informed decision regarding the need for, or propriety of, recusal.

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.

Particularly during my time in private practice, I have been committed to, and have engaged in, a significant amount of *pro bono* work.

As an Associate with Arnold & Porter LLP, I handled a criminal case before both the Maryland Court of Special Appeals and the Maryland Court of Appeals. In addition, I served on a *pro bono* team representing, in federal district court, a minor suing the District of Columbia and other parties for damages sustained in a foster care group home due to abuse sustained while in the care and custody of the District of Columbia, in violation of defendants’ duties under the United States Constitution, federal law, and District of Columbia law. In that case, I assisted in managing the full range of discovery and deposed several key witnesses, including the District’s FRCP 30(b)(6) witness, I developed a declaratory judgment action against a defendant’s insurance company, and I actively participated in negotiations with defendants resulting in a favorable settlement for our client. As part of that case, I litigated or assisted in litigating a number of discovery-related and procedural motions. I also represented, *pro bono*, a couple who experienced legal difficulties with Medicaid related to their baby’s costly heart surgery, and successfully helped them avoid an unwarranted debt collection action.

As Counsel at Sidley Austin LLP, I served as counsel of record and personally handled *Young v. Department of Housing and Urban Development*, 706 F.3d 1372 (Fed. Cir. 2013), largely on a *pro bono* basis. To the best of my knowledge, the firm’s only compensation, if any, was pursuant to the Equal Access to Justice Act (EAJA).

Finally, although engaging in *pro bono* work has proven more difficult in-house, I recently actively assisted a family in securing *pro bono* counsel (Wiley Rein LLP) to address the State of Maryland’s intention to eliminate vital home medical care being provided to a minor child.

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 December 18, 2016, I indicated my interest in several legal positions, and possibly the U.S. Court of Federal Claims, via the Presidential Transition Team website. In approximately March 2017, a member of the Justice Department's Office of Legal Policy referred my name to the Office of White House Counsel for consideration for a nomination to the court. I was contacted by the White House Counsel's Office in early April 2017 to schedule an interview. On or about April 19, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy in Washington, D.C. The White House informed me that I would move forward in the process on or about February 28, 2018. Since that time, I have remained in contact with officials from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. On March 5, 2019, 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.

I have had no such discussions.