

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Neomi Jehangir Rao

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

United States Court of Appeals Judge for the District of Columbia Circuit

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

Office of Information and Regulatory Affairs
Office of Management and Budget
1650 Pennsylvania Avenue, N.W.
Washington, D.C. 20502

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

1973; Detroit, Michigan

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.

1996 – 1999, University of Chicago Law School; J.D. (with high honors), 1999

1991 – 1995, Yale University; B.A. (*cum laude*), 1995

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

2017 – present
Office of Information and Regulatory Affairs
Office of Management and Budget
1650 Pennsylvania Avenue, N.W.

Washington, D.C. 20502
Administrator

2006 – present
Antonin Scalia Law School
George Mason University
3301 Fairfax Drive
Arlington, Virginia 22201
Director and Founder, Center for the Study of the Administrative State (2015 – 2017)
Associate Professor with tenure (2012 – present)
Assistant Professor (2006 – 2012)
[currently on leave]

Fall 2012
University of Minnesota Law School
229 19th Avenue South
Minneapolis, Minnesota 55455
Visiting Professor

2005 – 2006
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500
Associate Counsel and Special Assistant to the President

2002 – 2005
Clifford Chance LLP
10 Upper Bank Street
London, United Kingdom
E14 5JJ
Associate

2001 – 2002
Honorable Clarence Thomas
United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20543
Law Clerk

2000 – 2001
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510
Counsel for Nominations and Constitutional Law

1999 – 2000

Honorable J. Harvie Wilkinson, III
United States Court of Appeals for the Fourth Circuit
255 West Main Street, Suite 230
Charlottesville, Virginia 22902
Law Clerk

Summer 1998
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Summer Associate

Summer 1998
Williams & Connolly LLP
725 12th Street, N.W.
Washington, D.C. 20005
Summer Associate

Summer 1997
Institute for Justice
901 North Glebe Road, Suite 900
Arlington, Virginia 22203
Law Clerk

1995 – 1996
The Weekly Standard
1152 15th Street, N.W.
Washington, D.C. 20005
Reporter

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 United States military. I was not required to register 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.

Heritage Foundation Distinguished Alumni Award (2018)

Network of Enlightened Women Empowered Woman of the Year Award (2018)

Aspen Institute Young Professionals Program (2005 – 2006)

American Inns of Court Temple Bar Fellowship (2002)

Order of the Coif, University of Chicago Law School (1999)

Degree from the University of Chicago Law School conferred with high honors (1999)

University of Chicago Law Review, Comment Editor (1998 – 1999), Member (1997 – 1999)

Harvard Journal of Law and Public Policy, Executive Editor (1998 – 1999)

Humane Studies Fellowship, Institute for Humane Studies (1997, 1998)

Madison Center Journalism Fellowship (1995 – 1996)

Degree from Yale University conferred *cum laude* (1995)

Ethics, Politics & Economics major, awarded high distinction (1995)

Philosophy major, awarded high distinction (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.

Administrative Conference of the United States, Public Member (2016 – 2017)

American Bar Association (2006 – present)

Administrative Law Section

Council Member (2016 – 2017)

Co-Chair, Regulatory Policy Committee (2016 – 2017)

Federalist Society for Law and Public Policy Studies (1996 – present)

Regulatory Transparency Project, Regulatory Process Group (2017)

Article I Project (2016 – 2017)

Faculty Division (2006 – 2017)

Federalism & Separation of Powers Practice Group, Executive Committee Member (2013 – 2017)

International & National Security Practice Group, Executive Committee Member (2006 – 2013, estimated)

University of Chicago Law School Chapter, President (1998 – 1999), Vice President for Speakers (1997 – 1998)

American Association of Law Schools (2006 – 2017)

Sections on Constitutional Law, Legislation & Law of the Political Process, Law & Interpretation

South Asian Bar Association of North America (2010 – present, estimated)

International Bar Association (2002 – 2005)

As an associate at Clifford Chance, I recall having memberships in several international arbitral organizations, but I no longer have records of such affiliations.

10. **Bar and Court Admission:**

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

Virginia (2002)

There has been no lapse in membership.

I am also a Qualified Solicitor of England and Wales. I am considered inactive.

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

My private law practice was in England and before international arbitral tribunals.

I am admitted to all Virginia courts, consistent with my active membership in the Virginia Bar.

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.

Antonin Scalia Law School at George Mason University

George Mason Law Review, Faculty Advisor (2008 – 2017)

Administrative Law Clinic, Faculty Advisor (2016 – 2017)

George Mason Women's Law Association, Faculty Advisor (2008 – 2012, estimated)

Dean Search Committee (2014 – 2015)

Faculty Committees:

Journals, Moot Court, and Trial Advocacy (Chair 2015 – 2017)

Faculty Selection (2010 – 2011, 2016 – 2017)

Clerkship, Placement, and Alumni Development (Chair 2014 – 2015) (2006, 2008 – 2013)
Adjuncts, Professional Skills Courses, and Journals (Chair 2013 – 2014) (2007 – 2010)
Admissions and Minority Recruitment (2007 – 2008, 2012 – 2013)
Workshop Series (2013 – 2014)
Curriculum (2015 – 2016)

Yale Alumni Schools Committee (1996 – present)

Woodley Park Community Association (2006 – present)

International Bar Association Working Group on Conflicts of Interest in International Arbitration (2003 – 2004)

Although I found that I am listed on the Internet masthead of the *Yale Free Press* as a member of its Board of Advisors, I have not participated in the operation of the *Free Press* since graduating from Yale in 1995.

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.

The Trump Administration's Deregulation Efforts are Saving Billions of Dollars, Wash. Post, Oct. 17, 2018. Copy supplied.

Why Congress Matters: The Collective Congress in the Structural Constitution, 70 Fla. L. Rev. 1 (2018). Copy supplied.

The Trump Regulatory Game Plan, Wall St. J., Dec. 13, 2017. Copy supplied.

Regulatory Review for Independent Agencies, 36 Yale J. on Reg.: Notice & Comment (Dec. 14, 2016). Copy supplied.

With Henry N. Butler, *Like Scalia, the Law School at George Mason U. Has a Maverick Streak*, Dean Says, Wash. Post, Apr. 5, 2016. Copy supplied.

Remembering Justice Antonin Scalia, Antonin Scalia Law School News, Mar. 1, 2016. Copy supplied.

Article I, Section 1: The Non-Delegation Doctrine Persists, National Constitution Center's Interactive Constitution. Copy supplied.

With William N. Eskridge, Jr., *Article I, Section 1: General Principles*, National Constitution Center's Interactive Constitution. Copy supplied.

Administrative Collusion: How Delegation Diminishes the Collective Congress, 90 N.Y.U. L. Rev. 1463 (2015). Copy supplied.

Checking Excessive Delegations Through Judicial Review and Political Reforms, Wash. Post, Nov. 5, 2015. Copy supplied.

Delegation Undermines Separation of Powers and the Competition Between Congress and the Executive, Wash. Post, Nov. 4, 2015. Copy supplied.

Revisiting the Non-Delegation Principle: How Delegation Diminishes the Collective Congress, Wash. Post, Nov. 3, 2015. Copy supplied.

The Supreme Court's Rule by Talking Points, Wash. Examiner, July 7, 2015. Copy supplied.

Real Drone Strike Accountability Requires Political Checks, N.Y. Times, Apr. 25, 2015. Copy supplied.

Removal: Necessary and Sufficient for Presidential Control, 65 Ala. L. Rev. 1205 (2014). Copy supplied.

The Trouble with Dignity and Rights of Recognition, 99 Va. L. Rev. Online 29 (2013). Copy supplied.

The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention, 44 Colum. Hum. Rts. L. Rev. 697 (2013). Copy supplied.

Dignity of Recognition and Federalism, Volokh Conspiracy, Sept. 26, 2013. Copy supplied.

Windsor and the Problem with Rights of Recognition, Volokh Conspiracy, Sept. 25, 2013. Copy supplied.

The Calculus of Responsibility, OpinioJuris.org, June 19, 2013. Copy supplied.

The Politics of Responsibility to Protect, OpinioJuris.org, June 18, 2013. Copy supplied.

The Choice to Protect (or Not) in Syria, OpinioJuris.org, June 14, 2013. Copy supplied.

A Tale of Two Dignities, Daily Caller, Jan. 24, 2013. Copy supplied.

American Dignity and Healthcare Reform, 35 Harv. J. L. & Pub. Pol'y 171 (2012). Copy supplied.

"John Roberts," The Oxford Encyclopedia of American Political and Legal History (2012). Copy supplied.

Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,' 96 Minn. L. Rev. 194 (2011). Copy supplied.

A Modest Proposal: Abolishing Agency Independence in Free Enterprise Fund v. PCAOB, 79 Fordham L. Rev. 2541 (2011). Copy supplied.

Three Concepts of Dignity in Constitutional Law, 86 Notre Dame L. Rev. 183 (2011). Copy supplied.

Dignity as Recognition, Volokh Conspiracy, May 19, 2011. Copy supplied.

Substantive Dignity-Dwarf-throwing, Burqa Bans, and Welfare Rights, Volokh Conspiracy, May 18, 2011. Copy supplied.

Dignity as Intrinsic Human Worth, Volokh Conspiracy, May 17, 2011. Copy supplied.

An Introduction to Three Concepts of Dignity, Volokh Conspiracy, May 16, 2011. Copy supplied.

Elena Kagan and the 'Hollow Charade', Wall St. J., May 11, 2010, at A21. Copy supplied.

The Constitution: Not Just for Courts, Wall St. J., Jan. 10, 2011, at A15. Copy supplied.

Obama's Next Justice, Nat'l Rev. Online, Apr. 10, 2010. Copy supplied.

Taking a Constitutional, Commentary, Jan. 2010 (reviewing Seth Lipsky, *The Citizen's Constitution* (2009)). Copy supplied.

The President's Sphere of Action, 45 Willamette L. Rev. 527 (2009). Copy supplied.

Gender, Race, and Individual Dignity: Evaluating Justice Ginsburg's Equality Jurisprudence, 70 Ohio St. L.J. 1053 (2009). Also reprinted in *Women and the Law* (Tracy Thomas, ed.) (2011). Copy supplied.

Questions for Sotomayor, Wall St. J., May 27, 2009, at A19. Copy supplied.

Political Philosophy of Next President Makes a Difference, Richmond Times Dispatch, Oct. 7, 2008, at A11. Copy supplied.

On the Use and Abuse of Dignity in Constitutional Law, 14 Colum. J. Eur. L. 201 (2008). Also reprinted in *Privacy Law Today* (Anita Allen, ed.) (2011). Copy supplied.

Arbitration Meets the Class Action, 6 Int'l Arb. L. Rev. 216 (2003). Copy supplied.

Letter to the Editor, *U.S. Supreme Court*, Times (London), Apr. 18, 2003, at 25. Copy supplied.

A Backdoor to Policy Making: The Use of Philosophers by the Supreme Court, 65 U. Chi. L. Rev. 1371 (1998). Also reprinted in *Rawls and the Law* (Thom Brooks, ed.) (2012). Copy supplied.

One Writer's Battles, Wkly. Standard, Nov. 10, 1996. Copy supplied.

Stonewalling at Yale, Wkly. Standard, June 24, 1996. Copy supplied.

The Hottest Duo in Academe, Wkly. Standard, Apr. 22, 1996. Copy supplied.

India by Car and Taxi, Wkly. Standard, Jan. 22, 1996. Copy supplied.

Choking on the 'Greenies' Diet, Wash. Times, Sept. 6, 1994. Copy supplied.

How the Diversity Game is Played, Wash. Times, July 17, 1994, at B4. Copy supplied.

While an undergraduate at Yale University, I regularly wrote for the *Yale Herald* and the *Yale Free Press*. I also wrote one article after graduation. I prepared the below list based on my records and searches of publicly available records conducted by others on my behalf.

Milan Kundera: Testaments Betrayed, Yale Free Press, Feb. 1996. Copy supplied.

French Kiss Proves Penetrating, Movie Review, Yale Free Press, May 1995. Copy supplied.

Vive la Différence!, Yale Free Press, Feb./March 1995. Copy supplied.

'Wired' Nihilism, Yale Herald, Feb. 24, 1995. Copy supplied.

Aesthetic Escape, Yale Herald, Feb. 10, 1995. Copy supplied.

Being Western, Yale Herald, Jan. 27, 1995. Copy supplied.

Carpe Diem, Yale Herald, Jan. 13, 1995. Copy supplied.

In Defense of Authentic Elitism, Book Review, Yale Free Press, Jan. 1995. Copy supplied.

Turkey Day, Indian Style, Yale Herald, Dec. 2, 1994. Copy supplied.

Queer Politics, Yale Herald, Nov. 11, 1994. Copy supplied.

Invest This, Yale Herald, Oct. 28, 1994. Copy supplied.

Shades of Gray, Yale Herald, Oct. 14, 1994. Copy supplied.

Losing a Taste of New Haven, Yale Free Press, Oct. 1994. Copy supplied.

Reinventing the Lawyer-Statesman, Yale Free Press, Oct. 1994. Copy supplied.

So Long Wonder Woman, Yale Herald, Sept. 30, 1994. Copy supplied.

Speak No Evil, The Yale Herald, Sept. 16, 1994. Copy supplied.

Power Games, Yale Herald, Sept. 2, 1994. Copy supplied.

With Markham Chenoweth, *Yale's Mix of Undergraduate Organizations*, Yale Free Press, Sept. 1994. Copy supplied.

Giving Up Hope for the Lawyer-Statesman, Book Review, Yale Free Press, May 1994. Copy supplied.

The Quest for a New Ideal, Yale Free Press, Apr. 1994. Copy supplied.

The Government is Your Friend, Yale Free Press, Mar. 1994. Copy supplied.

Taking Liberties with Rights, Yale Free Press, Mar. 1994. Copy supplied.

Where Have All the Radicals Gone?, Yale Free Press, Feb. 1994. Copy supplied.

Coming to Terms with History and Culture, Yale Free Press, Dec. 1993. Copy supplied.

Submission, Silence, Mediocrity, Yale Free Press, Nov. 1993. Copy supplied.

Beyond the Prism, Yale Free Press, Oct. 1993. Copy supplied.

Entering the Labyrinth, Yale Free Press, Sept. 1993. Copy supplied.

From Obscurity to Credibility, Yale Free Press, May 1993. Copy supplied.

The Feminist Dilemma, Yale Free Press, Apr. 1993. Copy supplied.

POR Woman Responds, Yale Daily News, Feb. 15, 1993. Copy supplied.

Christians Struggle at a Secular Yale, Yale Free Press, Dec. 1992. Copy supplied.

Tabletent Victims Question YDN Coverage, Yale Free Press, Nov. 1992. Copy supplied.

The Obedient Limbs of YSEC, Yale Free Press, Apr. 1992. Copy supplied.

BSAY: Cooling Off, Yale Free Press, March 1992. 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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I have found the following responsive materials.

With Otto de Witt Wijnen and Nathalie Voser, *Background Information on the IBA Guidelines on Conflicts of Interest in International Arbitration*, 5 Bus. L. Int'l 433 (2004). Copy supplied.

International Bar Association, *Guidelines on Conflicts of Interest in International Arbitration* (2004). 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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I have found the following responsive materials.

Memorandum for Clearance Officers at Federal Agencies, *Minimizing Household Surveys during the 2020 Census of Population and Housing*, Oct. 24, 2018. Copy

supplied.

The Regulatory Freedom Agenda: A Message from the OIRA Administrator, in the 2018 Regulatory Reform Report: Cutting the Red Tape, Unleashing Economic Freedom, Oct. 17, 2018. Copy supplied.

Introduction to the Fall 2018 Regulatory Plan, Oct. 17, 2018. Copy supplied.

Memorandum for Chief Information Officers, Minimizing Paperwork and Reporting Burdens; Data Call for the 2018 Information Collection Budget (FY 2017 Data), Aug. 6, 2018. Copy supplied.

Memorandum of Understanding between Brazil and the United States Regarding Joint Cooperation on Good Regulatory Practices, Aug. 1, 2018. Copy supplied.

Memorandum for Regulatory Policy Officers et al., Data Call for the Fall 2018 Regulatory Plan, Fall 2018 Unified Agenda of Federal Regulatory and Deregulatory Actions, and FY 2019 Regulatory Cost Allowances, June 18, 2018. Copy Supplied.

Memorandum of Understanding between the Treasury Board of Canada Secretariat and the United States Office of Information and Regulatory Affairs Regarding the Canada-United States Regulatory Cooperation Council, June 4, 2018. Copy supplied.

Advancing Responsible Regulatory Reform: The Deregulatory Agenda, Whitehouse.gov, May 9, 2018. Copy supplied.

On April 12, 2018, I testified at a hearing on “Reviewing the Office of Information and Regulatory Affairs” before the U.S. Senate Committee on Homeland Security and Governmental Affairs Subcommittee on Regulatory Affairs and Federal Management. Video available at: <https://www.hsgac.senate.gov/hearings/reviewing-the-office-of-information-and-regulatory-affairs>.

Memorandum of Agreement: The Department of Treasury and the Office of Management and Budget Review of Tax Regulations under Executive Order 12866, Apr. 11, 2018. Copy supplied.

Memorandum for Regulatory Policy Officers at Executive Departments and Agencies et al., Compliance with Section 3(c) of Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs, Feb. 22, 2018. Copy supplied.

Memorandum for Regulatory Policy Officers et al., Spring 2018 Data Call for the Update of the Unified Agenda of Federal Regulatory and Deregulatory Actions, Jan. 29, 2018. Copy supplied.

Introduction to the Fall 2017 Regulatory Plan (2017). Copy supplied.

Joint Statement between the Office of Management and Budget of the United States of America and the Ministry of Finance of the State of Israel, Oct. 16, 2017. Copy supplied.

Memorandum for Regulatory Reform Officers at Executive Departments and Agencies, FY 2018 Regulatory Cost Allowances, Sept. 7, 2017. Copy supplied.

Memorandum to Acting Chair Victoria Lipnic, EEO-1 Form; Review and Stay, Aug. 29, 2017. Copy supplied.

Memorandum for Regulatory Policy Officers et al., Data Call for the Fall 2017 Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions, Aug. 18, 2017. Copy supplied.

On June 7, 2017, I testified regarding my nomination to serve as Administrator of the Office of Information and Regulatory Affairs before the U.S. Senate Committee on Homeland Security and Governmental Affairs. Video available at: <https://www.hsgac.senate.gov/hearings/nominations-of-brock-long-to-be-administrator-federal-emergency-management-agency-us-department-of-homeland-security-russell-vought-to-be-deputy-director-office-of-management-and-budget-and-neomi-rao-to-be-administrator-office-of-information-and-regulatory-affairs-office-of-management-and-budget>.

Statement to the State Council of Higher Education of Virginia Meeting, May 17, 2016. Copy supplied.

On March 17, 2016, I testified concerning “Examining Agency Use of Deference” before the U.S. Senate Homeland Security and Governmental Affairs Subcommittee on Regulatory Affairs and Federal Management. Video available at: <https://www.hsgac.senate.gov/hearings/examining-agency-use-of-deference-part-ii>.

On July 23, 2015, I testified concerning “The Administrative State v. The Constitution: Dodd-Frank at Five Years” before the U.S. Senate Judiciary Subcommittee on the Constitution. Copy supplied.

Letter to Sens. Patrick J. Leahy and Charles E. Grassley, Nomination of Michelle Friedland for the United States Court of Appeals for the Ninth Circuit, Oct. 2, 2013. Copy supplied.

Letter to Sens. Patrick J. Leahy and Charles E. Grassley, Nomination of Vince G. Chhabria for the United States Northern District of California, Sept. 24, 2013. Copy supplied.

Letter to Sen. Orrin Hatch, Justice Clarence Thomas’ Twentieth Anniversary on the Supreme Court, Oct. 8, 2011. Copy as it appears in the Congressional Record supplied.

Letter to Sens. Patrick J. Leahy and Charles E. Grassley, Nomination of Alison J. Nathan for the United States District Court for the Southern District of New York, July 2011. Copy supplied.

On July 16, 2009, I testified concerning the nomination of Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States before the U.S. Senate Committee on the Judiciary. 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.

To my recollection and through a review of my calendars and searches of publicly available databases by persons acting on my behalf, I have found the following responsive materials.

I have provided copies of speaking notes where available, although I often do not speak directly from these notes, but rather use them as an outline of topics for discussion.

November 1, 2018: Speaker, American Bar Association 2018 Administrative Law Conference, Washington, D.C. Copy supplied. Press report supplied.

October 30, 2018: Speaker, Regulatory Studies Center University of Pennsylvania Law School, Philadelphia, Pennsylvania. Copy of notes supplied.

October 16, 2018: Speaker, Recipient of Distinguish Alumni Award, Heritage Foundation, Washington, D.C. I have no notes, transcript, or recording. The address of the Heritage Foundation is 214 Massachusetts Avenue, N.E., Washington, D.C. 20002.

October 10, 2018: Speaker, Committee on Science, Technology, and Law, National Academies of Sciences, Engineering, and Medicine, Washington, D.C. My comments focused on the role of OIRA in promoting regulatory reform and maintaining high standards of information quality and scientific integrity in decision making. I have no notes, transcript, or recording. The address of the National Academies of Sciences, Engineering, and Medicine is 500 Fifth Street, N.W., Washington, D.C. 20001.

October 9, 2018: Speaker, Committee on Tax and Regulatory Policy, National Association of Manufacturers, Washington, D.C. My comments focused on the review of tax regulations by OIRA pursuant to an April 2018 Memorandum of Agreement. I have no notes, transcript, or recording. The address of the National Association of Manufacturers is 733 10th Street, N.W., Suite 700, Washington, D.C. 20001.

September 25, 2018: Speaker, National Religious Broadcasters, Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of the National Religious Broadcasters is 1 Massachusetts Avenue, N.W., Suite 333, Washington, D.C. 20001.

September 25, 2018: Speaker, "In/Site: OIRA Administrator Neomi Rao," Bloomberg Government, Washington, D.C. 20005. Video available at: <https://about.bgov.com/blog/insite-neomi-rao/>. Press reports supplied.

September 24, 2018: Speaker, "The Future of OIRA Review," 25 Years of E.O. 12866, George Washington University Regulatory Studies Center, Washington, D.C. 20052. Video available at: <https://regulatorystudies.columbian.gwu.edu/celebrating-25-years-eo-12866>.

July 17, 2018: Speaker, Center for Strategic Tax Reform Seminar, Washington, D.C. Copy of notes supplied.

June 21, 2018: Speaker, Empowered Woman of the Year Award, Network of Enlightened Women, Washington, D.C. Copy of notes supplied. Press report supplied.

June 19, 2018: Speaker, "Assessing the Administrative State: A Conversation with Office of Information and Regulatory Affairs Administrator Neomi Rao," American Enterprise Institute, Washington, D.C. Video available at: <http://www.aei.org/events/assessing-the-administrative-state-a-conversation-with-office-of-information-and-regulatory-affairs-administrator-neomi-rao/>.

June 14, 2018: Panelist, "The Executive, the Congress, and the Administrative State," U.S. Court of Appeals for the Second Circuit Judicial Conference, Saratoga Springs, New York. I have no notes, transcript, or recording. The address of the U.S. Court of Appeals for the Second Circuit is Thurgood Marshall U.S. Courthouse, 40 Foley Square, New York, New York 10007.

June 7, 2018: Keynote Speaker, Council of Government Relations, Washington, D.C. Copy of notes supplied.

June 5, 2018: Speaker, S Corporation Association of America Meeting, Washington, D.C. Copy of notes supplied.

May 30, 2018: Speaker, Americans for Tax Reform Meeting, Washington, D.C. My comments were an abbreviated version of the notes supplied for the Business Roundtable event on May 16, 2018, supplied below.

May 16, 2018: Speaker, Tax and Fiscal Policy Coordinating Committee, Business Roundtable, Washington, D.C. Copy of notes supplied.

May 16, 2018: Lunch Speaker, the Weyrich Lunch, Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of the Heritage Foundation (one of the sponsors) is 214 Massachusetts Avenue, N.E., Washington D.C. 20002.

May 11, 2018: Speaker, Financial Executive International's Committee on Taxation Meeting, Washington, D.C. Copy of notes supplied.

May 9, 2018: Speaker, Regulatory Reform and Use of Voluntary Standards, Board of Directors of the American National Standards Institute, Washington, D.C. Copy of notes supplied.

April 19, 2018: Speaker, "In Conversation with Neomi J. Rao," Institute of International Finance, Washington, D.C. Video available at: <https://www.youtube.com/watch?v=0HPcKxHtGg8>.

April 17, 2018, Speaker, "Opening Remarks," Federalist Society 2018 Executive Branch Review Conference, Washington, D.C. Video available at: <https://www.youtube.com/watch?v=IcteDU2hgGw>. Press reports supplied.

March 27, 2018: Speaker, Free State Foundation Annual Telecommunications Policy Conference, Washington, D.C. Video available at: <https://www.c-span.org/video/?443160-1/free-state-foundation-annual-telecommunications-policy-conference-morning-session>.

March 26, 2018: Speaker, Class of Columbia Law School students, Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of the Office of Information and Regulatory Affairs is 1650 Pennsylvania Avenue, N.W., Washington, D.C. 20502.

March 20, 2018: Speaker, "Regulatory Discussion," Federalist Society George Washington Student Chapter, Washington, D.C. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

March 16, 2018: Breakfast speaker, U.S. House of Representatives Financial Services Committee, Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of the Financial Services Committee is 2129 Rayburn House Office Building, Washington, D.C. 20515.

March 16, 2018: Panelist, *Chevron* and *Auer* Deference, U.S. Court of Appeals for the Federal Circuit Judicial Conference, Washington, D.C. Copy of notes supplied.

March 14, 2018: Speaker, Missouri Farm Bureau Meeting, Washington, D.C. Copy of notes supplied.

March 8, 2018: Speaker, Information Technology & Innovation Foundation Policymakers' Luncheon, Washington, D.C. Copy of notes supplied.

March 6, 2018: Speaker, American Council for Capital Formation Meeting, Washington, D.C. My informal comments and the questions and answers focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of the American Council for Capital Formation is 1001 Connecticut Avenue, N.W., Suite 620, Washington, D.C. 20036.

February 27, 2018: Speaker, "Regulatory Reform and American Prosperity," 34th Annual National Association of Business Economics Economic Policy Conference, Washington, D.C. Copy of notes supplied.

February 26, 2018: Speaker, Republican Attorney Generals Association, Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of the Republican Attorney Generals Association is 1747 Pennsylvania Avenue, N.W., Suite 800, Washington, D.C. 20006.

February 21, 2018: Panelist, Regulatory Reform and Space Development, Moon, Mars, and Worlds Beyond, Meeting of the National Space Council, Cape Canaveral, Florida. Video available at:
https://www.youtube.com/watch?time_continue=10&v=suNvPOykm6k.

February 14, 2018: Speaker, Arent Fox Webinar, Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of Arent Fox LLP is 1717 K Street, N.W., Washington, D.C. 20006.

February 8, 2018: Podcast Participant, "Free Lunch Podcast Episode 23 – Regulatory Scorecard: A Conversation with Administrator Neomi Rao," Federalist Society Regulatory Transparency Project, Washington, D.C. Audio available at:
<https://regproject.org/free-lunch-podcast-e23/>. Press reports supplied.

February 6, 2018: Guest lecture, Stanford University Economic Policy Analysis Class (teleconference), Washington, D.C. My comments focused on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. I have no notes, transcript, or recording. The address of Stanford University is 450 Serra Mall, Stanford, California 94305.

February 1, 2018: Speaker, Regulatory Reform and Individual Liberty, Harvard Kennedy School Regulatory Policy Program, Cambridge, Massachusetts. My comments focused

on the role of OIRA and the importance of regulatory reform to economic growth and individual liberty. Copy of notes supplied.

January 26, 2018: Speaker, "What's Next for Trump's Regulatory Agenda: A conversation with OIRA Administrator Neomi Rao," Brookings Institution, Washington, D.C. Video available at: <https://www.brookings.edu/events/whats-next-for-trumps-regulatory-agenda-a-conversation-with-oira-administrator-neomi-rao/>. Press reports supplied.

December 12, 2017: Keynote speaker, Annual Federal Privacy Summit, Federal Privacy Council, Washington, D.C. Speech supplied.

December 5, 2017: Panelist, Conference on Modern Executive Power and Sources of Constraint, New York University Law School, Washington, D.C. Video available at: https://www.youtube.com/watch?v=MfmX-V_kcxs.

November 18, 2017: Panelist, Showcase Panel on the Executive Branch and the Regulatory State, Federalist Society National Convention, Washington, D.C. Video available at: <https://fedsoc.org/conferences/2017-national-lawyers-convention#agenda-item-showcase-panel-iii-the-executive-branch-and-the-regulatory-state>.

November 14, 2017: Speaker, OIRA and Regulatory Reform, U.S. Chamber of Commerce Labor Relations Meeting, Washington, D.C. Copy of notes supplied.

October 25, 2017: Panelist, Legal Reform Summit, U.S. Chamber of Commerce Institute for Legal Reform, Washington, D.C. Video available at: <https://www.instituteforlegalreform.com/legal-reform-summit/2017-speaker-showcase>.

October 19, 2017: Keynote speaker, Overview of Priorities at OIRA, American Bar Association Administrative Law Conference, Washington, D.C. Copy of notes supplied.

October 4, 2017: Speaker, "The Administrative State and the Structure of the Constitution," Heritage Foundation, Washington, D.C. Video available at: <https://www.heritage.org/the-constitution/event/the-administrative-state-and-the-structure-the-constitution>. Press report supplied.

April 21, 2017: Panel Moderator, "What is Due Process and Does it Matter?," Public Policy Conference on Rethinking Due Process, The C. Boyden Gray Center for the Study of the Administrative State, Arlington, Virginia. Video available at: <https://vimeo.com/214714181>.

March 2, 2017: Panel Moderator, "The Time for Regulatory Reform in Congress," The C. Boyden Gray Center for the Study of the Administrative State and the American Bar Association Administrative Law and Regulatory Practice Section, Washington, D.C. Video available at: <https://vimeo.com/207306375>.

February 10, 2017: Panelist, “25 Years of Justice Clarence Thomas: Justice Thomas and the Administrative State,” Federalist Society Yale Student Chapter, New Haven, Connecticut. I have no notes, transcript, or recording. The address of Yale Law School is 127 Wall Street, New Haven, Connecticut 06511.

January 26 – 27, 2017: Workshop Participant, “Rethinking Due Process,” The C. Boyden Gray Center for the Study of the Administrative State, Arlington, Virginia. This was a research roundtable and I helped moderate the discussion, which focused on several draft papers presented by legal scholars. I have no notes, transcript, or recording. The address of the C. Boyden Gray Center for the Study of the Administrative State is 3301 Fairfax Drive, Arlington, Virginia 22201.

January 12, 2017: Panelist, “Article I Initiative Conference,” Federalist Society, Washington, D.C. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

December 9, 2016: Panelist, “Constitutional Problems in Financial Regulation,” Public Policy Conference on Financial Regulation: Political, Administrative, and Constitutional Accountability, The C. Boyden Gray Center for the Study of the Administrative State, Arlington, Virginia. Video available at: <https://vimeo.com/195655839/>.

November 11, 2016: Panelist, “Regulatory Overreach,” State Farm Legislative Conference, Chicago, Illinois. I participated at this conference and engaged in a question and answer session concerning regulatory overreach. I have no notes, transcript, or recording. The address of State Farm Insurance is One State Farm Plaza, Bloomington, Illinois 61710.

October 24, 2016: Panelist, “The Lone Jurist – The Jurisprudence of Clarence Thomas: 25 Years on the Court,” The Claremont Institute and the Federalist Society, Washington, D.C. Video available at: <https://www.youtube.com/watch?v=Sr7m5wfm140&t=43s>.

September 24, 2016: Panelist, “Parliaments, Presidents, and Prime Ministers,” Transatlantic Law Forum Ninth Annual Conference, Henry G. Manne Program on Law and Economics, George Mason University, Hamburg, Germany. On this panel, I discussed my academic work on Congress and the importance of the legislative power. I have no notes, transcript, or recording. The address of the Henry G. Manne Program on Law and Economics is 3301 Fairfax Drive, Arlington, Virginia 22201.

September 16, 2016: Panel Moderator, “Ghost Rules, Agency Action, and Regulatory Shadow-Boxing,” Public Policy Conference on Environmental Law in the Administrative State, The C. Boyden Gray Center for the Study of the Administrative State, Arlington, Virginia. Video available at: <https://vimeo.com/183576004>.

September 2, 2016: Panelist, “Congress, Delegation, and the Administrative State,” 2016 American Political Science Association Annual Meeting, Philadelphia, Pennsylvania. On this panel, I discussed my article, *Administrative Collusion: How Delegation Diminishes*

the Collective Congress, 90 N.Y.U. L. Rev. 1463 (2015), a copy of which is supplied in response to Question 12.a.

June 12, 2016: “The Imperial Presidency?,” American Constitution Society National Convention, Washington, D.C. Video available at: <https://www.acslaw.org/video/the-imperial-presidency/>.

June 2, 2016: Panelist, “Separation of Powers: Congress, Agencies, and the Court,” Public Policy Conference on Rethinking Judicial Deference: History, Structure, and Accountability, The C. Boyden Gray Center for the Study of the Administrative State, Arlington, Virginia. Video available at <https://vimeo.com/169757569>.

May 6, 2016: Speaker, “Executive Agency Overreach and Civil Justice,” Lawyers for Civil Justice National Conference, Washington, D.C. I have no notes, transcript, or recording. The address of the Lawyers for Civil Justice is 1140 Connecticut Avenue, N.W., Suite 503, Washington, D.C. 20036.

May 2, 2016: Speaker, “Executive Power and the Administrative State,” Federalist Society University of Chicago Student Chapter, Chicago, Illinois. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

March 15, 2016: Panelist, “Future of Judicial Deference,” American Bar Association 12th Annual Administrative Law & Regulatory Practice Institute, Washington, D.C. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

March 3, 2016: Panelist, “Regulatory Capture in Rulemaking,” Administrative Conference of the United States Regulatory Capture Forum, Washington, D.C. As I recall, I focused my remarks on the relationship between expansive delegations of authority to agencies and regulatory capture. I have no notes, transcript, or recording. The address of the Administrative Conference of the United States is 1120 20th Street, N.W., Suite 706 South, Washington, D.C. 20036.

February 5, 2016: Speaker, “Congress and the Administrative State,” Congressional Fellows Program in Constitutional Law, Washington, D.C. This session for congressional staffers focused on a summary version of my academic work on the relationship between Congress and the administrative agencies. I have no notes, transcript, or recording. The association no longer exists.

November 13, 2015: Panelist, “The Living Congress: Adaptation or Decline?,” Federalist Society 2015 National Lawyers Convention, Washington, D.C. Video available at: <https://fedsoc.org/commentary/videos/showcase-panel-ii-the-living-congress-adaptation-or-decline-event-audio-video>.

October 29, 2015: Panelist, “The Constitutional Future of Administrative Law Judges,”

American Bar Association Administrative Law & Regulatory Practice Administrative Law Conference, Washington, D.C. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

October 23, 2015: Panelist, “Administrative Law in Crisis,” Transatlantic Law Forum, Arlington, Virginia. Video available at: <https://masonlec.org/events/eighth-annual-transatlantic-law-forum/>.

October 9, 2015: Panelist, “Supreme Court Case Discussion,” Conservative Women’s Network, Washington, D.C. Video available at: <https://www.youtube.com/watch?v=uE6wuAJcWsY>.

September 30, 2015: Panelist, “Supreme Court (P)review,” New York University Law School, New York, New York. Video available at: <https://www.youtube.com/watch?v=ekXcBsfsPgs>.

June 18, 2015: Panelist, “The Incentives Behind Congressional Delegation,” Federalist Society Executive Branch Review Conference, Washington, D.C. These remarks focused on my article *Administrative Collusion: How Delegation Diminishes the Collective Congress*, 90 N.Y.U. L. Rev. 1463 (2015), a copy of which is supplied in response to Question 12.a.

April 30, 2015: Panelist, “*Perez v. Mortgage Bankers Assoc.* – The Justices Answer One Question But Ask Another,” American Bar Association 11th Annual Administrative Law & Regulatory Practice Institute, Washington, D.C. I have no notes, transcript, or recording. The address of the American Bar Association is 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

April 15, 2015: Presenter, “Administrative Collusion: How Delegation Diminishes the Collective Congress,” Harvard Public Law Workshop, Cambridge, Massachusetts. I presented my article *Administrative Collusion: How Delegation Diminishes the Collective Congress*, 90 N.Y.U. L. Rev. 1463 (2015), a copy of which is supplied in response to Question 12.a.

November 21, 2014: Speaker, “The Executive: Unitary, Not Unilateral,” Federalist Society Minnesota Student Chapter, Minneapolis, Minnesota. This presentation focused on topics raised by my article *Removal: Necessary and Sufficient for Presidential Control*, 65 Ala. L. Rev. 1205 (2014), a copy of which is supplied in response to Question 12.a.

November 18, 2014: Interviewer, “Overruled,” Book Event sponsored by the Federalist Society, the Charles Koch Institute, and Reason, Washington, D.C. Video available at: <https://fedsoc.org/commentary/videos/overruled-the-long-war-for-control-of-the-u-s-supreme-court-event-video>.

November 15, 2014: Speaker, "Collective Congress," University of Chicago Alumni Breakfast, Federalist Society 2014 National Lawyers Convention, Washington, D.C. These brief remarks summarized my article *Administrative Collusion: How Delegation Diminishes the Collective Congress*, 90 N.Y.U. L. Rev. 1463 (2015), a copy of which is supplied in response to Question 12.a.

October 13, 2014: Speaker, "Abolishing Agency Independence?," Federalist Society University of Texas Student Chapter, Austin, Texas. This presentation focused on topics raised by my article *Removal: Necessary and Sufficient for Presidential Control*, 65 Ala. L. Rev. 1205 (2014), a copy of which is supplied in response to Question 12.a.

September 12, 2014: Panelist, "Excessive Delegation and the Expansion of Federal Power," LEC Public Policy Conference on Administration Unbound? Delegation, Deference, and Discretion, Antonin Scalia Law School, Arlington, Virginia. Video available at: <https://masonlec.org/events/lec-public-policy-conference-administration-unbound-delegation-deference-discretion-2/>.

June 21, 2014: Panelist, "Shedding Light on the PRISM of Government," American Constitution Society National Convention, Washington, D.C. Video available at: <https://www.youtube.com/watch?v=yXuksrxyva0>.

June 20, 2014: Panelist, "Supreme Court Review," South Asian Bar Association of North America National Convention, Los Angeles, California. This was a panel for generalist lawyers summarizing some of the major cases from the Supreme Court term. I have no notes, transcript, or recording. Further information concerning the South Asian Bar Association of North America can be obtained by contacting info@sabanorthamerica.com.

May 20 – 21, 2014: Presenter, "Congressional Realism: How Delegation Expands Legislative Power," Research Roundtable on Extreme Deference to Agency Interpretations of Vague and Ambiguous Regulations, Antonin Scalia Law School Law & Economics Center, Arlington, Virginia. I presented a draft of my article *Administrative Collusion: How Delegation Diminishes the Collective Congress*, 90 N.Y.U. L. Rev. 1463 (2015), a copy of which is supplied in response to Question 12.a.

May 14, 2014: Panel Moderator, "Government and Commercial Surveillance: Spillovers and Constitutional Issues," Antonin Scalia Law School Law & Economics Center Public Policy Conference on the Future of Privacy and Data Security Regulation, Arlington, Virginia. Video available at: <https://masonlec.org/events/lec-public-policy-conference-future-privacy-data-security-regulation/>.

May 7, 2014: Panelist, "Executive Power and the Role of the Coordinate Branches," Federalist Society Second Annual Executive Branch Review Conference, Washington, D.C. Video available at: <https://www.youtube.com/watch?v=GGX3TW8XuTM>.

April 25, 2014: Speaker, "Removal: Necessary and Sufficient for Presidential Control,"

Federalist Society University of Chicago Student Chapter, Chicago, Illinois. This presentation focused on my article *Removal: Necessary and Sufficient for Presidential Control*, 65 Ala. L. Rev. 1205 (2014), a copy of which is supplied in response to Question 12.a.

April 9, 2014: Speaker, Women's Law Association Breakfast, Antonin Scalia Law School, Arlington, Virginia. As I recall, these informal remarks focused on professional fulfillment and balancing the demands of work and family. I have no notes, transcript, or recording. The address of the Antonin Scalia Law School is 3301 Fairfax Drive, Arlington, Virginia 22201.

September 20, 2013: Panelist, "Securing Rights," Fordham Law School Conference on Citizenship, Immigration and National Security After 9/11, New York, New York. Video available at: <https://www.youtube.com/watch?v=VIK1CJrCJME>.

July 19, 2013: Panelist, "The Roberts Court at Age Seven: The 2013 U.S. Supreme Court Term in Review," Virginia Bar Association 123rd Summer Meeting, Hot Springs, Virginia. This was a panel for generalist lawyers summarizing and discussing some of the major cases from the Supreme Court term. I have no notes, transcript, or recording. The address of the Virginia Bar Association is 1111 East Main Street, Suite 905, Richmond, Virginia 23219.

January 6, 2013: Panelist, "Human Rights in Times of Conflict: New Voices in Human Rights," Association of American Law Schools Conference, New Orleans, Louisiana. I discussed a paper later published as *The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention*, 44 Colum. Hum. Rts. L. Rev. 697 (2013), a copy of which is supplied in response to Question 12.a.

November 30, 2012: Panelist, "Human Rights and National Security Law Issues," American Bar Association Standing Committee on Law and National Security 22nd Annual Review of the Field of National Security Law, Washington, D.C. Audio available at: <https://www.lawfareblog.com/audio-recent-aba-standing-committee-conference>.

November 15, 2012: Presenter, "Removal: Necessary and Sufficient for Presidential Control," University of Minnesota Law School Faculty Workshop, Minneapolis, Minnesota. I presented a draft of my article *Removal: Necessary and Sufficient for Presidential Control*, 65 Ala. L. Rev. 1205 (2014), a copy of which is supplied in response to Question 12.a.

July 16, 2012: Instructor, Sixteenth Law Institute for Economics Professors, Law and Economics Center, Estes Park, Colorado. I taught with Professor Nelson Lund several sessions on constitutional law, statutory interpretation, and administrative law. Copy of syllabus supplied in response to Question 19.

June 30, 2012: Panelist, "Supreme Court Review," South Asian Bar Association of North

America National Convention, Philadelphia, Pennsylvania. This was a panel for generalist lawyers summarizing some of the major cases from the Supreme Court term. I have no notes, transcript, or recording. Further information concerning the South Asian Bar Association of North America can be obtained by contacting info@sabanorthamerica.com.

May 11, 2012: Presenter, "The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention," National Security Law Workshop, Houston, Texas. I discussed a draft of my article *The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention*, 44 Colum. Hum. Rts. L. Rev. 697 (2013), a copy of which is supplied in response to Question 12.a.

April 12, 2012: Speaker, "Is Universal Healthcare Compatible with the American Conception of Human Dignity?," Federalist Society South Texas Student Chapter, Houston, Texas. I discussed my article *American Dignity and Healthcare Reform*, 35 Harv. J. L. & Pub. Pol'y 171 (2012), a copy of which is supplied in response to Question 12.a.

April 6, 2012: Presenter, "The Removal Power: Constitutionally Necessary, Constitutionally Sufficient," Administrative Law of Dodd-Frank Conference, Case Western Reserve School of Law, Cleveland, Ohio. I presented a draft of my article *Removal: Necessary and Sufficient for Presidential Control*, 65 Ala. L. Rev. 1205 (2014), a copy of which is supplied in response to Question 12.a.

March 22, 2012: Panel moderator, "Judicial Engagement in Enforcing Limits on Government Powers, Institute for Justice and George Mason Law Review Symposium. I have no notes, transcript, or recording. The address of the Institute for Justice is 901 North Glebe Road, Suite 900, Arlington, Virginia 22203.

March 15, 2012: Speaker, "Three Concepts of Dignity," Federalist Society University of Colorado Student Chapter, Boulder, Colorado. I discussed my article *Three Concepts of Dignity in Constitutional Law*, 86 Notre Dame L. Rev. 183 (2011), a copy of which is supplied in response to Question 12.a.

March 14, 2012: Speaker, "Constitutional Interpretation," Federalist Society Denver Student Chapter, Denver, Colorado. As I recall, these remarks compared different methods of constitutional interpretation. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

February 28, 2012: Speaker, "Is Universal Healthcare Compatible with the American Conception of Human Dignity?," Federalist Society University of Florida Student Chapter, Gainesville, Florida. I discussed my article *American Dignity and Healthcare Reform*, 35 Harv. J. L. & Pub. Pol'y 171 (2012), a copy of which is supplied in response to Question 12.a.

January 13, 2012: Presenter, Young Scholars Workshop, George Mason School of Law. I presented a draft of my article, *The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention*, 44 Colum. Hum. Rts. L. Rev. 697 (2013), a copy of which is supplied in response to Question 12.a.

November 3, 2011: Panelist, The Upcoming Supreme Court Arguments, The Federalist Society. I discussed the Supreme Court oral arguments in *U.S. v. Jones* and *M.B.Z. v. Clinton*. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

October 21, 2011: Panelist, "Habits of Compliance? International Law and the Executive," International Law Weekend, American Branch of the International Law Association, New York, New York. These remarks focused on my article *Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,'* 96 Minn. L. Rev. 194 (2011), a copy of which is supplied in response to Question 12.a.

September 22, 2011: Speaker, "Military Intervention in Libya," Federalist Society Duke Student Chapter, Durham, North Carolina. As I recall, this presentation focused on my scholarship on responsibility to protect and its application to intervention in Libya. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

September 21, 2011: Presenter, "Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,'" Faculty Workshop, University of North Carolina Law School, Chapel Hill, North Carolina. I presented a draft of my article *Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,'* 96 Minn. L. Rev. 194 (2011), a copy of which is supplied in response to Question 12.a.

September 21, 2011: Speaker, "Libya & Presidential Authority," Federalist Society North Carolina Student Chapter, Chapel Hill, North Carolina. As I recall, this presentation focused on my scholarship on responsibility to protect and its application to intervention in Libya. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W. Suite 300, Washington, D.C. 20006.

September 9, 2011: Presenter, "Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,'" Manne Faculty Forum, Arlington, Virginia. I presented a draft of my article *Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,'* 96 Minn. L. Rev. 194 (2011), a copy of which is supplied in response to Question 12.a.

July 25, 2011: Panelist, "Supreme Court Roundup," South Asian Bar Association of North America National Convention, Los Angeles, California. This was a panel for generalist lawyers summarizing some of the major cases from the Supreme Court term. I have no notes, transcript, or recording. Further information concerning the South Asian Bar Association of North America can be obtained by contacting

info@sabanorthamerica.com.

June 18, 2011: Panelist, "Executive Power and National Security," American Constitution Society 2011 National Convention, Washington, D.C. Video available at: <https://www.acslaw.org/video/executive-power-and-national-security/>.

March 17, 2011: Moderator, "Does the President Have a Duty to Defend DOMA?," Federalist Society Capitol Hill Chapter, Washington, D.C. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

February 26, 2011: Panelist, "The Welfare State and American Exceptionalism," Federalist Society 2011 Annual Student Symposium, Charlottesville, Virginia. Video available at: <https://fedsoc.org/commentary/videos/the-welfare-state-and-american-exceptionalism-event-audio-video>.

February 9, 2011: Panelist, "Must U.S. Courts Enforce America's International Agreements? A Discussion of *Al-Bihani v. Obama*," American University International Law Symposium, Washington, D.C. As I recollect, this panel focused on the use of international law norms for statutory interpretation. I have no notes, transcript, or recording. The address of American University is 4400 Massachusetts Avenue, N.W., Washington, D.C. 20016.

November 12, 2010: Speaker, "A Modest Proposal: Abolishing Agency Independence in *Free Enterprise Fund v. PCAOB*," Fordham Law Review Symposium on Presidential Influence Over Administrative Action, New York, New York. A version of my remarks was published as *A Modest Proposal: Abolishing Agency Independence in Free Enterprise Fund v. PCAOB*, 79 Fordham L. Rev. 2541 (2011). Copy supplied in response to Question 12.a.

November 4, 2010: Presenter, "Questioning the Unitary State: Public Choice and Compliance with International Law," Legal Scholarship Workshop, University of Chicago Law School, Chicago, Illinois. I presented a draft of my article *Public Choice and International Law Compliance: The Executive Branch is a 'They' Not an 'It,'* 96 Minn. L. Rev. 194 (2011), a copy of which is supplied in response to Question 12.a.

October 22, 2010: Panelist, "Responsibility to Protect: The Relationship between Human Dignity and State Sovereignty," International Law Weekend, American Branch of the International Law Association, New York, New York. These remarks focused on my academic work on responsibility to protect. I have no notes, transcript, or recording. The address of the International Law Association is Charles Clore House, 17 Russell Square, London WC1B 5DR, United Kingdom.

September 24, 2010: Presenter, "A Modest Proposal: Abolishing Agency Independence in *Free Enterprise Fund v. PCAOB*," Judges and Judging Workshop, American University Washington College of Law, Washington, D.C. I presented a draft of my

article *A Modest Proposal: Abolishing Agency Independence in Free Enterprise Fund v. PCAOB*, 79 Fordham L. Rev. 2541 (2011), a copy of which is supplied in response to Question 12.a.

May 3, 2010: Speaker, "Use of Dignity in Constitutional Law," Federalist Society University of Chicago Student Chapter, Chicago, Illinois. These remarks focused on my academic work on dignity in constitutional law. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W. Suite 300, Washington, D.C. 20006.

March 22, 2010: Presenter, "Three Concepts of Dignity in Constitutional Law," Advanced Constitutional Law Colloquium, Georgetown University Law Center, Washington, D.C. I presented a draft of my article *Three Concepts of Dignity in Constitutional Law*, 86 Notre Dame L. Rev. 183 (2011), a copy of which is supplied in response to Question 12.a.

March 3, 2010: Speaker, "Should American Courts Consider Foreign & International Law in Trying to Interpret the American Constitution?," Federalist Society Virginia Student Chapter. As I recall, this was a discussion with Professor David Fontana about the use of foreign law for interpreting the U.S. Constitution. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

January 27, 2010: Panel Moderator, "The War on Terror: Where Are We Now? Where Do We Go From Here?," Federalist Society International and National Security Law Practice Group and the Center for Law and Counterterrorism, Washington, D.C. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

January 11, 2010: Speaker, "Human Dignity and the Constitution," Federalist Society Northwestern Student Chapter, Chicago, Illinois. These remarks focused on my academic work on dignity in constitutional law. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

January 8, 2010: Panelist, "Young Legal Scholars Paper Presentations," Federalist Society 12th Annual Faculty Conference, New Orleans, Louisiana. Video available at: <https://fedsoc.org/commentary/videos/young-legal-scholars-paper-presentations-event-audio-video-7>.

October 22, 2009: Speaker, "The Judicial Confirmation Process," Federalist Society St. Mary's Student Chapter, San Antonio, Texas. As I recall, these remarks focused on the judicial confirmation process and my experiences as associate counsel to the President and counsel to the U.S. Senate Committee on the Judiciary. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

June 9, 2009: Presenter, "Three Concepts of Dignity," Current Research Workshop, Institute for Humane Studies, Arlington, Virginia. I presented a draft of my article *Three Concepts of Dignity in Constitutional Law*, 86 Notre Dame L. Rev. 183 (2011), a copy of which is supplied in response to Question 12.a.

April 10, 2009: Panelist, "Evaluating Justice Ginsburg's Equality Jurisprudence," Ohio State Law Journal Symposium on the Jurisprudence of Ruth Bader Ginsburg, Columbus, Ohio. An expanded version of my remarks was published as *Gender, Race, and Individual Dignity: Evaluating Justice Ginsburg's Equality Jurisprudence*, 70 Ohio St. L.J. 1053 (2009), a copy of which is supplied in response to Question 12.a.

March 13, 2009: Panelist, "India's Constitution and Individual Rights," George Washington University Conference on Emerging India: Rights and Responsibilities, Washington, D.C. To the best of my recollection, I compared differences between Indian and American constitutional law, specifically with respect to the treatment of individual rights. I have no notes, transcript, or recording. The address of George Washington University is 2121 I Street, N.W., Washington, D.C. 20052.

September 12, 2008: Panelist, "The President and the Law," Willamette Center for Law and Government Symposium on Presidential Powers in the 21st Century, Salem, Oregon. An expanded version of my remarks was published as *The President's Sphere of Action*, 45 Willamette L. Rev. 527 (2009), a copy of which is supplied in response to Question 12.a.

January 3, 2008: Panelist, "Executive Discretion & the Rule of Law," Federalist Society 10th Annual Faculty Conference, New York, New York. Video available at: <https://fedsoc.org/commentary/videos/executive-discretion-the-rule-of-law-event-audio-video>.

October 27, 2007: Panelist, "A Critique of the International Legal Academy," International Law Weekend, American Branch of the International Law Association, New York, New York. To the best of my recollection, this panel discussed some of the limitations of the legal academy and its narrow focus on new forms of customary international law. I have no notes, transcript, or recording. The address of the International Law Association is Charles Clore House, 17 Russell Square, London WC1B 5DR, United Kingdom.

April 19, 2007: Presenter, "On the Use and Abuse of Dignity in Constitutional Law," Advanced Constitutional Law Colloquium, Georgetown University Law Center, Washington, D.C. I discussed a draft of my article *On the Use and Abuse of Dignity in Constitutional Law*, 14 Colum. J. Eur. L. 201 (2008), a copy of which is supplied in response to Question 12.a.

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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I have found the following responsive materials.

Regulatory Relief Efforts Deliver \$23 Billion In Regulatory Costs Savings, Office of Management and Budget, Oct. 17, 2018. Copy supplied.

On October 16, 2018, I provided a background briefing to a group of White House reporters. A number of media outlets covered the release of the 2018 Regulatory Reform Report as well as the Fall 2018 Unified Agenda of Regulatory and Deregulatory Actions.

The Regulatory Freedom Agenda, Oct. 12, 2018. Copy supplied.

Joshua Rosenberg, *OMB Waives Right to Review Two Tax Rules, Official Says*, Law360 Tax Authority, Oct. 5, 2018.

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Environ. & Energy Daily, Feb. 12, 2018. Copy supplied.

Alison Bennett, *Tax Regulations: Rettig Nomination Comes Amid Controversy on Tax Regulations*, Daily Tax Rep., Feb. 9, 2018. Copy supplied.

Ben Penn, *Trump's Regulatory Czar Defends Tip Pool Rule's Transparency*, Bloomberg L. Daily Lab. Rep., Feb. 8, 2018. Copy supplied.

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Danny Vinik, *Trump's War on Regulations is Real. But is It Working?*, Politico.com, Feb. 1, 2018. Copy supplied.

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Cheryl Bolen, *Regulatory Policy: This Year Was Easy; Next Year Deregulating Gets Tough*, Daily Lab. Rep., Dec. 22, 2017. Copy supplied. Reprinted in multiple outlets.

Cheryl Bolen, *Deregulatory Goals Exceeded for 2017: Trump Administration*, Constr. Lab. Rep., Dec. 21, 2017. Copy supplied.

Cheryl Bolen, *Regulatory Policy: OIRA's Rao Aims for More Deregulation, Transparently Done*, Health Care Daily Rep., Dec. 18, 2017. Copy supplied.

Hugh Hewitt, *Talking Regulatory Rollback and Special Counsels With Neomi Rao, Administrator, Office of Information and Regulatory Affairs, OMB*, Dec. 15, 2017. Transcript supplied.

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Charles S. Clark, *Trump Regulatory Chief Hits Ground Running for 'Fundamental Shift'*, Gov't Exec., July 20, 2017. Copy supplied.

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Richard Wolf, *Voice of Dissent; Over 25 Years on Supreme Court, Justice Clarence Thomas Has Stoically Stood His Conservative Ground*, USA Today, Oct. 21, 2016, at 8A. Copy supplied.

Tony Mauro, *George Mason Christens Antonin Scalia Law School*, Nat'l L.J., Oct. 6, 2016, at 14. Copy supplied.

Susan Svrluga, *George Mason's Law School Officially Renamed in Honor of Antonin Scalia*, Wash. Post, May 18, 2016, at B8. Copy supplied.

On Point: Supreme Court Makes Same-Sex Marriage Legal Nationwide (NPR radio broadcast June 26, 2015). Audio available at: <http://www.wbur.org/onpoint/2015/06/26/same-sex-marriage-legal>.

Chris Opfer and Cheryl Bolen, *Justices' Recess Appointment Ruling Could Weigh on Future Nominations*, 83 U.S.L.W. 40, July 1, 2014. Copy supplied.

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I appeared on HuffPost Live on January 6, 2014. I have been unable to locate a video of that appearance.

NewsHour (PBS television broadcast July 5, 2010). Transcript supplied.

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Neil A. Lewis, *Old Confirmation Wars Fueling Some Critics Now*, N.Y. Times, June 26, 2009, at A13. Copy supplied.

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Patrick Healy, *Seeking to Shift Attention to Judicial Nominees*, N.Y. Times, Oct. 6, 2008, at A15. Copy supplied.

Conservatives Hold Edge on US Supreme Court, Government Press Releases, July 12, 2007.

Morning Edition: *The Roberts Court and the Role of Precedent* (NPR radio broadcast July 3, 2007). Audio available at: <https://www.npr.org/templates/story/story.php?storyId=11688820>.

I recall appearing as a guest on Fox News Sunday sometime in the 2000s. I have no further notes regarding this event.

Lara Jakes, *Clock Ticking on Pataki's Chances for National Office*, Times Union (Albany, N.Y.), Apr. 16, 1999, at A1. Copy supplied.

Jeff Glasser, *White House Lobbies for Financial Aid*, Yale Daily News, Jan. 28, 1995. Copy supplied.

Amy Terry, *Mory's Allows '98s in*, Yale Daily News, Oct. 28, 1994. Copy supplied.

Danielle Neves, *Master Bans Co-Op Posters*, Yale Daily News, Oct. 12, 1994. Copy supplied.

Sascha Segan, *Get a Job*, Yale Daily News, Sept. 21, 1994. Copy supplied.

Alessandra Phillips, *Does Date Rape Really Happen?*, Yale Daily News, Mar. 2, 1994. Copy supplied.

EP&E May Adopt Lecture Format, Yale Daily News, Jan. 18, 1994. Copy supplied.

Ethan MacAdam, *Peddling Propaganda*, Yale Daily News, Oct. 27, 1993. Copy supplied.

David Karp, *Magazines Stolen from Dining Halls*, Yale Daily News, Feb. 9, 1993. 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:

I have not held judicial office.

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.

2017 – present
Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget

I was nominated on April 17, 2017, by President Donald Trump and confirmed by the United States Senate on July 10, 2017.

2005 – 2006
Associate Counsel and Special Assistant to the President
Office of the White House Counsel
The White House

I was appointed by President George W. Bush.

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 office or rendered services to a political party or election committee; nor have I held a position or played a role in a political campaign.

To the best of my recollection, I was a member of Lawyers for McCain (2008) and Lawyers for Romney (2012).

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

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1999 to 2000, I served as a law clerk to the Honorable J. Harvie Wilkinson, III, Circuit Judge of the United States Court of Appeals for the Fourth Circuit.

From 2001 to 2002, I served as a law clerk to the Honorable Clarence Thomas,

Associate Justice of the United States Supreme Court.

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

I 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.

2000 – 2001

U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510
Counsel for Nominations and Constitutional Law

2002 – 2005

Clifford Chance LLP
10 Upper Bank Street
London, United Kingdom
E14 5JJ
Associate

2005 – 2006

The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500
Associate Counsel and Special Assistant to the President

2006 – present

Antonin Scalia Law School
George Mason University
3301 Fairfax Drive
Arlington, Virginia 22201
Director and Founder, Center for the Study of the Administrative State (2015 – 2017)
Associate Professor with tenure (2012 – present)
Assistant Professor (2006 – 2012)
[currently on leave]

Fall 2012

University of Minnesota Law School
229 19th Avenue South
Minneapolis, Minnesota 55455
Visiting Professor

2017 – present
Office of Information and Regulatory Affairs
Office of Management and Budget
1650 Pennsylvania Avenue, N.W.
Washington, D.C. 20502
Administrator

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

In between my judicial clerkships, in 2000 to 2001, I served as counsel for nominations and constitutional law to the U.S. Senate Committee on the Judiciary, working for Chairman Orrin Hatch. In this position, I reviewed proposed legislation for constitutional concerns, helped draft legislation, and managed the confirmation process for executive branch and judicial nominees.

After my Supreme Court clerkship, from 2002 to 2005, I was an associate in the international arbitration group at Clifford Chance LLP in London, England. During this period I worked on several significant commercial law and public international law arbitrations, researching relevant international law and drafting documents for filing with the arbitral tribunals.

Most of my legal experience has focused on public service, academic scholarship, and teaching. As associate counsel to President George W. Bush from 2005 to 2006, I provided legal counsel on matters related to constitutional law, separation of powers conflicts, administrative law, litigation strategy, and statutory interpretation; and also assisted in the selection and appointment of federal judges.

In 2006, I joined the Antonin Scalia Law School at George Mason University, where I taught constitutional law, comparative constitutional law, legislation and statutory interpretation, and a seminar on administrative law. In 2015, I founded and directed the Center for the Study of the Administrative State and helped establish the affiliated Administrative Law Clinic.

Since 2017, I have been serving as the Administrator of the Office of Information and Regulatory Affairs, in which capacity I direct and oversee regulatory policy

across the federal government. My work includes reviewing regulations on a wide range of substantive issues, evaluating complex legal questions, and assessing litigation claims.

For further details on these positions, please see response to question 18.

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

At Clifford Chance, my most significant clients included BNP Paribas and the Republic of Latvia.

In government service, my clients have included public institutions, such as the President and the Office of the President and the U.S. Senate Committee on the Judiciary.

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.

My practice at Clifford Chance consisted entirely of litigation in international arbitral tribunals. I conducted discovery, wrote briefs, and prepared for arbitration.

As Administrator of OIRA and as Associate White House Counsel, I reviewed regulations, participated in litigation strategy and reviewed briefs, and handled complex separation of powers disputes.

As a law professor, I authored an amicus brief and occasionally participated in moot courts for Supreme Court advocates.

i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|---------------------------|
| 1. | federal courts: | 0% |
| 2. | state courts of record: | 0% |
| 3. | other courts: | 100% (arbitral tribunals) |
| 4. | administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

- | | | |
|----|-----------------------|------|
| 1. | civil proceedings: | 100% |
| 2. | criminal proceedings: | 0% |

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 not tried any cases.

i. What percentage of these trials were:

- | | | |
|----|-----------|----|
| 1. | jury: | 0% |
| 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.

I have not practiced before the Supreme Court.

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. *Union Pac. R.R. Co. v. Surface Transp. Bd.*, 863 F.3d 816 (8th Cir. 2017), *cert. denied* 138 S. Ct. 1042 (2018).

Union Pacific and other freight railroads challenged a rule of the Surface Transportation Board as exceeding the agency's statutory authority. The Board claimed authority under the Passenger Rail Investment and Improvement Act (the "PRIIA") to establish performance standards for Amtrak passenger trains operating on tracks owned by the freight railroads. The Board issued the rule after the D.C. Circuit held that section 207 of the PRIIA was unconstitutional and that an on-time rule promulgated by the Federal Railroad Administration (the "FRA") and Amtrak was, consequently, invalid. The Eighth Circuit (Smith, J.) agreed with the freight railroads and invalidated the Board's rule, explaining that Congress had given the FRA and Amtrak joint authority to issue the performance rule and that the Board could not exercise rulemaking authority delegated to these other entities. The Supreme Court denied certiorari in 2018.

I authored an amicus brief in support of the railroads in which I argued in part that "[b]y assuming the rulemaking authority assigned elsewhere, the Board's assertions of authority threaten the Constitution's separation of powers and the faithful execution of the laws."

Eighth Circuit Panel: Hon. Lavenski R. Smith; Hon. Duane Benton; Hon. Bobby E. Shepherd

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Harkins Cunningham LLP
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2. *Tilts Communications A/S v. Republic of Latvia* (Int'l Comm. Arb.).

Between 2002 and 2004, as part of a team I represented the Republic of Latvia in an arbitration proceeding before the International Chamber of Commerce International Court of Arbitration. The dispute concerned the compensation to which Lattelekom SIA, the basic telecommunications service provider for Latvia, was entitled because of the shortening by Latvia of Lattelekom's twenty years' exclusivity period after Latvia's accession to the European Union. In 2004, the parties reached a settlement. The Republic of Latvia raised counterclaims including the alleged failure by one of the related parties to digitalize the fixed line network in Latvia within a period set forth in a governing agreement.

My responsibilities in this matter included writing arbitral filings, researching law across multiple jurisdictions, and reviewing documents.

Counsel for the Republic of Latvia

Robert Lambert
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E14 5JJ
44 20 7006 8709

Mary O'Connor
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Counsel for Tilts Communications A/S, Sonera OYJ and Cable & Wireless plc

Richard Bamforth
[formerly White & Case LLP]
CMS Cameron McKenna Nabarro Olswang LLP
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London, United Kingdom
EC4N 6AF
44 20 7067 3641

3. *BNP Paribas Arbitration* (Int'l Comm. Arb.).

Between 2002 and 2004, as part of a team I represented BNP Paribas, an international banking group, in a confidential arbitration before the International Chamber of Commerce International Court of Arbitration.

My responsibilities in this matter included writing arbitral filings, researching law across multiple jurisdictions, and reviewing documents.

Counsel for BNP Paribas

Nicholas Fletcher QC
Clifford Chance LLP
10 Upper Bank Street
London, United Kingdom
E14 5JJ
48 22 4299 520

Counsel for Opposing Party

John L. Gardiner
Paul Mitchard QC
Skadden, Arps, Slate, Meagher & Flom (UK) LLP
40 Bank Street
Canary Wharf
London, United Kingdom
E14 5DS
44 20 7519 7000

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.)

My most significant legal activities include serving in senior positions in all three branches of the federal government, developing scholarship in the areas of constitutional and administrative law, founding the Center for the Study of the Administrative State, and teaching and sharing my experience and knowledge of the law with students, government officials, and members of the public.

Currently as the Administrator of the Office of Information and Regulatory Affairs (OIRA), I lead the centralized review of regulations and regulatory policy across the federal government. The process of regulatory review involves addressing and resolving complex legal questions about regulatory actions across the full range of subjects addressed by federal agencies including, to name just a few, healthcare, labor, environmental protection, agriculture, transportation, national security, housing, and tax. For each regulation, my office coordinates review of the legal authority for agency action and I have particularly focused on ensuring that agencies stay within their statutory authority and follow the Administrative Procedure Act when issuing or rescinding regulations. We seek to ensure that agencies interpret statutes fairly, with respect for Congress' legislative power and consistent with applicable judicial precedent. Moreover, sometimes a regulation as drafted may raise constitutional concerns, in which case we have worked with agencies to ensure the regulation fits within the limits of the Constitution.

Given the central role of OIRA in reviewing regulations across the government, as Administrator I have systematically sought to advance and to reinforce principles of due process and fair notice in regulatory policy, ensuring that agencies act within the law and consider the views of the impacted public. For example, OIRA works with agencies to curb the improper use of guidance documents. As Administrator, I also oversee privacy policy, maintaining standards of privacy for information collections and other government programs, and statistical and science policy, working to promote and maintain high standards of information quality and scientific inquiry across the federal government.

In 2015, I founded the Center for the Study of the Administrative State, the first organization committed to considering the constitutional and legal foundations of the administrative state. The Center furthers research and scholarship on issues such as judicial deference, environmental law, financial regulation, due process, and the role of Congress in regulatory reform. As the director of the Center, I organized research roundtables to discuss draft papers authored by scholars with diverse perspectives. These roundtables formed the basis for larger public policy conferences—free, open to the public, and accredited for continuing legal education (CLE)—which included scholars, judges, public officials, and practicing lawyers. The programs brought together high-profile and diverse speakers to engage in rigorous and respectful dialogue on the issues. The Center furthered an important scholarly mission as well as an educational one for professors, students, lawyers, and the broader interested public. I also helped establish and then

served as the faculty advisor of the Center's affiliated Administrative Law Clinic, which involves students in *pro bono* administrative law cases and issues.

For eleven years as a law professor, I was committed to scholarship and teaching. I chose an academic path in part to address serious questions of constitutional law in a more thorough manner, bringing my practical experience within the three branches, and with actual separation of powers disputes, to scholarly inquiry. My early work focused on the concept of "dignity" in constitutional law, a term frequently used by the U.S. Supreme Court as well as constitutional courts in other countries, but often without a specified meaning. Looking at cases from a variety of jurisdictions, I provided a taxonomy of three concepts of dignity, elucidating the particular American use of dignity as a component of individual liberty. In several other articles, I have examined how the executive branch formulates international law interpretations and provided a critique of the responsibility to protect doctrine. During my time as a professor, I occasionally participated in preparing advocates for Supreme Court arguments, for example in *National Labor Relations Board v. Noel Canning* and *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*.

More recently, my scholarship analyzed the constitutional questions raised by modern administrative action, including the extent of presidential control over federal agencies, the non-delegation principle, and the importance of Congress in our constitutional democracy. In particular, recent articles explained a novel structural reason why Congress has delegated so much regulatory authority to administrative agencies. Similar to the understanding of the "unitary executive," I developed the concept of the "collective Congress" and elucidated the historical and foundational reasons why the Constitution vests the legislative power in a collective, representative body. The understanding of the collective Congress stresses the importance of the legislative process for addressing difficult social and political problems in a pluralistic society and explains why Congress still matters in a developed administrative state.

Teaching has comprised a significant portion of my legal career. In the classroom, I used the Socratic method to help students dig deeper into the cases and legal concepts and to identify, analyze, and critique a wide range of possible interpretations. I also frequently taught or lectured outside of the Law School at bar events, conferences, and public-interest groups, sharing my knowledge of constitutional law, legislative process, and the structure of government with a broader audience.

As Associate Counsel to President George W. Bush, I analyzed legal issues across a range of different policy matters, handled complex separation of powers disputes, participated in litigation strategy with the Department of Justice, and assisted in the selection and confirmation process for judicial nominees, including Chief Justice John Roberts and Associate Justice Samuel Alito, as well as for judges in the D.C. Circuit and Eleventh Circuit Courts of Appeals.

At Clifford Chance, in addition to the practice of international arbitration, I was a primary contributor (through John Beechey) to the International Bar Association's Guidelines on Conflicts of Interests, the first such standards in the field, and drafted the Background Information on the formation of the Guidelines. A copy of these Guidelines are supplied in response to Question 12.b.

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.

Beginning in 2006, I joined the faculty of the Antonin Scalia Law School at George Mason University. From 2006 to 2012, I was an assistant professor. Since 2012, I am an associate professor with tenure, but am currently on leave.

Below is a list of courses I have taught at the Antonin Scalia Law School. Representative and most recent syllabi are supplied.

History and Foundations of the Administrative State Seminar (taught with Justice Clarence Thomas): Spring 2017. This course examined the origins of the administrative state, focusing on seminal cases, legal theory, and historical materials.

Constitutional Law I (required second-year class): Fall 2006, 2008, 2009, 2010, 2011, 2013, 2014, 2016. This course focused on the basic structure of the federal government, particularly the legislative, executive, and judicial powers and their interrelationship, as well as the relationship between federal and state powers.

Legislation and Statutory Interpretation (required first-year class): Spring 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016. This course examined the basics of legislative process, various theories of statutory interpretation, cases, and actual interpretations of statutes, bringing together text, structure, purpose, and legislative intent.

Comparative Constitutional Law Seminar: Spring 2007, 2008, 2010.

In the Fall of 2012, I was a visiting professor at the University of Minnesota Law School where I taught Constitutional Law I to first-year students. Syllabus supplied.

In August 2016, at the Hertog Foundation Summer Fellows Program, I taught several sessions on the administrative law. Copy of notes supplied.

In September 2014, I taught sessions on the basics of administrative law and statutory interpretation at the Attorney General Education Program run by the Law & Economics Center at George Mason University. Copy of slides provided.

In the summer of 2012, I taught a session on constitutional law at a summer seminar on U.S. Legal Methods: Introduction to U.S. Law at the Institute for U.S. Law.

In the summer of 2012, I taught sessions on constitutional law, statutory interpretation, and administrative law at the Law Institute for Economists run by the Law & Economics Center at George Mason University. Copy of syllabus 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.

None.

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

If possible to accommodate with judicial responsibilities, I would consider teaching as an adjunct law professor, but have no specific plans or commitments to do so.

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.

Cases most likely to present potential conflicts of interest would be those related to my service as Administrator of the Office of Information and Regulatory Affairs or those that involve the financial interests of my spouse. *See* 28 U.S.C. § 455(b). If confirmed, I would recuse myself in circumstances that present conflicts of interest under 28 U.S.C. § 455, following the procedures discussed below.

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

If confirmed, I will carefully review and address any real or potential conflicts of interest

by reference to 28 U.S.C. § 455, all applicable Canons of the Code of Conduct for United States Judges, and any and all other laws, rules, practices, and procedures governing such circumstances. Furthermore, I would consult judicial decisions and Judicial Conference opinions applying the rules to particular circumstances.

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

My pro bono work reflects a legal career focused on public service, scholarship, and teaching. Most recently, I helped establish the Administrative Law Clinic at the Antonin Scalia Law School, which provides pro bono clients with assistance on administrative law issues. The Clinic exists under the auspices of the non-profit Center for the Study of the Administrative State, which I founded and directed. As faculty advisor to the Clinic, I helped oversee its direction and occasionally worked with students on their briefs.

As a law professor for 11 years, I spent significant time and resources mentoring and working with students, providing guidance for their academic work and also toward their broader professional development. I have served as an advisor, sounding board, and counselor to the *Law Review* and other student organizations, and have counseled students from a variety of backgrounds interested in attending law school.

In addition, I have engaged in work to improve the legal system through participation and leadership in legal organizations such as the Administrative Conference of the United States, the American Bar Association, and the Federalist Society, which comports with the American Bar Association's Model Rule 6.1(b)(3)—"participation in activities for improving the law, the legal system or the legal profession."

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 August 30, 2018, I discussed with White House Counsel Donald F. McGahn II the possible vacancy on the D.C. Circuit Court of Appeals if Judge Brett Kavanaugh was confirmed to the Supreme Court. On September 21, 2018, I had a further

conversation with Mr. McGahn. I met with President Trump concerning my possible nomination on October 12, 2018. Since then, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination.

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.