

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).  
  
Carl John Nichols
2. **Position**: State the position for which you have been nominated.  
  
Judge, United States District Court for the District of Columbia
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.  
  
Wilmer Cutler Pickering Hale & Dorr LLP  
1875 Pennsylvania Avenue, Northwest  
Washington, DC 20006
4. **Birthplace**: State year and place of birth.  
  
1970; Rhinebeck, New York
5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.  
  
1993 – 1996, The University of Chicago Law School; J.D., 1996  
  
1988 – 1992, Dartmouth College; A.B., 1992
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.  
  
2010 – present  
Wilmer Cutler Pickering Hale & Dorr LLP  
1875 Pennsylvania Avenue, Northwest  
Washington, DC 20006  
Partner (2010 – present)  
Member, Management Committee (2017 – present)

Vice Chair, Government and Regulatory Litigation Group (2014 – present)

2005 – 2009

United States Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530

Principal Deputy Associate Attorney General (2008 – 2009)

Deputy Assistant Attorney General, Civil Division (2005 – 2008)

1998 – 2005

Boies Schiller Flexner LLP  
1401 New York Avenue, Northwest  
Washington, DC 20005

Partner (2002 – 2005)

Associate (1998 – 2001)

1997 – 1998

Supreme Court of the United States  
One First Street, Northeast  
Washington, DC 20543  
Law Clerk to Honorable Clarence Thomas

1996 – 1997

United States Court of Appeals for the D.C. Circuit  
333 Constitution Avenue, Northwest  
Washington, DC 20001  
Law Clerk to Honorable Laurence H. Silberman

Summer 1995

Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, Northwest  
Washington, DC 20036  
Summer Associate

Summer 1995

Williams & Connolly LLP  
725 12th Street, Northwest  
Washington, DC 20005  
Summer Associate

Summer 1994

United States District Court for the District of Connecticut  
141 Church Street  
New Haven, Connecticut 06510  
Intern to Honorable Jose A. Cabranes

1992 – 1993  
McKenna & Cuneo (now Dentons)  
1900 K Street, Northwest  
Washington, DC 20006  
Paralegal

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

I have not served in the military. I registered for the selective service upon turning 18.

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

Attorney General's Medallion for Distinguished Service (2009)

The University of Chicago Law School  
Graduated with High Honors (1996)  
Inducted into the Order of the Coif (1996)  
Editor, *University of Chicago Law Review* (1994 – 1996)  
Joseph Henry Beale Prize for Research and Writing (1994)  
S.K. Yee Scholarship (1993 – 1996)

Dartmouth College  
Graduated *cum laude* and with High Honors in Philosophy (1992)

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

American Bar Association (2013 – 2015)

D.C. Circuit Judicial Conference (2006, 2012, and 2017)

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, 1998

District of Columbia, 2000

There have been no lapses in membership.

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

U.S. Court of Appeals for the D.C. Circuit, 2000  
U.S. Court of Appeals for the Fourth Circuit, 1998  
U.S. Court of Appeals for the Seventh Circuit, 2006  
U.S. Court of Appeals for the Ninth Circuit, 2006  
U.S. Court of Appeals for the Eleventh Circuit, 2010  
U.S. Court of Appeals for the Federal Circuit, 2015  
U.S. District Court for the District of Columbia, 2000  
U.S. District Court for the Eastern District of Virginia, 2000  
U.S. Court of Federal Claims, 2012  
District of Columbia Court of Appeals, 2000  
Virginia Supreme Court, 1998

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Federalist Society for Law and Public Policy Studies (2003 – 2008, 2018 – present)

Bethesda Country Club (1999 – present)

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

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.

With Jonathan G. Cedarbaum, David W. Ogden, Brian Boynton, and Ed Williams, *United States: Justice Department Issues Memo Limiting Use of Agency Guidance in Affirmative Civil Enforcement Suits*, Mondaq, Feb. 6, 2018. Copy supplied.

With Jonathan Cedarbaum and David W. Ogden, *Justice Department Issues Guidance on Dismissing Qui Tam False Claims Act Cases Over Relators' Objections*, Mondaq, Jan. 26, 2018. Copy supplied.

With Ambassador Charlene Barshefsky, Jonathan G. Cedarbaum, Stephanie Hartmann, Stephen A. Jonas, Alejandro N. Mayorkas, and Joshua Sharp, *President Trump Signs Buy American and Hire American Executive Order*, Mondaq, Apr. 21, 2017. Copy supplied.

With Helam Gebremariam, *United States: President Trump Signs Executive Order on Plan for Reorganizing the Executive Branch*, Mondaq, Mar. 15, 2017. Copy supplied.

With Alejandro Mayorkas, Ari Holtzblatt, and Molly Jennings, *President Trump Signs Revised Immigration Executive Order*, Mondaq, Mar. 9, 2017. Copy supplied.

With Matthew J. Thome, *President Trump Signs Executive Order Setting Guidelines for Identifying Regulations for Repeal, Replacement, or Modification*, Mondaq, Mar. 1, 2017. Copy supplied.

With Christopher Babbitt, Jonathan G. Cedarbaum, Debo Adegbile, Jonathan E. Paikin, Emily R. Schulman, Matthew D. Benedetto, Elisebeth Bridget Collins, Tania Faransso, Bradford Hardin, Jr., Brittani Ivey, Joshua Koppel, Gregory Petkoff, Saurabh Sanghvi, Joshua Sharp, Nikhel S. Sus, Carla J. Weiss, Chaloea Williams, and Daniel Winik, *False Claims Act: 2015 Year-in-Review*, Mondaq, Jan. 14, 2016. Copy supplied.

With Elisebeth Bridget Collins, Adam Klein, and Jeffrey Schomig, *Privilege Protection for Internal Investigations: Lessons from KBR I & II*, Mondaq, Oct. 1, 2015. Copy supplied.

With Elisebeth Bridget Collins, Adam Klein, and Jeffrey Schomig, *Privilege Protection for Internal Investigations: Lessons from KBR I & II*, Global Investigations Review, Sept. 15, 2015. Copy supplied.

With Christopher Babbitt, Jonathan G. Cedarbaum, Danielle Conley, David W. Ogden, Jonathan E. Paikin, Boyd M. Johnson III, Karen F. Green, Stephen A. Jonas, and David C. Marcus, *False Claims Act: 2014 Year-in-Review*, Mondaq, Jan. 30, 2015. Copy Supplied.

With Elisebeth Collins Cook, *D.C. Circuit Issues Major Ruling Affirming Broad Applicability of Attorney-Client Privilege to Corporate Internal Investigations*, Mondaq, July 7, 2014. Copy supplied.

With Christopher Babbitt, Jonathan G. Cedarbaum, Danielle Conley, Bruce S. Manheim, Randolph D. Moss, David W. Ogden, Jonathan E. Paikin, Todd R. Steggerda, Boyd M. Johnson III, Karen F. Green, Stephen A. Jonas, and David C. Marcus, *False Claims Act: 2013 Year-in-Review*, Mondaq, Jan. 8, 2014. Copy supplied.

With David Ogden, Jennifer M. O'Connor, Christopher E. Babbitt, and Jonathan G. Cedarbaum, *Fourth Circuit Expands FCA Limitations Period*, Mondaq, Mar. 26, 2013. Copy supplied.

With David Ogden and Jennifer M. O'Connor, *2013 NDAA Expands Whistleblower Protections*, Mondaq, Jan. 15, 2013. Copy supplied.

With Jennifer O'Connor, Robin Baker, Christopher Babbitt, David Beraka, Brent Bickley, Jonathan Cedarbaum, Lyric Chen, Edwin Childs, Alyssa DaCunha, Christina Davis, John DeGenova, Susan Friedman, Karen Green, Bradford Hardin, Gideon Hart, Barry Hurewitz, Laura Hussain, Pablo Kapusta, Dino LaVerghetta, Kevin Lownds, Lauren Moore, Rachel Murphy, David Ogden, Jonathan Paikin, Gregory Petkoff, Albinas Prizgintas, Leah Schloss, and Anne Harden Tindall, *The False Claims Act: 2012 Year-in-Review*, Mondaq, Jan. 3, 2013. Copy supplied.

With David Ogden, Jennifer M. O'Connor, Jonathan G. Cedarbaum, and Todd F. Braunstein, *DC Circuit Requires Fairness Hearing Where Relator Objects to False Claims Act Settlement*, Mondaq, Apr. 30, 2012. Copy supplied.

With Jonathan G. Cedarbaum, Jennifer M. O'Connor, David W. Ogden, Todd R. Steggerda, and Matthew D. Benedetto, *District Court Holds Mandatory \$50 Million False Claims Act Civil Penalty Unconstitutionally Excessive; Finds Itself Powerless to Impose Lesser Penalty; Bunk v. Birkart Globistics GmbH & Co.*, Feb. 28, 2012. Copy supplied.

With David W. Ogden and Jennifer M. O'Connor, *The Court Of Federal Claims' Railway Logistics International Decision Limits Seventh Amendment Right of Government Contractors to Jury Trial to Contest Fraud-Based Counterclaims*, Mondaq, Feb. 7, 2012. Copy supplied.

*Third Circuit Adopts Implied False Certification Theory*, Mondaq, July 14, 2011. Copy supplied.

With Jennifer M. O'Connor and Christopher E. Babbitt, *The Supreme Court's "Schindler Elevator" Decision on the False Claims Act's "Public Disclosure" Bar*, Mondaq, May 24, 2011. Copy supplied.

*The Problem of Particular Properties in Aristotle's Categories*, Aporia: The Undergraduate Journal of Philosophy, Vol. 10, Num. 1, Spring 1992. Copy supplied.

*Bad Samaritanism: An Inquiry into Omissions to Save*, Aporia: The Undergraduate Journal of Philosophy, Vol. 10, Num. 1, Spring 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.

I am not aware of any responsive materials.

- 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.

Letter to Sens. Grassley and Feinstein, Nomination of Joseph H. ("Jody") Hunt, Feb. 16, 2018. Copy supplied.

Letter to Chairman Grassley and Ranking Member Feinstein, Nomination of Gregory G. Katsas, Oct. 13, 2017. Copy supplied.

Letter to Chairman Grassley and Ranking Member Feinstein, Nomination of Stephanos Bibas, Aug. 31, 2017. Copy supplied.

Letter to Chairman Grassley and Ranking Member Feinstein, Nomination of Dabney Friedrich, July 7, 2017. Copy supplied.

Letter to Chairman Thune and Ranking Member Nelson, Nomination of Steven Gill Bradbury, June 22, 2017. Copy supplied.

Letter to Chairman Hatch and Ranking Member Wyden, Nomination of Brent J. McIntosh, June 6, 2017. Copy supplied.

Letter to Chairman Grassley and Ranking Member Feinstein, Nomination of Noel J. Francisco, May 8, 2017. Copy supplied.

Letter to Chairman Grassley and Ranking Member Leahy, Nomination of Stuart Delery, June 18, 2015. Copy supplied.

Letter to Chairman Feinstein, Vice Chairman Chambliss, and Members of the Senate Select Committee on Intelligence, Nomination of Caroline Krass, Dec. 6, 2013. Copy supplied.

Letter to Chairman Leahy and Ranking Member Grassley, Nomination of Stuart Delery, May 13, 2013. Copy supplied.

Letter to Chairman Leahy and Ranking Member Grassley, Nomination of Rachel Barkow, May 2, 2013. Copy supplied.

Letter to Chairman Leahy and Ranking Member Grassley, Nomination of Valerie Caproni, Apr. 19, 2013. Copy supplied.

Letter to Chairman Leahy and Ranking Member Grassley, Nomination of Srikanth Srinivasan, Apr. 4, 2013. Copy supplied.

*Examining the State Secrets Privilege: Protecting National Security While Preserving Accountability: Hearing Before the S. Comm. on the Judiciary, 110th Cong. (2008) (testimony given as former Deputy Assistant Attorney General, Department of Justice). Copy supplied.*

*FISA Modernization; Hearing Before the S. Comm. on Intelligence and H. Perm. Select Comm. on Intelligence, 110th Cong. (2007) (testimony given as former Deputy Assistant Attorney General, Department of Justice). Closed hearing; I do not have a copy of my testimony.*

*Information Policy in the 21st Century: A Review of the Freedom of Information Act; Hearing Before the Subcomm. on Government Management, Finance and Accountability of the H. Comm. on Government Reform of the 109th Cong. (2005) (testimony given as former Deputy Assistant Attorney General, Department of Justice). 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.



Nov. 18, 2009: Panelist, *The State of the State Secrets Privilege, Panel 4: Idealized View of the Privilege* (Washington College of Law, American University). My remarks as a panelist primarily addressed how the Department of Justice approaches the state secrets privilege in litigation. I have no notes, transcript, or recording. The address for the Washington College of Law is 4300 Nebraska Avenue, Northwest, Washington, DC 20016.

- 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.

*NSA Surveillance Retrospective: AT&T, Verizon Never Denied It*, CNET News.com, June 12, 2013. Copy supplied.

*Wilmer Adds Top DOJ Official Carl Nichols*, Blog of LegalTimes, Jan. 13, 2010. Copy supplied.

*Congress Seeks Shield on Contested Bush Files*, Chattanooga Times Free Press (Tennessee), Jan. 9, 2009. Copy supplied.

*Congress Asks Judge to Keep Bush Records at WH*, Associated Press, Jan. 8, 2009. Copy supplied.

*Judge Pushes DoJ to Justify Constitutionality of Telco Immunity*, Telecom A.M., Dec. 3, 2008. Copy supplied.

*Report on Attorney Firings Shows Deception, Dems Say*, Nat'l J.'s CongressDaily, Oct. 3, 2008. Copy supplied.

*Judges Question Whether Stay Hurts Congress's Case*, Associated Press Online, Sept. 16, 2008. Copy supplied.

*Administration Testing Subpoena Powers*, Tulsa World (Oklahoma), Aug. 28, 2008. Copy supplied.

*Judge Hears Arguments Over Executive Privilege Claims*, The Frontrunner, June 24, 2008. Copy supplied.

*Court Hears Executive Privilege Under Fire*, Pittsburgh Trib. Rev., June 24, 2008. Copy supplied.

*Court Hears Arguments in Executive Privilege Case Involving Bolten, Miers*, The Hill, June 24, 2008. Copy supplied.

*Before Judge, Spirited Clash on Subpoenas for Bush Aides*, N.Y. Times, June 24, 2008. Copy supplied.

*Judge Urged to Order Associates of President to Honor Subpoena; House Panel Seeks Information About Prosecutors' Firings*, Wash. Post, June 24, 2008. Copy supplied.

*Battered Congress Syndrome*, washingtonpost.com, June 24, 2008. Copy supplied.

*Fight Over White House Subpoenas Heads to Court*, Associated Press, June 23, 2008. Copy supplied.

*Senate Panel Makes Push to Revise State Secrets Privilege*, Nat'l J.'s CongressDaily, Feb. 14, 2008. Copy supplied.

*DHS Upgrades Employment Eligibility Screening System*, GovernmentExecutive.com, Sept. 26, 2007. Copy supplied.

*Feds Sue to Block Illinois Law; Says Worker ID Program Trumped*, Evansville Courier & Press (Indiana), Sept. 25, 2007. Copy supplied.

*US Govt Sues Illinois Over Illegal Immigration Measure*, Dow Jones International News, Sept. 25, 2007. Copy supplied.

*U.S. Sues Ill. Over Immigration Law*, Associated Press Online, Sept. 25, 2007. Copy supplied.

*U.S. Sues Illinois Over New Employment Law*, Telegraph Herald (Dubuque, IA), Sept. 25, 2007. Copy supplied.

*Federal Government Sues Illinois Over New Employment Law*, Associated Press Financial Wire, Sept. 24, 2007. Copy supplied.

*Justice Department Seeks to Invalidate Illinois Law Flaunting Federal Immigration Efforts*, Justice Department Documents and Publications, Sept. 24, 2007. Copy supplied.

*Gov. Asks Judge to Toss Spying Lawsuits*, Associated Press Online, June 22, 2007. Copy supplied.

*Judge Blocks Verizon Hearing; the PUC is Told to Stop Probing Whether the Company Gave Customer Data to the NSA Illegally*, Portland Press Herald, Feb. 9, 2007. Copy supplied.

*US Judge Refuses to Derail Domestic Spying Case*, Agence France Presse – English, Nov. 18, 2006. Copy supplied.

*DoJ Sues State Regulators, Telcos to Halt NSA Inquiry*, TR's State News Wire, Sept. 11, 2006. Copy supplied.

*DOJ Seeks to Stop PUC Probe into NSA Phone Record Allegations*, TR's State News Wire, Aug. 23, 2006. Copy supplied.

*U.S. Sues State, Verizon to Block NSA Revelations; Maine is the Third State Sued for Probing the Firm's Alleged Role in Surveillance*, Portland Press Herald (Maine), Aug. 22, 2006. Copy supplied.

*Secrets Privilege Invoked in AT&T Suit*, San Jose Mercury News (California), July 14, 2006. Copy supplied.

*U.S. Secrets Privilege Invoked; Dismissal Sought of Phone-Records Suit Against AT&T*, Chic. Trib., July 14, 2006. Copy supplied.

*Government Calls for Dismissal of Suit Over AT&T Phone Records*, San Jose Mercury News (California), July 13, 2006. Copy supplied.

*Judge Issues Split Decision in AT&T Privacy Lawsuit*, USA Today, May 18, 2006. Copy supplied.

*Judge Rebuffs AT&T Over 'Digital Rights'*, N.Y. Sun, May 18, 2006. Copy supplied.

*Judge: AT&T Docs Can Be Used in Wiretap Suit*, CNNMoney.com, May 17, 2006. Copy supplied.

*Feds Say Rell Has Control of Base, but not Planes*, Associated Press State & Local Wire, Apr. 13, 2006. Copy supplied.

*Judge Tosses Suit to Keep Fort off List*, The Asbury Park Press (New Jersey), Sept. 7, 2005. Copy supplied.

*Administration Backs Bill to Block Public Access to Litigation Records*, Risk Policy Report, May 24, 2005. Copy supplied.

*Open Government Advocates Push for FOIA Reform*, Cox News Service, May 11, 2005. Copy supplied.

*Congress Urged to Make Government More Responsive to Freedom-of-Information Requests*, The Associated Press, May 11, 2005. Copy supplied.

*Some Plaintiffs Quit Settlement in Vitamin Case*, Wall St. J., Feb. 18, 2000. Copy supplied.

*Over 200 Plaintiffs Choose to Leave Vitamin Settlement—Companies Hope to Get a Better Deal by Going Solo*, Wall St. J. Europe, Feb. 18, 2000. 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: | _____%              |
- 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.

Deputy Assistant Attorney General (2005 – 2008), Civil Division, United States Department of Justice; appointed by Attorney General Alberto Gonzales.

Principal Deputy Associate Attorney General (2008 – 2009), United States Department of Justice; appointed by Attorney General Michael Mukasey.

I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

Advisor, Romney-Ryan Transition Team (2012). I assisted in developing legal positions and possible DOJ nominees and appointees for the Romney-Ryan transition team. This position was uncompensated.

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

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

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

From 1996 to 1997, I served as a law clerk to the Honorable Laurence H. Silberman, Circuit Judge of the United States Court of Appeals for the District of Columbia Circuit.

From 1997 to 1998, I served as a law clerk to the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States.

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

I have never practiced alone.

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

1998 – 2005  
Boies Schiller Flexner LLP  
1401 New York Avenue, Northwest  
Washington, DC 20005  
Partner (2002 – 2005)  
Associate (1998 – 2001)

2005 – 2009  
United States Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
Principal Deputy Associate Attorney General (2008 – 2009)  
Deputy Assistant Attorney General, Civil Division (2005 – 2008)

2010 – present  
Wilmer Cutler Pickering Hale & Dorr LLP  
1875 Pennsylvania Avenue, Northwest  
Member, Management Committee (2017 – present)  
Vice Chair, Government and Regulatory Litigation Group  
(2014 – present)  
Partner (2010 – present)

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

I have never served as a mediator or arbitrator in an alternative dispute resolution proceeding.

b. Describe:

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

From 1998 to 2005, I was an associate (1998 – 2001) and then partner (2002 – 2005) at Boies Schiller Flexner LLP. My practice focused on representing clients in civil disputes pending in federal and state trial and appellate courts, as well as in international arbitrations. During this period, the general character of my practice did not change, although I acquired increasing responsibility over time.

From 2005 to 2008, I was the Deputy Assistant Attorney General responsible for supervising the Federal Programs Branch of the Civil Division of the Department of Justice. In that capacity, I supervised, briefed, and argued many significant civil cases in federal district courts around the country on behalf of the federal government. I was also responsible for advising superiors and client agencies regarding the progress of significant cases.

From 2008 to 2009, I served in the Office of the Associate Attorney General as Principal Deputy Associate Attorney General. In that capacity, I helped supervise the thirteen Department components that report to the Associate Attorney General, including five litigating divisions (Antitrust, Civil, Civil Rights, Environment and Natural Resources Division, and Tax) and three grant-making components (Office of Justice Programs, Community Oriented Policing Services, and Office of Violence Against Women). I also provided advice to the Associate Attorney General, together with the Attorney General and the Deputy Attorney General. I additionally supervised, briefed, and argued certain matters on which I had previously worked as the Deputy

Assistant Attorney General for the Federal Programs Branch of the Civil Division.

From 2010 to the present, I have been a partner in the Government and Regulatory Litigation group at Wilmer Cutler Pickering Hale & Dorr. Since 2014, I have served as the Vice Chair of that group, and since 2017, I have served on the firm's Management Committee. My practice has focused on representing clients in federal and state trial and appellate courts in matters that have a significant government or public law component, including cases involving administrative law, constitutional law, the False Claims Act, the Foreign Sovereign Immunities Act, the Anti-Terrorism Act, government and commercial contracts, trade secrets, and intellectual property. I have also litigated purely private disputes. In addition, I have represented clients in government and internal investigations that are not litigated (*i.e.*, that do not result in any case being filed by or against the client).

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

My practice has included a wide range of legal issues and clients.

In private practice from 1998 to 2005 and 2010 to the present, I have worked on matters involving administrative law, constitutional law, the False Claims Act, the Foreign Sovereign Immunities Act, the Anti-Terrorism Act, government and commercial contracts, criminal tax, trade secrets, intellectual property, antitrust, class actions, and international law. My clients have included Fortune 500 companies, individuals, and advocacy organizations.

In the Justice Department from 2005 to 2009, my clients included the United States Congress, all agencies within the Executive Branch, and federal officials sued in their official or individual capacities. My areas of responsibility extended first to all civil litigation handled by the Federal Programs Branch of the Civil Division, then to all components that report to the Associate Attorney General.

- 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.

In private practice from 1998 to 2005 and 2010 to present, my practice has consisted principally of handling or supervising litigation in courts or other tribunals, such as arbitral tribunals or boards of contract appeals. I have appeared in court or other tribunals frequently, although I appeared in court less frequently as a junior lawyer.



In the Civil Division at the Justice Department from 2005 to 2008, I focused on litigation and appeared in court frequently. In the Office of the Associate Attorney General, from 2008 to 2009, I spent about half of my time handling or supervising litigation, and I continued to appear in court frequently.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 70% |
| 2. state courts of record:  | 10% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 20% |

ii. Indicate the percentage of your practice in:

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

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 served as counsel in five cases (including arbitrations) that have been tried to judgment or final decision. I was chief counsel in one trial and associate counsel in four trials.

i. What percentage of these trials were:

- |              |      |
|--------------|------|
| 1. jury:     | 0%   |
| 2. non-jury: | 100% |

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 presented oral argument before the Supreme Court of the United States. I have served as supporting counsel in the following matters:

*Int'l Bancorp, LLC v. Societe Des Bains De Mur Et Du Cercle Des Etrangers a Monaco*, No. 03-612, Brief for Respondent in Opposition to Petition for Writ of Certiorari, 2003 WL 22879671 (Nov. 24, 2003).

*PT Pertamina v. Karaha Bodas Co.*, No. 03-1688, Brief for Respondent in Opposition to Petition for Writ of Certiorari, 2004 WL 1791357 (Aug. 6, 2004).

*Stormans, Inc. d/b/a Ralph's Thriftway v. Wiesman*, No. 15-682, Brief for Agudath Israel of America as Amicus Curiae in Support of Petitioners, 2016 WL 463421 (Jan. 6, 2016) (certiorari stage).

*Missouri v. California*, No. 22O148, Brief for Association of California Egg Farmers as Amicus Curiae in Support of Defendant (Dec. 7, 2017) (motion for leave to file bill of complaint stage). Copy supplied.

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United Launch Services, LLC v. Department of the Air Force*, ASBCA Nos. 56850, 57542, 57661, *appeal dismissed*, No. 17-1136 (Fed. Cir.)

This case involves claims by United Launch Services (ULS) that, under its 1998 launch services contract with the U.S. Air Force, it is entitled to approximately \$390 million in equitable adjustments because three satellites launched by ULS for the Air Force were substantially heavier than the parties had originally agreed. I served as lead counsel for ULS in a three-week liability-phase trial before Judge Wilson of the Armed Services Board of Contract Appeals (Board). During the trial, I gave the opening statement, presented direct testimony from lay and expert witnesses, and cross-examined lay and expert witnesses. In July 2016, the Board (Judge Wilson, joined by Acting Chairman Stempler and Vice Chairman Shackelford) held that ULS was entitled to equitable adjustments for the prices of those launches, and left the amount of those adjustments for further proceedings. A damages trial may occur in late 2018 or 2019.

Co-counsel

Todd Steggerda  
[Then at WilmerHale]  
McGuire Woods  
2001 K Street, Northwest  
Washington, DC 20006  
(202) 857-2477

Charles Speth  
WilmerHale  
1875 Pennsylvania Avenue, Northwest  
Washington, DC 20006  
(202) 663-6133

Counsel for the Defendant

Jeffrey Hildebrant  
Deputy Chief Trial Attorney  
Air Force Legal Operations Agency, Commercial Litigation  
1500 West Perimeter Road, Suite 1780  
Joint Base Andrews, Maryland 20762  
(240) 612-6630

2. *Fazaga v. Federal Bureau of Investigation*, 884 F. Supp. 2d 1022, and 885 F. Supp. 2d 978 (C.D. Cal. 2012), *appeals pending*, Nos. 12-56867 and 12-56874 (9th Cir.)

The plaintiffs in this litigation allege that the FBI engaged in unlawful surveillance activities in Southern California. Plaintiffs assert damages and injunctive-relief claims against the United States; injunctive-relief claims against official-capacity defendants; and damages claims against individual-capacity defendants (both current and former FBI employees). WilmerHale represents two of those individual-capacity defendants, former FBI agents Stephen Tidwell and Barbara Walls, and I have served as lead counsel in the matter. Among other things, I presented oral argument on those defendants' motion to dismiss, which District Judge Carney granted in substantial part, holding that most of plaintiffs' claims must be dismissed based on the United States' assertion of the state secrets privilege. Plaintiffs appealed that decision to the Ninth Circuit and I argued that appeal (and a cross-appeal) before Judges Berzon and Gould and District Judge Steeh (sitting by designation). The Ninth Circuit has not yet issued a decision.

Co-counsel

Howard M. Shapiro  
WilmerHale  
1875 Pennsylvania Avenue, Northwest  
Washington, DC 20006  
(202) 663-6606

Counsel for the Plaintiffs

Ahilan Thevanesan Arulanantham  
ACLU Foundation of Southern California  
1313 West 8th Street  
Los Angeles, CA 90017  
(213) 977-9500

Peter Bibring  
ACLU of Southern California  
140 South Lake Avenue  
Pasadena, California 81101  
(213) 977-5295

Counsel for the United States and Official-Capacity Defendants

Douglas Letter  
[Then at the Department of Justice]  
Georgetown Law School  
600 New Jersey Avenue, Northwest  
Washington, DC 20001  
(202) 662-9000

Daniel Tenny  
U.S. Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
(202) 514-1838

Tony Coppolino  
U.S. Department of Justice  
20 Massachusetts Avenue, Northwest  
Washington, DC 20001  
(202) 514-4782

Counsel for other Individual-Capacity Defendants

Alexander Cote  
Scheper Kim & Harris LLP  
601 West Fifth Street  
12th Floor  
Los Angeles, California 90071  
(213) 613-4655

3. *United Launch Services, LLC, and The Boeing Co. v. U.S.*, No. 12-380 C (Ct. Fed. Cl.)

This case involves claims by Plaintiffs United Launch Services (ULS) and The Boeing Company (Boeing) that the Government breached its contracts with Plaintiffs by refusing to honor contractual obligations to pay them approximately \$380 million in costs. WilmerHale represents ULS and Boeing, and I serve as lead counsel. Following substantial fact and expert discovery, in 2017, Plaintiffs filed a motion for partial summary judgment. On June 21, 2018, I presented oral argument in support of that motion, which is pending before Judge Elaine D. Kaplan.

Co-counsel

Chris Babbitt  
Tania Faransso  
WilmerHale  
1875 Pennsylvania Avenue, Northwest

Washington, DC 20006  
(202) 663-6000

Karen L. Manos  
Gibson, Dunn & Crutcher LLP  
1050 Connecticut Avenue, Northwest  
Washington, DC 20036  
(202) 955-8536

Matthew J. Thome  
Von Briesen & Roper, S.C.  
411 East Wisconsin Avenue, Suite 1000  
Milwaukee, Wisconsin 53202  
(414) 287-1433

Opposing Counsel

Corinne A. Niosi  
David Kerr  
Commercial Litigation Branch  
Civil Division, U.S. Department of Justice  
Post Office Box 480, Ben Franklin Station  
Washington, DC 20044  
(202) 514-2000

4. *Scott v. Roberts*, 612 F.3d 1279 (11th Cir. 2010)

This case involved a constitutional challenge by gubernatorial candidate (and now-governor of Florida) Rick Scott to certain Florida campaign laws applicable to the 2010 Republican primary for governor. After the district court denied Governor Scott's motion for a preliminary injunction, WilmerHale was retained to represent then-Attorney General William McCollum, who was recused from the matter as Attorney General but who had intervened as a defendant in the litigation in his personal capacity (as another Republican gubernatorial candidate). I served as lead counsel for Mr. McCollum on appeal and presented oral argument in the Eleventh Circuit. The court held (in an opinion by Judge Pryor, joined by Chief Judge Dubina and Judge Martin) that the district court should have enjoined the challenged Florida laws.

Co-counsel

Annie L. Owens  
[Then at WilmerHale]  
U.S. Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510  
(202) 224-5225

Counsel for the Plaintiff

Enu Mainigi  
Kannon Shanmugam  
Williams & Connolly LLP  
725 Twelfth Street, Northwest  
Washington, DC 20005  
(202) 434-5420

Counsel for the Florida Secretary of State

Daniel Nordby  
[Then at Ausley & McMullen]  
400 South Monroe Street  
Tallahassee, Florida 32399  
(850) 488-7146

5. *House Judiciary Comm. v. Miers*, 558 F. Supp. 2d 537 (D.D.C. 2008); *House Judiciary Comm. v. Miers*, 542 F.3d 909 (D.C. Cir. 2008)

This lawsuit was filed by the House Judiciary Committee against Harriet Miers, former counsel to the President, and Josh Bolton, former White House Chief of Staff, seeking to compel the production of documents pursuant to subpoenas served by the Committee on Ms. Miers and Mr. Bolton. The Department of Justice represented the defendants in the litigation, and I served as lead counsel. I argued the parties' dispositive motions before District Judge Bates, who granted the Committee's motion for summary judgment and denied defendants' motions to dismiss. Thereafter, I argued defendants' stay motion in the D.C. Circuit, which, in a *per curiam* opinion, granted a stay of the district court's decision pending appeal. (Judges Ginsburg and Randolph and Tatel joined the *per curiam* opinion; Judge Tatel concurred in the disposition). Following President Obama's inauguration, and after I had left my employment at the Department of Justice, the matter was resolved and the litigation was dismissed.

Co-counsel

Gregory Katsas  
[Then at U.S. Department of Justice]  
U.S. Court of Appeals for the D.C. Circuit  
333 Constitution Avenue, Northwest  
Washington, DC 20001  
(202) 216-7220

Jonathan Cohn  
[Then at U.S. Department of Justice]  
Sidley Austin LLP  
1501 K Street, Northwest  
Washington, DC 20005  
(202) 736-8110

Mark Reiling Freeman

U.S. Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
(202) 514-2000

Scott R. McIntosh  
U.S. Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
(202) 514-2000

Michael S. Raab  
U.S. Department of Justice  
950 Pennsylvania Avenue, Northwest  
Washington, DC 20530  
(202) 514-2000

John Russell Tyler  
U.S. Department of Justice  
20 Massachusetts Avenue, Northwest  
Washington, DC 20001  
(202) 514-2356

Counsel for Plaintiff-Appellee

Irvin B. Nathan  
[Then General Counsel to the U.S. House of Representatives]  
Georgetown Law School  
600 New Jersey Avenue, Northwest  
Washington, DC 20001  
(202) 662-9000

6. *In re Nat'l Sec. Agency Telecomm. Records Litig.*, 633 F.Supp.2d 949 (N.D. Cal. 2009)

This MDL litigation consolidated for coordinated pre-trial proceedings numerous cases challenging the so-called Terrorist Surveillance Program—including various cases alleging that certain telecommunication companies had provided unlawful assistance to the government. Following the passage of the FISA Amendments Act of 2008, the Attorney General certified under 50 U.S.C. § 1885a, that the cases against those telecommunication companies should be dismissed, and the United States (represented by the Department of Justice) intervened in those cases seeking their dismissal. I served as lead counsel for the United States and presented oral argument in support of those motions to dismiss and in defense of the constitutionality of 50 U.S.C. § 1885a. District Judge Vaughn Walker held that the statute was constitutional and that the cases should be dismissed.

Co-counsel

Tony Coppelino  
U.S. Department of Justice, Civil Division  
20 Massachusetts Avenue, Northwest  
Washington, DC 20530  
(202) 514-4782

Counsel for the Lead Plaintiffs

Cindy Ann Cohn  
Electronic Frontier Foundation  
815 Eddy Street  
San Francisco, California 94109  
(415) 436-9333

Richard R. Wiebe  
Law Office of Richard R. Wiebe  
44 Montgomery Street, Suite 650  
San Francisco, California 94104  
(415) 433-3200

Counsel for Defendant Companies

Henry Weissmann  
Munger Tolles & Olson LLP  
350 South Grand Avenue, 50th Floor  
Los Angeles, California 90071  
(213) 683-9150

Randolph D. Moss  
[Then at WilmerHale]  
U.S. District Court for the District of Columbia  
333 Constitution Avenue, Northwest  
Washington, DC 20001  
(202) 354-3020

Bruce A. Ericson  
Pillsbury Winthrop Shaw Pittman LLP  
Four Embarcadero Center, 22nd Floor  
San Francisco, California 94111  
(415) 983-1560

Bradley Berenson  
[Then at Sidley Austin]  
TPG  
345 California Street, Suite 3300  
San Francisco, California 94104  
(415) 743-6363



John G. Kester  
Williams & Connolly LLP  
725 12th Street, Northwest  
Washington, DC 20005  
(202) 434-5069

7. *Corzine v. 2005 Def. Base Closure & Realignment Comm'n*, 388 F. Supp. 2d 446 (D.N.J. 2005), and *Rell v. Rumsfeld*, No. 3:05-CV-1363 (D. Conn. AVC, 2005)

In these two separate cases, the governors of New Jersey (Corzine) and Connecticut (Rell), together with other elected officials from those states, brought challenges to recommendations of the Defense Base Closure and Realignment Commission (BRAC) regarding military bases in New Jersey and Connecticut. The Department of Justice represented defendants in both matters, and I presented oral argument in support of defendants' motions to dismiss in both cases. Judges Cooper (D. N.J.) and Covello (D. Conn.), respectively, granted the motions to dismiss in the two cases.

Co-counsel

Matthew Lepore  
[Then at U.S. Department of Justice]  
General Counsel  
BASF Corporation  
100 Park Avenue  
Florham Park, New Jersey 07932  
(973) 245-6000

Counsel for New Jersey Plaintiffs

Frank Gerald Capece  
Garrubo & Capece, PC  
2204 Morris Avenue  
Union, New Jersey, 07083  
(908) 233-5575

Counsel for Connecticut Plaintiffs

Carolyn Kyle Querijero  
Attorney General's Office  
55 Elm Street, Post Office Box 120  
Hartford, Connecticut 06141  
(860) 808-5020

Richard Blumenthal  
[Then Attorney General of Connecticut]  
United States Senate  
706 Hart Senate Office Building

Washington, DC 20510  
(202) 224-2823

8. *In re Fannie Mae Sec. Litig.*, MDL No. 1668 (D.D.C. 2007)

This multi-district litigation involved various claims against Federal National Mortgage Association and certain of its former employees. In 2007, one of those former employees, defendant Franklin Raines, served a third-party subpoena on the Executive Office of the President (EOP), seeking a broad range of documents. Although the U.S. Attorney's Office for the District of Columbia was already representing the Office of Federal Housing Enterprise Oversight, the Federal Programs Branch of DOJ's Civil Division was brought in to represent the EOP, including by filing a motion to quash the subpoena in its entirety. I served as lead counsel in that representation, and on December 20, 2007, successfully presented oral argument in support of that motion and in opposition to Mr. Raines' cross-motion to compel. Judge Richard Leon presided.

Co-counsel

Diane Kelleher  
Assistant Director  
U.S. Department of Justice, Civil Division  
20 Massachusetts Avenue, Northwest  
Washington, DC 20530  
(202) 514-2000

Counsel for Defendant Franklin Raines

Kevin Downey  
Williams & Connolly LLP  
725 Twelfth Street, Northwest  
Washington, DC 20005  
(202) 434-5460

9. *Atchley, et al. v. Astrazeneca UK Ltd., et al.*, No. 17-2136-RJL (D.D.C.)

This case involves allegations that certain pharmaceutical companies violated the Anti-Terrorism Act through their provision of medicine to the Iraqi Ministry of Health, which allegedly funded activities of militia groups that attacked U.S. service members and others serving in Iraq. Together with colleagues from my law firm, WilmerHale, I serve as counsel to defendants Genentech, Inc., and Hoffman-La Roche Inc. The case is pending before Judge Richard Leon.

Co-counsel

Patrick Carome  
David Bowker  
WilmerHale  
1875 Pennsylvania Avenue, Northwest

Washington, DC 20006  
(202) 663-6000

Counsel for other Defendants

John B. Bellinger III  
David J. Weiner  
Robert A. DeRise  
Arnold & Porter LLP  
601 Massachusetts Avenue, Northwest  
Washington, DC 20001  
(202) 942-5000

John E. Hall  
Beth S. Brinkmann  
David M. Zions  
Covington & Burling LLP  
One City Center  
850 Tenth Street, Northwest  
Washington, DC 20001  
(202) 662-6000

Neil H. MacBride  
Kenneth J. Wainstein  
Davis Polk & Wardwell LLP  
901 Fifteenth Street, Northwest  
Washington, DC 20005  
(202) 962-7000

John F. Baughman  
Jeh Johnson  
Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Sixth Avenue of the Americas  
New York, New York 10019  
(212) 373-3000

Joseph G. Petrosinelli  
Christopher N. Manning  
Williams & Connolly LLP  
725 Twelfth Street, Northwest  
Washington, DC 20005  
(202) 434-5000

Counsel for the Plaintiffs

David C. Frederick  
Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.  
1615 M Street, Northwest, Suite 400  
Washington, DC 20036

(202) 326-7951

Ryan R. Sparacino  
G. Derek Andreson  
Sparacino & Andreson PLLC  
1920 L Street, Northwest, Suite 535  
Washington, DC 20036  
(202) 629-3530

10. *Solow Bldg. Co., LLC v. Morgan Guar. Trust Co. of N.Y.*, No. 120771/98 (N.Y. Sup. Ct.)

This case involved a dispute between the owner of the 9 West 57th Street building in New York City and a tenant, Morgan Guaranty Trust, regarding the tenant's leasehold restoration obligations. My former firm, Boies Schiller Flexner LLP, represented the owner. The trial court phase culminated in a three-week bench trial in New York Supreme Court, at which I served as associate counsel and presented direct testimony and cross-examined witnesses. Following trial, Justice Walter Tolub concluded that the tenant's restoration obligations were excused by the landlord's actions.

Co-counsel

David Boies  
Boies Schiller Flexner LLP  
333 Main Street  
Armonk, New York 10504  
(914) 749-8200

George T. Frampton  
[Then at Boies Schiller]  
Partnership for Responsible Growth  
1133 Nineteenth Street, Northwest  
Washington, DC 20036  
(703) 951-7631

Counsel for the Defendant

Richard Seltzer  
[Then at Kaye Schuster]  
No known contact information; he appears to have retired.

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.)

As noted above, my practice has focused on representing clients in federal and state trial and appellate courts in matters that have a significant government or public law component, including cases involving administrative law, constitutional law, the False Claims Act, the Foreign Sovereign Immunities Act, the Anti-Terrorism Act, government and commercial contracts, trade secrets, intellectual property, and antitrust. I have also litigated purely private disputes.

In addition to the cases described above, I have represented clients in criminal and civil government and internal investigations that are not litigated (*i.e.*, that do not result in any case being filed by or against my client). Those investigations have involved issues relating to, among other issues, tax evasion, money laundering, the Foreign Corrupt Practices Act, the False Claims Act, and consumer fraud. Many of those investigation-related matters are not public.

I have never acted or registered as a lobbyist.

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

I have never taught a course.

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.

Following my separation from WilmerHale, I will receive a lump-sum distribution from a defined benefit plan; I will receive my contributed capital, together with accrued interest; and I will receive a prorated partnership share.

Based on my years of service in the Executive Branch, I will also receive a government pension, payable monthly from retirement until death, through the Federal Employees Retirement System.

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.

No.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial

disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, the cases most likely to present conflicts issues would be those related to my prior service as a private practitioner or, potentially, as a government lawyer. I would recuse in any matter in which, during my time in private practice, either I, or a lawyer with whom I was then practicing, had participated. *See* 28 U.S.C. § 455(b)(2). I also would recuse in any matter in which, during my government service, I had participated as counsel, adviser, or material witness, or had expressed an opinion concerning the merits. § 455(b)(3).

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

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

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

Over the course of my career, I have worked on approximately 30 different pro bono matters. Many of them have involved handling or supervising litigation on behalf of individuals or entities unable to pay for legal services.

Some of my most significant pro bono representations include:

*Clemency Petition of Thomas Brown.* I led WilmerHale's successful representation of Thomas Brown, Jr., a 77-year-old Vietnam veteran who petitioned for clemency from his life sentence for a nonviolent drug offense. The petition detailed how Mr. Brown fit the criteria announced by the Department of Justice's Clemency Initiative, including that Mr. Brown was a low-level offender with no history of violence or significant criminal activity; had no ties to gangs or large-scale criminal organizations; had demonstrated excellent conduct in prison, and had already been incarcerated for twenty-seven years; could have received a sentence no longer than twenty years if he had committed his offense just one month earlier; and would not have received a statutory enhancement had he been sentenced in 2014, because DOJ's policy reserved enhancements for large-scale and violent drug traffickers. We submitted the petition in October 2014, and on November 22, 2016, President Obama commuted Mr. Brown's sentence. I devoted 19 hours to this matter.

*DC Ass'n of Chartered Pub. Sch., et al. v. Dist. of Columbia*, 277 F.Supp.3d 67 (D.D.C. 2017), *appeal pending*, No. 17-7155 (D.C. Cir.). This case presents a challenge to the manner and levels at which the District of Columbia funds public charter schools, and in particular whether that funding complies with the District of Columbia School Reform Act, Pub. L. No. 104-134, 110 Stat. 1321, 107-56 (1996). I led WilmerHale's district court representation of the plaintiff charter schools and associations, and have devoted 427 hours to this matter.

*Scott v. Roberts*, 612 F.3d 1279 (11th Cir. 2010). As noted above, WilmerHale represented then-Attorney General William McCollum in defending the constitutionality of Florida campaign laws applicable to the 2010 Republican primary for governor. After the district court denied now-Governor Rick Scott's motion for a preliminary injunction, I represented Mr. McCollum in briefing and presenting oral argument in the Eleventh Circuit in support of the district court's decision. I devoted 76 hours to this matter.

*Morr-Fitz, Inc. v. Quinn*, 976 N.E.2d 1160 (Ill. App. 4th 2012). This case involved a challenge by two pharmacies and their owners to Illinois regulations requiring pharmacies to dispense or aid in the dispensing of emergency contraception. WilmerHale successfully represented the plaintiffs at a March 2011 trial, after which the trial court held the regulations unlawful under the Illinois Conscience Act, the Illinois Religious Freedom Act, and the First Amendment. Since 2012 I have led the WilmerHale team in defending that decision on appeal and in other proceedings in the trial court. I have devoted 266 hours to this case.

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 December 21, 2017, a member of the White House Counsel's Office who handles judicial nominations asked me if I wished to be considered for a vacancy on the District Court for the District of Columbia. The next day, I answered that I did wish to be considered. On January 5, 2018, I interviewed with several members of the White House Counsel's Office and attorneys from the Justice Department's Office of Legal Policy. On February 12, 2018, the White House Counsel's Office asked me to undergo the necessary background checks for the nomination. Since then, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

On June 18, 2018, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.