

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Robert Lee Pitman

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

United States District Judge for the Western District of Texas

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.

United States Attorney's Office for the Western District of Texas
601 Northwest Loop 410, Suite 600
San Antonio, Texas 78216

I have residences in Austin, Texas and San Antonio, Texas.

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

1962; Fort Worth, Texas

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2009 – 2011; University of Oxford, M.St. (Law), 2011

1995 – 1996; University of Texas at Austin (graduate studies in Sociology), no degree earned

1995; Rice University (graduate studies in Philosophy), no degree earned

1985 – 1988; University of Texas at Austin, J.D., 1988

1981 – 1985; Abilene Christian University, B.S., 1985

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.

2011 – Present, 1990 – 2003

United States Attorney's Office for the Western District of Texas
601 Northwest Loop 410, Suite 600
San Antonio, Texas 78216
U.S. Attorney (2011 – Present)
Deputy U.S. Attorney (2001 – 2003)
Interim U.S. Attorney (May – November 2001)
Assistant U.S. Attorney (1990 – 2001)
Deputy Division Chief (1997 – 1999)
Division Chief (1999 – 2001)

2003 – 2011

United States District Court for the Western District of Texas
200 West 8th Street
Austin, Texas 78701
U.S. Magistrate Judge

2002 – 2011

University of Texas at Austin
Plan II Honors Program
School of Law
727 East Dean Keeton
Austin, Texas 78705
Adjunct Professor of Law

1996 – 1997

Executive Office for U.S. Attorneys, Office of Legal Counsel (now General Counsel)
600 E Street, NW, Suite 5100
Washington, D.C. 20530
Attorney Advisor

1989 – 1990, Summer 1987

Fulbright & Jaworski (now Norton Rose Fulbright)
600 Congress Avenue, Suite 2400
Austin, Texas 78701
Associate (1989 – 1990)
Summer Associate (Summer 1987)

1988 – 1989

United States District Court for the Northern District of Texas
501 West 10th Street
Fort Worth, Texas 76102

Law Clerk for the Hon. David O. Belew, Jr.

Summer 1987
Haynes & Boone
201 Main Street, Suite 2200
Fort Worth, Texas 76102
Summer Associate

Summer 1986
Law, Snakard & Gambill
1600 West 7th Street, Suite 500
Fort Worth, Texas 76102
Summer Associate

1985 – 1987
Texas House of Representatives, Rep. Bob Hunter (Ret.)
Austin, Texas
Legislative Aide

Other Affiliations (uncompensated):

2009 – 2010
Lloyd Lochridge American Inn of Court
Austin, Texas (no physical address)
Founding President

2005 – 2006
Preservation Austin (formerly Heritage Society of Austin)
500 Chicon Street
Austin, Texas 78702
Board Member

1993 – 1995
United Cerebral Palsy of the Capital Area
9027 Northgate Boulevard, Suite 101
Austin, Texas 78758
Board Member

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 U.S. Military. I timely registered for Selective Service.

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

Texas Jurist of the Year, Texas Review of Litigation (2011)

As an Assistant U.S. Attorney, I received special commendations from the Federal Bureau of Investigation (2001), the U.S. Secret Service (2001), the U.S. Department of State, Bureau of Diplomatic Security (1994), the U.S. Drug Enforcement Administration (1996), the Executive Office for U.S. Attorneys (1998), and the Federal Deposit Insurance Corporation (1995).

Dean's Award in Torts (1986)

Salutatorian (1985)

History Department Prize (1985)

Psychology Department Outstanding Graduate (1985)

Students Association President (1985)

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.

Austin Bar Association

Federal Bar Association

State Bar of Texas

Supreme Court of Texas Task Force on Disciplinary Rules

Texas Bar Foundation

Travis County Bar Association

United States Attorney General's Advisory Committee

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.

Texas, 1988

There has been no lapse in membership.

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

United States District Court for the Northern District of Texas, 1988

United States District Court for the Western District of Texas, 1990

United States Court of Appeals for the Fifth Circuit, 1990

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.

Heritage Society of Austin (2005 – 2006)

Board Member (2005 – 2006)

Hill Country Ride for AIDS Production Team (2001 – 2005)

Lloyd Lochridge American Inn of Court (2009 – present)

Founding President (2009)

Robert Calvert American Inns of Court (1998 – 2008)

Texas State Society (2011 – present)

United Cerebral Palsy of the Capital Area (1993 – 1995)

Board Member (1993 – 1995)

United Way Inclusiveness Task Force (2003)

University of Texas Center for Criminology and Criminal Justice Studies (1998 – 2006)

Board of Advisors (1998 – 2006)

University of Texas Rhodes and Marshall Scholarship Screening Committee
(2009 – 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.

Welcome Page, Website of the United States Attorney's Office for the Western District of Texas. <http://www.justice.gov/usao/twx/>.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

Report of Supreme Court of Texas Task Force on Disciplinary Rules. 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.

I have not provided testimony, official statements, or other communications to any public bodies or public officials.

- 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.

The list that follows represents my best efforts, through a search of my records and calendar, to identify speeches, remarks and panel discussions in which I have participated. However, there may be other speeches or remarks that I have been unable to recall or identify. Often, when I engage in public speaking, I do so without outlines or prepared remarks and address questions from the audience.

June 19, 2014: Speaker, Federal Bureau of Investigation Citizens Academy Graduation, San Antonio, Texas. My comments focused on civic duty and the mission of the U.S. Attorney's Office. Updated version of the State of the District PowerPoint presentation supplied

May 21, 2014: Speaker, U.S. Marshals' Commemoration of National Missing Children's Day, United States Courthouse, Austin, Texas. My comments focused on the hazards posed by the Internet on children today. I have no notes, transcript, or recording. The address for the U.S. Marshals is 501 West 5th Street, Suite 3300, Austin, Texas 78701.

April 8, 2014: Panelist, "Preparing for a Federal District Clerkship," University of Texas School of Law, Austin, Texas. My comments focused on how to get the most from the clerkship experience. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 20, 2014: Guest Lecturer, Advanced Criminal Law Course, University of Texas School of Law, Austin, Texas. My remarks focused on principles of federal prosecution. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 19, 2014: Speaker, Charles McCormick Society, University of Texas School of Law, Austin, Texas. My comments focused on judicial clerkships and public service opportunities for young lawyers. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 2, 2014: Speaker, Public Service Law Day, University of Texas School of Law, Austin, Texas. My remarks focused on opportunities for public service within the legal profession. I have no notes, transcript, or recording. The address

of the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

January 23, 2014: January 26, 2012 – Panelist, “Leadership and the Practice of Law,” Austin Bar Leadership Academy, Austin Bar Association, Austin, Texas. My comments focused on the skills necessary to become an effective leader in the legal community. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

January 22, 2014: Speaker, “Ethics in the Federal Courts,” Texas Civil Justice League, Austin, Texas. PowerPoint supplied.

November 26, 2013: Speaker, University of Texas School of Law Career Panel, Austin, Texas. My remarks focused on my personal career path including my experiences as a federal prosecutor, magistrate judge, and my current role as U.S. Attorney. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

November 5, 2013: Speaker (via prerecorded video), Lloyd Lochridge Inn of Court, Austin, Texas. My remarks focused on federal prosecution on marijuana offenses. DVD supplied.

October 28, 2013: Speaker, “The Emergence of Synthetic Drugs in Central Texas,” University of Texas, Office of the Dean of Students, Austin, Texas. PowerPoint supplied.

September 26, 2013: Speaker, Austin Women’s Club, Austin, Texas. My presentation consisted of a “State of the District” address from the perspective of the U.S. Attorney. Updated version of the State of the District PowerPoint presentation supplied.

September 24, 2013: Panelist, “A View from the USAO,” The 37th Annual Southwest Securities Conference, Securities & Exchange Commission, Financial Industry Regulatory Authority, and Texas State Securities Board, Dallas, Texas. Notes supplied.

September 17, 2013: Panelist, 2013 Hate Crimes Conference, Anti-Defamation League, Austin, Texas. My comments focused on federal prosecution of hate crimes. I have no notes, transcript, or recording. The address for the Anti-Defamation League Austin is 3102 Windsor Road, Suite D, Austin, Texas 78703.

September 17, 2013: Lunch Speaker, McCormick Society at the University of Texas School of Law, Austin, Texas. My comments focused on judicial clerkships and public service opportunities for young lawyers. I have no notes, transcript, or recording. The address for the McCormick Society 7 is University of Texas School of Law, 727 East Dean Keeton Street, Austin, Texas 78705.

June 20, 2013: Speaker, Federal Bureau of Investigation Citizens Academy Graduation, San Antonio, Texas. My comments focused on civic duty and the mission of the U.S. Attorney's Office. I used the same notes as those supplied for a similar September 26, 2013 event.

May 18, 2013: Commencement Speaker, Trinity Valley School (alma mater), Fort Worth, Texas. Video recording supplied.

April 18, 2013: Lunch Speaker, Austin Chapter of the Society of Former Special Agents of the FBI, Austin, Texas. My remarks focused on current issues in federal law enforcement. I have no notes, transcript, or recording. The address for the Society of Former FBI Agents is 3717 Fetter Park Drive, Dumfries, Virginia 22025.

April 6, 2013: Panelist, Annual Conference 2013, Asian Pacific Islander Bar Association, Texas Conference, Austin, Texas. The session focused on financial fraud investigations from the perspective of prosecutors and defense counsel. I have no notes, transcript, or recording. The address for the Austin Asian American Bar Association is c/o Tuni Nguyen, Locke, Lord, Bissell & Liddel, 100 Congress Avenue, Suite 300, Austin, Texas 78701.

April 4, 2013: Opening Remarks, ATAC Training for Law Enforcement, U.S. Department of Justice, San Antonio, Texas. My remarks focused on the importance of counterterrorism in our community. I have no notes, transcript or recording. The address for the U.S. Attorney's Office is 601 Northwest Loop 410, San Antonio, Texas 78216.

April 2, 2013: Guest Speaker, LULAC Texas District 12, Austin, Texas. My remarks focused on the function and priorities of the U.S. Attorney's Office. I have no notes, transcript, or recording. LULAC Texas District 12 has no physical address.

March 28, 2013: Welcoming Remarks, 55th Annual Conference of the Texas Police Chiefs Association, Austin, Texas. My welcoming remarks were brief. I have no notes, transcript, or recording. The address for the Texas Police Chiefs Association is 1312 East Highway 290, Suite C, Elgin, Texas 78621.

March 7, 2013: Guest Lecturer, Professor Mike Lauderdale's course "Survey of the Criminal Justice System," University of Texas School of Social Work, Austin, Texas. My comments focused on the enforcement priorities of the U.S. Attorney's Office and crime trends. I have no notes, transcript, or recording. The address for the University of Texas School of Social Work is 1925 San Jacinto Boulevard, Austin, Texas 78712.

February 16, 2013: Moot Court Judge, National Animal Law Competitions, Lewis & Clark Law School, Portland, Oregon. I served as a moot court judge and provided feedback on students' performance. I have no notes, transcript, or recording. The address for Lewis & Clark Law School is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

February 13, 2013: Panelist, "Leadership and the Practice of Law," Austin Bar Leadership Academy, Austin Bar Association, Austin, Texas. My comments focused on the skills necessary to become an effective leader in the legal community. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

February 8, 2013: Welcoming Remarks, National White Collar Crime Board of Directors Meeting, San Antonio, Texas. My remarks focused on the prevention, investigation and prosecution of economical and high tech crime. I have no notes, transcript or recording. The address for the National White Collar Crime Center is 5000 NASA Boulevard, Suite 2400, Fairmont, WV 26554.

September 28, 2012: Speaker, 4th Friday CLE with the Austin Bar Association, Austin, Texas. My remarks focused on issues within the Western District of Texas. I used the same notes as those supplied for a similar September 26, 2013 event.

June 22, 2012: Speaker, Texas Chapter of American Board of Trial Advocates Annual Conference, Santa Fe, New Mexico. My presentation focused on financial fraud from a prosecutor's perspective. PowerPoint supplied.

April 13, 2012: Panelist, "Nightmare on 9th Street," 2012 Austin Bench Bar Conference, Austin Young Lawyers Association, Austin Bar Association, Austin, Texas. My comments focused on effective techniques in presenting cases to judges and juries. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

March 29, 2012: Opening remarks, ATAC Training for Law Enforcement, U.S. Department of Justice, San Antonio, Texas. My remarks focused on the importance of having an effective counterterrorism team in our community. I have no notes, transcript or recording. The address for the U.S. Attorney's Office is 601 Northwest Loop 410, San Antonio, Texas 78216.

February 26, 2012: Moot Court Judge, National Animal Law Competitions, sponsored by Lewis & Clark Law School, held at the University of California, Los Angeles Law School, Los Angeles, California. I served as a moot court judge and provided feedback on students' performance. I have no notes, transcript, or recording. The address of Lewis & Clark Law School is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

February 2, 2012: Speaker, OUTLaw event at the University of Texas School of Law, Austin, Texas. My comments focused on my career path. I have no notes, transcript or recording, but press coverage is supplied. The address of the OUTLaw group at the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

January 26, 2012: Panelist, "Leadership and the Practice of Law," Austin Bar Leadership Academy, Austin Bar Association. Austin, Texas. My comments focused on the skills necessary to become an effective leader in the legal community. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

January 19, 2012: Brief Remarks, Austin / Travis County Hate Crimes Task Force, Austin, Texas. My brief remarks focused on the scope of Federal Hate Crimes jurisdiction. I have no notes, transcript, or recording. The address for the City of Austin is 505 Barton Springs Road, Austin, Texas 78704.

November 22, 2011: Speaker, Investiture Speech, University of Texas, Austin, Texas. Notes supplied.

November 17, 2011: Panelist, Ultimate Trial Notebook Seminar, Austin Bar Association's Civil Litigation Section, Austin, Texas. My comments focused on effective presentation of evidence at trial. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

November 9, 2011: Luncheon Speaker, San Antonio Chapter of the Federal Bar Association, San Antonio, Texas. My presentation consisted of a "State of the District" address from the perspective of the U.S. Attorney. I used the same notes as those supplied for a similar September 26, 2013 event.

September 27, 2011: Guest Lecturer, Advanced Criminal Law course, University of Texas Law Class, Austin, Texas. My remarks focused on principles of federal prosecution. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

March 3, 2011: Guest Lecturer, Advanced Civil Trial Advocacy Course, University of Texas School of Law, Austin, Texas. PowerPoint supplied.

February 25, 2011: Moot Court Judge, National Animal Law Competitions, sponsored by Lewis & Clark Law School and held at Harvard Law School, Cambridge, Massachusetts. I have no notes, transcript, or recording. The address for Lewis & Clark Law School is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

November 19, 2010: Panelist, "ABA Prosecution and Defense Functions Standards Roundtable," University of Texas School of Law, Austin, Texas. The panel discussion focused on exercising charging discretion. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

November 12, 2010: Speaker, "The Effective Advocate," Ultimate Trial Notebook Seminar, Austin Bar Association, Austin, Texas. My comments focused on giving effective opening statements. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

April 30, 2010: Panelist, "Persuading Judges and Juries," 2010 Austin Bench Bar Conference, Austin Bar Association, Austin Young Lawyers Association, Austin, Texas. My comments focused on effective techniques in presenting cases to judges and juries. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

From approximately 2009 to 2011, I participated in an annual Drinking and Driving awareness program sponsored by Anderson High School in Austin. The program culminated in a mock sentencing that I conducted in my courtroom. I have no notes, transcripts, or recordings of these events. The address of Anderson High School is 8403 Mesa Drive, Austin, Texas 78759.

November 19, 2009: Moderator, "Ethics at the Alamo," Austin Bar Association, Austin, Texas. My participation consisted of moderating a panel of judges and attorneys discussing topics in legal ethics. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

February 23, 2009: Panelist, "Judicial Clerkships," University of Texas School of Law Career Services Office, Austin, Texas. The panel discussion focused on the benefits of judicial clerkships and best practices for a clerkship application. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 28, 2008: Guest Lecturer, Professor William Kelly's undergraduate criminal justice course, University of Texas, Austin, Texas. My presentation focused on the role of federal prosecutors and distinctions between federal and state criminal justice systems. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 15, 2008: Luncheon Speaker, Outlaw student organization, University of Texas School of Law, Austin, Texas. My comments focused on my career path and professional advice to law students. I have no notes, transcript, or recording.

The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

May 18, 2009: Panelist, "Federal Court Practice and Developments Update," Austin Bar Association's Civil Litigation Section, Austin, Texas. My remarks focused on topics of interest to civil litigators in federal district court. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

May 15, 2008: Speaker, "Breakfast with the Judiciary," Austin Bar Association, Austin, Texas. My remarks focused on chambers policies and preferred courtroom practices. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

April 18, 2008: Panelist, "Off the Record: Attorneys' Anonymous Questions for the Judiciary," 2008 Austin Bench Bar Conference, Austin Bar Association, Austin Young Lawyers Association, San Antonio, Texas. My comments focused on responses to questions concerning court practices and judges' preferences in the Austin Division of the Western District of Texas. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

April 1, 2008: Guest Lecturer in Professor William Kelly's Undergraduate Criminal Justice Course, University of Texas, Austin, Texas. My presentation focused on the role of federal prosecutors and distinctions between federal and state criminal justice systems. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

November 15, 2007: Moderator, "Ethics at the Alamo," Austin Bar Association, Austin, Texas. My participation consisted of moderating a panel of judges and attorneys discussing topics in legal ethics. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

November 7, 2007: Speaker, "Criminal Overview and Appointments," Federal Court Practice Seminar, Austin Chapter of the Federal Bar Association and Austin Bar Association, Austin, Texas. My comments focused on the role of appointed counsel in federal criminal cases. PowerPoint supplied.

November 1, 2007: Guest Lecturer, Professor William Kelly's undergraduate criminal justice course, University of Texas, Austin, Texas. My presentation focused on the role of federal prosecutors and distinctions between federal and state criminal justice systems. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

June 15, 2006: Panelist, "Attorneys, Journalists and Trial Consultants Discuss Image of the Legal Profession and Death Penalty Issues," University of Texas School of Law, Austin, Texas. The panel discussion focused on perceptions of the legal profession within the broader scope of death penalty and innocence issues. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 3, 2006: Panel Moderator, Texas Law Review Symposium: Punishment Law & Policy, University of Texas School of Law, Austin, Texas. My panel focused on the operation of the sentencing guidelines. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 3 - 8, 2005: Presenter, Judicial Seminar in Islamabad, Pakistan, sponsored by the U.S. Drug Enforcement Administration, Office of International Training. I traveled to Pakistan with a group of American judges and prosecutors to share best practices concerning narcotics and public corruption cases. I have no notes, transcript, or recording. The address for the DEA Office of Training is P.O. Box 1475, Quantico, Virginia 22124.

April 5, 2005: Panelist, "Judicial Clerkships," University of Texas School of Law Career Services Office, Austin, Texas. The panel discussion focused on the benefits of judicial clerkships and best practices for clerkship application. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

February 22, 2005: Presentation, University of Texas Prelaw Society, Austin, Texas. My presentation covered the law school admissions process. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

October 27, 2004: Guest Lecturer, Advanced Criminal Law Class, University of Texas School of Law, Austin, Texas. My comments focused on federal criminal law and procedure. I have no notes, transcript, or recording. The address for the University of Texas School of Law is 727 East Dean Keeton Street, Austin, Texas 78705.

May 7, 2004: Speaker, Travis County Women Lawyer's Association "Day in Court" CLE Program, Austin, Texas. Notes supplied.

February 19, 2004: Speaker, Travis County Bar Association Breakfast (now Austin Bar Association), Austin, Texas. My remarks focused on my chambers procedures and courtroom practices. I have no notes, transcript, or recording. The address for the Austin Bar Association is 816 Congress Avenue, Suite 700, Austin, Texas 78701.

February 8, 2001: Commencement Speaker, Austin Police Academy, Austin, Texas. Notes supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all items called for by this question, including a thorough review of my files and searches of publicly available electronic databases. In my official capacity as U.S. Attorney, I periodically give interviews to local radio, television, and print media reporters. I do not recall all the interviews I have given or the dates on which I gave those interviews. The interviews have centered on particular cases my office has prosecuted during my term and law enforcement initiatives. Quotations from these press releases, press conferences and interviews are often excerpted in multiple media outlets. I located the following formal interviews, press conferences, and press releases listed below:

Sari Horwitz and Joshua Partlow, *Seven U.S. Court Districts Bring Indictments Against Mexican Drug Lord Guzman*, February 24, 2014. Copy supplied.

Mike W. Thomas, *U.S. Prosecutors in S.A. Seeking to Take a Healthy Bite Out of Fraud*, San Antonio Business Journal, January 31, 2014. Copy supplied.

January 27, 2014, KLBJ-AM radio, phone interview with radio reporter about the arrest of defendant Sifinowski. I have no notes, transcripts, or clips.

Marty Schladen, *Corrupt Culture Was Unveiled*, El Paso Times, January 26, 2014. Copy supplied.

November 15, 2013, KLBJ radio, phone interview with radio reporter about the sentence imposed on the Trick or Treat Bandit. I have no notes, transcripts, or clips.

Jazmine Ulloa, *Sequestration & Shutdown Hammering Federal Judiciary*, Austin American Statesman, October 15, 2013. Copy supplied.

Jazmine Ulloa, *Reserve Funding Due to Run Dry for Federal Courts*, Austin American Statesman, October 15, 2013. Copy supplied.

Melissa del Bosque, *Updated: Businessman's Son, Partner Arrested for Bribery in Zeta Money Laundering Trial*, The Texas Observer, September 6, 2013. Copy supplied.

Melissa del Bosque, *Updated: Brother of Zetas Cartel Boss Given Maximum Sentence*, The Texas Observer, September 5, 2013. Copy supplied.

August 20, 2013, KRLD radio, phone interview with radio reporter about 5th Circuit opinion in Abdo case. I have no notes, transcripts, or clips.

Guillermo Contreras, *Federal Prosecution Office in S.A. Reorganized*, San Antonio Express News, January 14, 2013. Copy supplied.

Steven Kreytak, *Prosecutions of Immigrants in Austin Down*, Austin American Statesman, October 7, 2012. Copy supplied.

June 25, 2012, KLBJ radio, phone interview with radio reporter about Dr. Jacoby sentencing. I have no notes, transcripts, or clips.

May 24, 2012, KLBJ radio, phone interview with radio reporter about Abdo guilty verdict. I have no notes, transcripts, or clips.

April 12, 2012, KLBJ radio, phone interview with radio reporter about Dr. Jacoby guilty plea. I have no notes, transcripts, or clips.

Anna Waugh, *The Law West of the Pecos*, Dallas Voice, March 29, 2012. Copy supplied.

Jim Forsyth, *Charges Dismissed Against Soldier Arrested Over Airport*, Reuters, February 17, 2012. Copy supplied.

February 8, 2012, KTSA radio, phone interview with radio reporter about a firearms smuggling case. I have no notes, transcripts, or clips.

December 4, 2011, NPR radio, phone interview with radio reporter John Burnett about migrants and illegal drugs. Transcript supplied.

Steven Kreytak, *Austin's Robert Pitman Sworn in as U.S. Attorney*, Austin American Statesman, October 3, 2011. Copy supplied.

Liz Farmer, *Texan May Be First Openly Gay US Attorney Nominee*, Daily Texan, June 28, 2011. Copy supplied.

John Council, *From the Farmhouse to the Courthouse*, Texas Lawyer, May 3, 2010. Copy supplied.

Todd J. Gillman, *Hutchison Irks Right by Backing Gay Jurist*, The Dallas Morning News, November 1, 2009. Copy supplied.

Steven Kreytak, *Pitman Most "Excellent" Among Austin Judges, Poll Says*, Austin Legal, February 20, 2009. Copy supplied.

Steven Kreytak, *Contractors Face Child Porn Charge*, Austin American Statesman, May 7, 2008. Copy Supplied.

Steven Kreytak, *For SXSW Stowaway, a Second Misstep*, Austin American Statesman, September 19, 2006. Copy supplied.

Andrea Ball, *Daydream Believers*, Austin American Statesman, July 22, 2006. Copy supplied.

Daniel Stone, *U. Texas Panel Focuses on Death Penalty*, University Wire, June 19, 2006. Copy supplied.

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Doug Kalajian, *Gay Day at Disney Quiet Despite Threats; Operation Rescue Protest Outside Park Doesn't Mar Business as Usual Inside*, Palm Beach Post, June 7, 1998. Copy supplied. I have not been able to obtain a copy.

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Press Conferences:

On June 4, 2014, I participated in a press conference with other law enforcement leaders on the emergence of designer drugs. Representative press coverage supplied.

On May 21, 2014, I participated in a press conference for National Missing Children's Day with the United States Marshals Service. Representative press coverage supplied.

On February 11, 2014, I participated in a press conference related to laser strikes against aircraft. Representative press coverage supplied.

On February 7, 2014, I participated in a press conference to announce the guilty plea of the former police chief of the City of Jarrell, Texas to federal bribery charges. Related press release supplied and video recording available at: <http://www.youtube.com/watch?v=ehORXOYY2Y4>.

On September 6, 2013, I participated in a press conference regarding the arrest of three men in connection with a conspiracy to bribe a federal judge. Representative press coverage supplied and video recording available at <http://www.youtube.com/watch?v=WDEF9IBaNbA>.

On September 5, 2013, I participated in a press conference regarding the sentences imposed in *U.S. v. Trevino, et al.* Notes supplied.

On June 26, 2013, I participated in a press conference to announce the arrests of 18 individuals for their roles in a large synthetic drug distribution conspiracy in Central Texas which was part of a national initiative known as Project Synergy. Related press release supplied.

On May 30, 2013, I participated in a press conference to announce the seizure of about 10 kilos of ICE in connection with *U.S. v. Pocasangre, et al.* Representative press coverage supplied.

On May 10, 2013, I participated in a telephone press conference with members of the media to discuss the conviction of four defendants charged in *U.S. v. Trevino et al.*, for their roles in a complex international money laundering conspiracy which used Los Zetas drug proceeds to buy, train, and race American Quarter horses. Related press release and representative press coverage supplied.

On May 9, 2013, I participated in a press conference to announce the conviction of four defendants charged in *U.S. v. Trevino et al.*, for their roles in a complex international money laundering conspiracy which used Los Zetas drug proceeds to buy, train, and race American Quarter horses. Notes supplied.

On April 11, 2013, I participated in a press conference to announce the arrests of 37 individuals for their roles in an Austin based methamphetamine distribution operation. Related press release supplied.

On February 21, 2013, I participated in a press conference to announce the arrest of 19 individuals in connection with a cocaine distribution and bulk cash smuggling conspiracy in Austin, known as Operation Treasure Lost. Related press release supplied.

On October 5, 2012, I participated in a press conference to announce the sentence of Garcia for his role in a fraudulent scheme involving the El Paso Independent School District. Representative press coverage supplied.

On August 10, 2012, I participated in a press conference to announce the sentence imposed on Abdo for plotting to bomb and shoot Ft. Hood soldiers. Representative press coverage supplied.

On June 21, 2012, I participated in a press conference to announce the arrests of 15 individuals in connection with an Austin based heroin distribution operation. Related press release supplied and video recording available at <http://www.kvue.com/news/local/APD-FBI-and-ICE-performing-raid-in-South-Austin-159864845.html>.

On March 14, 2012, I participated in a press conference to discuss *U.S. v Kahey*, a federal criminal case which involved a large cocaine trafficking conspiracy in Central Texas. Related press release supplied and video recording available at <http://www.bing.com/videos/watch/video/14-arrested-in-federal-cocaine-trafficking-bust/1v798fdm4?from=shareembed-yndication&src=v5%253aembed%253asyndication>.

On February 8, 2012, I participated in a press conference to announce the sentences imposed on two men for their roles in a firearms straw purchasing and trafficking investigation. Representative press coverage supplied.

Press Releases:

As Interim United States Attorney for the Western District of Texas in 2001 and as the United States Attorney for the Western District of Texas from October, 2011 to date, I authorized my office to release hundreds of press releases. A list of press releases and copies of those releases are attached.

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.

In October 2003, I was appointed to serve as a magistrate judge of the United States

District Court for the Western District of Texas by the judges of the district court. As a magistrate judge, I presided over a wide variety of federal criminal and civil cases, including pretrial, grand jury, and discovery matters, as well as civil jury trials. I issued reports and recommended decisions on dispositive motions and orders resolving non-dispositive motions in civil cases over which district judges presided. I conducted pretrial proceedings in both civil and criminal cases. I handled all aspects, including trials, of petty offenses and criminal misdemeanors.

As a magistrate judge, most of my caseload consisted of the referral of matters from the district court, with the exception of criminal matters over which I had original jurisdiction (petty offenses and certain misdemeanors) and civil cases in which the parties consented to my jurisdiction pursuant to 28 U.S.C. 636(c). Responses to the following questions distinguish between cases over which I presided versus cases in which I drafted reports and recommendations to the district court. Responses only reflect cases in which filings were made after the institution of the CM/ECF case management system in 2006. Prior filings are not readily searchable or retrievable electronically.

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

I presided over 147 cases that went to verdict or judgment, including civil consent cases and criminal cases with original jurisdiction.

- i. Of these, approximately what percent were:

jury trials:	95%
bench trials:	5%
civil proceedings:	95%
criminal proceedings:	5%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

Please see attached list.

- 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).

(1) Opportunity Aviation, LLC v. Flight Options, LLC; No. 1:06-cv-00316-RP

This case involved a contract dispute regarding the sale of a partial ownership of an aircraft. The plaintiff had purchased a share of a Beechjet aircraft operated by defendant.

A dispute arose concerning a contractual provision allowing defendant to repurchase plaintiff's share in the aircraft under certain circumstances, as well as the plaintiff's allegations that the defendant was not fulfilling its obligations under the contract. After plaintiff sued in state court, the action was removed to federal court and the defendant filed a counterclaim, alleging that the plaintiff had breached the contract in failing to relinquish its interest in the aircraft. The case was tried to a jury, which found in favor of the defendant. Opinions supplied.

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(2) Loving, et al. v. City of Elgin, et al., No. 1:04-cv-00655-RP

Plaintiffs R. Loving and U. Loving brought suit against the City of Elgin, TX, the Chief of Police and two Elgin police officers, pursuant to 42 U.S.C. §§ 1981, 1983, and 1985. The case arose out of an incident between the plaintiffs and the two defendant Elgin police officers. Plaintiffs' asserted causes of action based on race and color discrimination, assault and battery, respondeat superior and ratification, intentional infliction of emotional distress, false arrest, and negligent hiring, training, supervision and retention of police officers by the City of Elgin. Defendants filed a motion for summary judgment which asserted there was probable cause to arrest U. Loving for disorderly conduct, interference with public duties, and assault by threat. I denied summary judgment for the defendants, concluding that they failed to establish there was probable cause to arrest Mr. Loving. I also denied the defendants' motion for summary judgment on the plaintiffs' claim of inadequate hiring, supervision, training and retention of Elgin police officers. I granted the defendants motion as to the plaintiffs' federal civil rights claim under section 1983 based on malicious prosecution and as to the plaintiffs' state law claims against the City of Elgin for malicious prosecution, false arrest, assault and battery, intentional infliction of emotional distress, and negligent hiring and supervision. Following a jury trial, the jury returned a verdict in favor of the City of Elgin and the two police officers. I entered a final judgment for the defendants on March 10, 2006, and ordered the plaintiffs take nothing by way of the suit. Opinions supplied.

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- (3) Pitonyak v. Pierce, 2011 U.S. Dist. LEXIS 158131 (W.D. Tex. Sept. 29, 2011), *adopted by* 2012 U.S. Dist. LEXIS 189976 (W.D. Tex. July 10, 2012), *aff'd by* 732 F.3d 525 (5th Cir. 2013).

Mr. Pitonyak was convicted in state court of first-degree murder for the death of Ms. Cave, who was killed in his apartment by a gunshot the morning of August 17, 2005. Pitonyak filed a federal habeas petition alleging that the prosecution violated *Brady v. Maryland*, by failing to disclose an alleged jailhouse confession to the murder by another inmate. After conducting a review of the state court trial and appellate records, I concluded that the undisclosed alleged confession was not material under *Brady*, in that it would not have cast the “whole case in such a different light as to undermine confidence in the verdict,” and recommended that the district court deny relief. The district court adopted my report and recommendations in full and denied relief. The Fifth Circuit Court of Appeals affirmed.

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- (4) Arcadian Health Plan, Inc v. PSO Health Services, LLC, et al., No. 1:06-cv-01005-RP.

This case involved spoliation of evidence in a civil suit filed by Arcadian Health Plan. By way of motion, Arcadian sought a judgment on liability on all of their claims due to spoliation of evidence by the defendants. I conducted a hearing on the issue, at which two

defendants did not dispute that their destruction of evidence was wilful and for the sole purpose of interfering with the litigation against them. I found that the corporation was liable for the acts of the two employees and concluded that sanctions were warranted. Due to the severity of the defendants' conduct, I granted the plaintiff's motion to strike the pleadings of the defendants as to liability. I granted in part and denied in part the plaintiff's motion to strike pleadings for spoliation of evidence against the defendants. The order granted the plaintiff's motion to strike pleadings and granted judgment for the plaintiff as to liability. The parties subsequently settled out of court. Opinion supplied.

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(5) Byrum, et al. v. Landreth, et al., No. 1:07-cv-00344-LY, *rev'd by* 566 F.3d 442 (5th Cir. 2009).

In this case, the plaintiffs were engaged in the practice of interior design and brought an action seeking relief from the defendants, in their official capacities as members of the Texas Board of Architectural Examiners. The plaintiffs contended that the defendants' regulation of the use of the terms "interior design" and "interior designer" violated the plaintiffs' rights under the First Amendment. The question presented in the case was whether the challenged regulation was a permissible regulation of commercial speech under the First Amendment. Both the plaintiffs and the defendants filed motions seeking

summary judgment of the plaintiffs' claims. The plaintiffs also sought a preliminary injunction suspending enforcement of the challenged Texas regulation. I recommended that the district court find that the defendants failed to meet their evidentiary burden of showing the term "interior designer" is inherently misleading and therefore beyond the First Amendment's protection. I concluded that neither the defendants nor the plaintiffs proffered any evidentiary support for their positions regarding the misleading nature of the speech at issue and that genuine issues of material fact existed as to the issues. Accordingly, I recommended that the district court deny the plaintiffs' motions for summary judgment and preliminary injunction and deny the defendants' cross-motions for summary judgment. The district court adopted my recommendation that plaintiffs' motion for preliminary injunction be denied on the ground that they had not shown a substantial likelihood of success on the merits. The plaintiffs subsequently appealed, and the Fifth Circuit found that the district court had abused its discretion by denying the preliminary injunction. The case was remanded to the district court for the enforcement of a preliminary injunction enjoining Texas' regulation of the terms "interior design" and "interior designer." A final judgment was entered by the district court dismissing the claims of all the parties because a new law that addressed and resolved the specific issue in the case had been enacted in the interim, and no case or controversy remained. Opinions supplied.

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(6) Shelton v. Wise, et al., No. 1:07-cv-00063-RP, *aff'd* by 306 Fed. Appx. 60 (5th Cir. 2009).

This case involved allegations of violations of the Fourth and Fourteenth Amendments. Plaintiff alleged that two officers illegally entered his home and used excessive force in violation of his rights. The defendants moved for summary judgment on the basis of qualified immunity. I granted the defendants' motion for summary judgment as to the claims of illegal entry, but denied the motion as to the use of excessive force. This denial was based on a factual issue concerning the use of force by the defendants. The case subsequently went to a jury trial over which I presided. The jury rendered a verdict in favor of the defendants. The Fifth Circuit affirmed the denial of summary judgment based on qualified immunity. Opinion supplied.

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(7) Craig v. Sheriff Pollock, et al., No. 1:07-cv-00306-RP

Plaintiff brought this case pursuant to 42 U.S.C. § 1983. He alleged that, while incarcerated, excessive force was used by employees of the Sheriff's office. I found the evidence clearly demonstrated that the force used was applied in a good-faith effort to maintain or restore discipline, and that the force was not excessive to the need. The Sheriff's office not only perceived the plaintiff as an escape risk, but also knew him as an inmate who had previously threatened to harm officers when given the opportunity. Based on these facts, I found the officers placing the plaintiff in a new cell were entitled to qualified immunity protection. I recommended that the district court grant the defendants' motion for summary judgment, and decline to exercise supplemental jurisdiction over the plaintiff's state law claims, if any. The district court adopted my report and recommendations following which parties consented for the case to be transferred to me for trial. A jury trial was held after which the jury returned a verdict for the defendants. Opinion supplied.

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(8) Edwards v. Wyatt, No. 1:07-cv-01008-RP

This case was filed in state court and removed on the basis of diversity and federal question jurisdiction. The parties consented to the magistrate court's jurisdiction. The case arose from a business relationship between Wyatt and Edwards, which grew contentious and resulted in claims of breach of contract, tortious interference with business, criminal wiretap, defamation, unjust enrichment, conversion, copyright infringement, fraud, and quantum meruit. I granted summary judgment on the following claims: (1) there was no valid breach of contract claim, because there was no valid contract; (2) there was no tortious interference with a business relationship based on the uncontroverted evidence before the court; (3) there was no unlawful conversion of files, logos, designs, marks, brands and other media, as the property allegedly converted was of an intangible type for which conversion is not recognized; and (4) the Texas criminal statute of theft of services does not provide a basis for civil liability. I also dismissed the plaintiff's claim that Edwards violated the Texas criminal wiretap statute and found that the Texas statute includes a requirement of contemporaneity for the interception of electronic communications and that the allegations in the suit fell outside the statute because the alleged interception did not happen simultaneously with sending of the communications. Following a four-day jury trial, a verdict was returned in favor of Edwards on her claim of defamation. The jury found no liability for any party on all the additional claims. Opinion supplied.

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(9) Drummond American, LLC v. Share Corp, et al., No. 1:08-cv-00661-RP

This case came before the court for a trial by jury on several claims, including claims of breach of contract, misappropriation of trade secrets, conspiracy to misappropriate trade secrets, tortious interference with business relationships, tortious interference with contract, unfair competition and business disparagement. The jury rendered its verdict in favor of the plaintiff as to breach of contract, tortious interference with prospective business relationships, and misappropriation of trade secrets against each of the individual defendants. The jury also found that with the exception of one defendant, the defendants had acted with malice and awarded exemplary damages of \$7.5 million against the corporation and \$5,000 against the individual defendants. I found that the Texas statutory damage cap applied as to punitive damages, and remitted the verdict accordingly. Opinion supplied.

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- (10) Maryland Casualty Co. v. Acceptance Indemnity Insurance Co.,
No. 1:08-cv-00697-RP, *aff'd* by 639 F.3d. 701 (5th Cir. 2011).

This case arose from Acceptance Indemnity Insurance Company's refusal to defend and indemnify its insured in an underlying lawsuit in Texas State Court. Maryland Casualty Company defended and ultimately settled the underlying lawsuit, then sued Acceptance in diversity to recover Acceptance's share of those costs under theories of contribution and subrogation. The parties consented to magistrate court jurisdiction. Motions for summary judgment were filed by both parties and I ruled Acceptance owed a duty to defend its insured. I then granted Acceptance summary judgment on the contribution claim but denied summary judgment on the subrogation claim, distinguishing a Texas Supreme Court holding. The surviving subrogation claim went to trial and the jury rendered a verdict against Acceptance, which I upheld against Acceptance's post-verdict challenge. The Fifth Circuit affirmed the judgment entered by the court on the verdict in the case. Opinions supplied.

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- 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.

- 1) Granados v. Dretke, 1:03-ca-284-ly (Copy supplied.)

Counsel for Petitioner:

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Dell Inc.
MS RR1-33
One Dell Way
Round Rock, TX 78682
(512) 728-1771

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Counsel for Respondent:

Edward L. Marshall
Assistant Attorney General, State of Texas
P.O. Box 12548, Capitol Station
Austin, TX 78711
(512) 936-1400

- 2) Haas v. Cecil, et al., 1:03-cv-00153-ly (Copy supplied.)

Plaintiff's Counsel:

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Robert C. DeCarli
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Defendant: Jeffrey Robert Jury
Burns Anderson Jury & Brenner, L.L.P.
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Austin, TX 78755
(512) 338-5322

Kenton P. Campbell
Burns Anderson Jury & Brenner
P.O. Box 26300
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3) Loving v. City of Elgin, et al., 1:04-ca-655-rp (Copy supplied in response to 13c.)

Plaintiffs' Counsel: Bobby Ray Taylor
The Law Offices of Bobby R. Taylor, P.C.
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Defendants City of Elgin,
Foster & Spence: Archie Carl Pierce
Wright & Greenhill
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Austin, Texas 78701
(512) 476-4600

Defendant Medrano: Richard W. South
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4) Craig v. Sheriff Pollack, et al., No. 1:07-cv-00306-RP (Copy supplied in response to 13c.)

Pro Se Plaintiff: L. Craig
1291002
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Defendants' Counsel: Jason Eric Magee
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5) Arcadian Health Plan, Inc. v. PSO Health Services, et al., 1:06-CV-1005-rp
(Copy supplied in response to 13c.)

Plaintiff's Counsel:
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Defendant:
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Defendants:
Bixler, Box, &
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Defendants:
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6) Shelton v. Wise, et al., 1:07-ca-063-rp (Copy supplied in response to 13c.)

Plaintiff's Counsel:

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7) Byrum, et al. v. Landreth, et al., 1:07-ca-344-ly (Copy supplied in response to 13c.)

Plaintiffs' Counsel:

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- 8) Holland v. Gexa Corp. et al., 1:03-ca-904-ly, *aff'd by* 161 Fed. Appx. 364 (5th Cir. 2005). (Copy supplied.)

Plaintiff's Counsel:

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9) Williams, et al. v. McKinney, et al., 1:09-ca-009-rp (Copy supplied.)

Plaintiff:

Individually and
as heirs to The Estate
of B.L. Williams

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Defendant: Archie Carl Pierce
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10) Pitonyak v. Pierce, 2011 U.S. Dist. LEXIS 158131 (W.D. Tex. Sept. 29, 2011), *adopted by* 2012 U.S. Dist. LEXIS 189976 (W.D. Tex. July 10, 2012), *aff'd by* 732 F.3d 525 (5th Cir. 2013).

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Respondent Matthew Dennis Ottoway
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- e. Provide a list of all cases in which certiorari was requested or granted.

Jennings v. Owens, 2008 WL 2765319 (W.D. Tex. June 6, 2008); 585 F. Supp. 2d 881 (W.D. Tex. 2008), *rev'd* 602 F.3d 652 (5th Cir. 2010), *cert. denied* 132 S. Ct. 2680 (2012).

- 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.

The following cases over which I presided were reversed by the Fifth Circuit:

Consent cases

Jennings v. Owens, 2008 WL 2765319 (W.D. Tex. June 6, 2008); 585 F. Supp. 2d 881 (W.D. Tex. 2008), *rev'd* 602 F.3d 652 (5th Cir. 2010), *cert. denied* 132 S. Ct.

2680 (2012). Jennings sued state officials under 42 U.S.C. § 1983 challenging sex offender parole conditions that were imposed on him when he was paroled in 2005 after serving a prison sentence for debit card fraud. These conditions on his parole had been enhanced based on a serious sex offense he pleaded guilty to as a minor and for which he had also completed a separate prison sentence in 1988. Jennings claimed that the imposition of these conditions violated his Fourteenth Amendment right to procedural due process. I found that the imposition of sex offender parole conditions violated his right to procedural due process because the conditions constituted a significant departure from the basic conditions of release for crimes other than sex offenses (such as debit card fraud), and he did not receive notice or a hearing prior to the imposition of the conditions. The Fifth Circuit reversed, finding that because Jennings had been convicted of a sex offense in 1979, he did not retain a liberty interest that was infringed in violation of his right to procedural due process when the parole board imposed sex offender special conditions on his parole.

King v. Astrue, No. A-02-CV-068 RP, and Pierce v. Astrue, No. A-02-CV-497 RP, *rev'd Pierce v. Barnhart*, 440 F.3d 657 (5th Cir. 2006). In these consolidated cases, Social Security disability claimants appealed the denial of claimants' applications for attorney fees under the Social Security Act (SSA), 42 U.S.C. § 406(b), and Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). The Fifth Circuit found that the district court correctly denied attorneys' fees under EAJA because plaintiffs' applications were untimely under the EAJA, thus depriving the district court of jurisdiction to consider the merits of the applications. However, the Fifth Circuit concluded that the plaintiffs' second SSA applications should not have been deemed untimely because the district court did not impose a cut-off date on the plaintiffs to refile their applications after their first SSA application. The Fifth Circuit also reversed the denial of attorney's fees. Accordingly, the Circuit Court affirmed in part and reversed and remanded in part. Opinions supplied.

Penson v. Astrue, No. A-03-CV-185 RP, *rev'd* 103 F. App'x 843 (5th Cir. 2004). Penson, on behalf of her minor child, appealed a judgment denying her claim for supplemental security income by an Administrative Law Judge ("ALJ"). I upheld the decision of the ALJ. The Circuit Court found that, in evaluating whether the minor child was disabled within the meaning of the Social Security Act, the ALJ relied upon the credibility of the mother, Penson, but the ALJ then failed to provide the specific reasons for its credibility finding and the significance of that finding on the disability resolution, both necessary for review on appeal. The Circuit Court remanded the case to the Appeals Council, ordering the ALJ to give reasons for the credibility finding and the significance of that finding. Opinion supplied.

Reports and Recommendations

There may have been cases in which the district court declined to adopt or follow the substantive recommendations in my report and recommendation, but I do not have any specific recollection of any such cases. After consultation with the Clerk of Court, I have confirmed that there is no way to run a comprehensive search of the Court database to document whether reports and recommendations were adopted or not.

The only two cases in which I recall the adoption of my report and recommendation by the district court was subsequently reversed on appeal were:

Reliable Consultants, Inc. v. Earle, A-04-CV-86-LY, *rev'd by* 517 F.3d 738 (5th Cir. 2008); *en banc review denied by* 538 F.3d 355 (5th Cir. 2008). This case involved a challenge to the constitutionality of a Texas statute limiting the number of sexual devices an individual could possess. The plaintiff and plaintiff-intervenor argued that the statute violated their First Amendment commercial speech rights, Fourteenth Amendment substantive and procedural due process rights, and analogous rights under the Texas Constitution. I recommended that the court hold that the use of sexual devices in the privacy of one's home is protected but that the state could limit the right to publicly promote sexual devices. The district court adopted the report and recommendation and granted to the state's motion to dismiss. The Fifth Circuit reversed, holding that the entire statute violated the Fourteenth Amendment of the Constitution. Opinion supplied.

Byrum, et al. v. Landreth, et al., No. 1:07-cv-00344-LY, *rev'd by* 566 F.3d 442 (5th Cir. 2009). In this case, the plaintiffs were engaged in the practice of interior design and brought an action seeking relief from the defendants, in their official capacities as members of the Texas Board of Architectural Examiners. The plaintiffs contended that the defendants' regulation of the use of the terms "interior design" and "interior designer" violated the plaintiffs' rights under the First Amendment. The question presented in the case was whether the challenged regulation was a permissible regulation of commercial speech under the First Amendment. Both the plaintiffs and the defendants filed motions seeking summary judgment of the plaintiffs' claims. The plaintiffs also sought a preliminary injunction suspending enforcement of the challenged Texas regulation. I recommended that the district court find that the defendants failed to meet their evidentiary burden of showing the term "interior designer" is inherently misleading and therefore beyond the First Amendment's protection. I concluded that neither the defendants nor the plaintiffs proffered any evidentiary support for their positions regarding the misleading nature of the speech at issue and that genuine issues of material fact existed as to the issues. Accordingly, I recommended that the district court deny the plaintiffs' motions for summary judgment and preliminary injunction and deny the defendants' cross-motions for summary judgment. The district court adopted my recommendation that plaintiffs' motion for preliminary injunction be denied on the ground that they had not

shown a substantial likelihood of success on the merits. The plaintiffs subsequently appealed, and the Fifth Circuit found that the district court had abused its discretion by denying the preliminary injunction. The case was remanded to the district court for the enforcement of a preliminary injunction enjoining Texas' regulation of the terms "interior design" and "interior designer." A final judgment was entered by the district court dismissing the claims of all the parties because a new law that addressed and resolved the specific issue in the case had been enacted in the interim, and no case or controversy remained. Copy supplied in response to 13c.

- 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.

Of the more than 1,000 opinions and reports and recommendations I have written as a magistrate judge, 77 appear on Westlaw legal databases and 89 appear on the Lexis legal databases. The unpublished opinions are docketed by the Clerk's Office and are available to members of the public via the Court's public access website.

- 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.

To the best of my recollection, the following cases are the cases in which I issued significant opinions or reports and recommendations on federal or state constitutional issues.

Reliable Consultants, Inc. v. Earle, A-04-CV-86-LY, *rev'd by* 517 F.3d 738 (5th Cir. 2008); *en banc review denied by* 538 F.3d 355 (5th Cir. 2008). Copy supplied in response to 13f.

Jennings v. Owens, 2008 WL 2765319 (W.D. Tex. June 6, 2008); 585 F. Supp. 2d 881 (W.D. Tex. 2008), *rev'd* 602 F.3d 652 (5th Cir. 2010), *cert. denied* 132 S. Ct. 2680 (2012).

Walker v. Kaufman, et al., 1:08-ca-381-ly. Copy supplied.

Pitonyak v. Pierce, 2011 U.S. Dist. LEXIS 158131 (W.D. Tex. Sept. 29, 2011), *adopted by* 2012 U.S. Dist. LEXIS 189976 (W.D. Tex. July 10, 2012), *aff'd by* 732 F.3d 525 (5th Cir. 2013).

Loving, et al. v. City of Elgin, et al., No. 1:04-cv-00655-RP. Copy supplied in response to 13c.

Shelton v. Wise, et al., No. 1:07-cv-00063-RP, *aff'd* 306 Fed. Appx. 60 (5th Cir. 2009). Copy supplied in response to 13c.

Craig v. Sheriff Pollock, et al., No. 1:07-cv-00306-RP. Copy supplied in response to 13c.

- 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.

I have not sat by designation on a federal court of appeals.

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

When I assumed office as a magistrate judge, I assessed recusal in accordance with 28 U.S.C. Section 445. I recused myself from all matters that I had handled or supervised while an Assistant United States Attorney. These cases were identified by the District Clerk's office and administratively reassigned to the other magistrate judge in the division. Other than these cases, I did not have occasion to recuse myself from any cases, either at the request of parties or sua sponte, until I was nominated to become United States Attorney, after which I recused myself from the following civil cases to which the United States was a party:

A-11-CV-301 LY *Dessie Maria Andrews v. United States of America*

A-10-CV-471 LY *United States of America v. Randy Jay Chaffee and Esperanza "Hope" Andrade, Texas Secretary of State*

A-11-CV-219 LY Hilary Crumb v. Michael J. Astrue, Commissioner of the Social Security Administration

A-10-CV-818 SS Delois Dunn v. Michael J. Astrue, Commissioner of the Social Security Administration

A-11-CV-071 LY Trinidad Hernandez v. Michael J. Astrue, Commissioner of the Social Security Administration

A-10-CV-331 SS William Jackson v. Michael J. Astrue, Commissioner of the Social Security Administration

A-11-CV-292 SS Ana Jimenez v. Michael J. Astrue, Commissioner of the Social Security Administration

A-11-CV-484 SS Kenneth Allen Jones v. Michael J. Astrue, Commissioner of the Social Security Administration

A-11-CV-495 SS Dale Bryan Mcneill v. United States of America

A-11-CV-374 SS Renita Milam v. Michael J. Astrue, Commissioner of the Social Security Administration

A-07-CV-714 AWA Sunrise Mini Mart v. David Roark, Director of the Texas Service Center, et al.

A-11-CV-448 LY David Scott Trudeau v. United States of America (A-09-CR-084(01)LY)

15. Public Office, Political Activities and Affiliations:

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

I was appointed United States Attorney for the Western District of Texas on September 28, 2011, by President Barack Obama. I have not been a candidate for any other elected or appointed non-judicial office.

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

I have never been a member of, held office in, nor rendered services to any political party or election committee. I have never held a position or played a role in a political campaign.

Although perhaps not strictly responsive to this question, in the fall of 2000, I appeared as an "extra" in the background of a campaign advertisement for my former colleague Ernest Garcia in his campaign for state district judge. I was not identified in the advertisement, nor did I have a speaking role.

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 September 1988 to September 1989, I served as a law clerk to the Honorable David O. Belew, Jr., United States District Judge for the Northern District of Texas.

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

I have never practiced law alone.

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

1989 – 1990

Fulbright & Jaworski (now Norton Rose Fulbright)
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Associate

1990 – 2001

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Assistant U.S. Attorney

1997 – 1998

Executive Office for U.S. Attorneys, Office of Legal Counsel (now General Counsel)
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Washington, D.C. 20530
Attorney Advisor

2001 – 2003

United States Attorney's Office for the Western District of Texas
601 Northwest Loop 410, Suite 600
San Antonio, Texas 78216
Deputy U.S. Attorney (2001-2003)
Interim U.S. Attorney (2001)

2011 – Present

United States Attorney's Office for the Western District of Texas
601 Northwest Loop 410, Suite 600
San Antonio, Texas 78216
United States Attorney

- 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.

No.

b. Describe:

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

Following my judicial clerkship, I practiced civil litigation at Fulbright & Jaworski (now Norton Rose Fulbright). As a first-year associate, my primary responsibilities included the review and production of documents and discovery, drafting pleadings and legal research.

During my tenure as an Assistant United States Attorney from 1990 to 2001, I handled a broad array of federal criminal matters, including narcotics, financial fraud, firearms, immigration, money laundering, counterfeiting, and gang cases. I was involved in matters from the investigative phase through indictment, pretrial, plea bargain or trial, and, in some cases, on appeal.

During my detail to the Executive Office for U.S. Attorneys from 1997 to 1998, I counseled U.S. Attorneys and Assistant U.S. Attorneys on matters of legal ethics and professional responsibility and represented the Department in cases involving personnel matters. Upon return to my district, I served in a variety of management roles in which I supervised criminal Assistant U.S. Attorneys and served as liaison to law enforcement agencies and courts. As Interim U.S. Attorney, I mobilized the district's

response to the events of September 11, 2001, and formed the first anti-terrorism task force in the Western District of Texas. The task force coordinated the efforts of local, state and federal law enforcement agencies. As Deputy U.S. Attorney, I managed the day to day operations of the district and served as primary advisor to the U.S. Attorney, until I left to be a magistrate judge.

As U.S. Attorney since 2011, I serve as chief federal law enforcement official and supervise an office of approximately 150 Assistant United States Attorneys engaged in criminal prosecution and civil litigation on behalf of the United States.

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

From 1989 to 1990, I represented commercial entities and healthcare professionals in civil litigation.

From 1990 to 2003 and from 2011 to the present, I have represented the United States, its departments and agencies, in criminal and civil litigation.

- 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.

From 1989 to 1990, my practice consisted of litigation and administrative law but I did not appear in court. From 1990 to 1997, my practice was 100% litigation, and I appeared in court virtually daily in criminal matters. In 1997, my practice was approximately 30% litigation. From 1998 to 2001, my practice was 80% litigation and 20% management and supervision. Again, I appeared in court almost daily. From 2001 to 2003, and since 2011, my practice has involved the supervision of litigation, but no personal appearances in court.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 99% |
| 2. state courts of record: | <1% |
| 3. other courts: | 0% |
| 4. administrative agencies: | <1% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 15% |
| 2. criminal proceedings: | 85% |

- 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.

While an Assistant United States Attorney, I tried 29 cases to verdict. In 14 of those cases I was lead counsel, and in 15 cases, I was associate counsel.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 97% |
| 2. non-jury: | 3% |

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

I have not practiced before the Supreme Court of the United States.

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

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

In the following cases, I represented the United States at every stage of the litigation.

(1) U.S. v. Medina, Garza and Garcia, 1:96-CR-048 SS

The Honorable Judge Sam Sparks, U.S. District Court, Western District of Texas.

Date of Representation: March 5, 1996 – October 18, 1996

The three defendants in this case conspired to commit an armed robbery of a delivery truck. Defendants Garza and Medina performed the robbery, hijacking the truck and releasing the driver in a remote location before driving the truck to a location where they were arrested unloading the contents. Garza and Medina were indicted for interference with commerce by threat or violence and interference with commerce by robbery. Garcia and Garza entered guilty pleas and received sentences of 36 and 135

months imprisonment, respectively. Medina went to trial and was convicted on both counts. He received 188 months imprisonment on both counts, served concurrently. I was lead counsel in this case.

Opposing Counsel:

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(2) U.S. v. Lucien and Campbell, 1:91-CR-057 SS

The Honorable Sam Sparks, U.S. District Court, Western District of Texas

Date of Representation: May 9, 1991 – February 24, 1995

This case involved high-level distributors of cocaine base in the Austin area. Defendants were indicted for conspiracy to possess cocaine base with intent to distribute, and possession with intent to distribute cocaine base, as well as possession of a firearm in connection with a drug trafficking crime. Following separate jury trials, Lucien and Campbell were convicted of drug and firearms offenses and sentenced to 108 and 60 months and 78 and 60 months respectively, the sentences to run consecutively. I was lead counsel in this case.

Opposing Counsel:

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(3) U.S. v. Foy, 1:91-CR172 SS

The Honorable Sam Sparks, U.S. District Court for the Western District of Texas

Date of Representation: December 18, 1991 – September 18, 1992

This case involved a high-level distributor of cocaine base. The defendant was convicted following a jury trial of conspiracy to possess with intent to distribute cocaine base, possession with intent to distribute cocaine base, possession of marijuana, and using and/or carrying a firearm during and in relation to his drug distribution activity. He was subsequently sentenced to 97 months on each of the cocaine-related counts, 12 months on the marijuana-related count, to be served concurrently, and 60 months on the gun count, to be served consecutively to the drug-related counts. I was lead counsel in this case.

Opposing Counsel:

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(4) U.S. v. J. Buchanan, Bonner, Anderson and D. Buchanan, 1:93-CR-060 SS

The Honorable Sam Sparks, U.S. District Court, Western District of Texas

Date of Representation: April 6, 1993 – November 10, 1993

This case involved a high-level cocaine distribution conspiracy in which firearms, including machine guns, were used to in furtherance of the conspiracy. The four defendants were indicted on charges including possession with intent to distribute cocaine base, conspiracy to possess cocaine base, use of a firearm during and in relation to drug trafficking, illegal possession of a machine gun, and felon in possession of a firearm. Following a jury trial, defendants were convicted of multiple offenses and sentenced to significant prison terms. Defendant J. Buchanan was sentenced to 360 months on the drug counts and 60 months on the firearm count, to be served consecutively. Defendant Bonner was sentenced to 210 months on the drug counts and 60 months on the firearm count, to be served consecutively. Defendant Anderson was sentenced to 294 months on the drug counts and 60 months on the firearm count, to be served consecutively. Defendant D. Buchanan was sentenced to 293 months on the drug counts. I was co-counsel in this case.

Opposing Counsel:

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(5) U.S. v. Menn, 1:93-CR-168 SS

The Honorable Sam Sparks, U.S. District Court for the Western District of Texas

Date of Representation: November 16, 1993

This case involved the embezzlement of funds from a savings association, for which the defendant was indicted for wire fraud, conspiracy to misapply savings association funds, and misapplication of savings association funds. The defendant was convicted following jury trial and sentenced to 60 months imprisonment. I was lead counsel in this case.

Opposing Counsel:

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(6) U.S. v. Fitzgerald, 1:94-CR-190 SS

The Honorable Sam Sparks, U.S. District Court for the Western District of Texas

Date of Representation: December 6, 1994 – June 18, 1995

This case involved a previously convicted drug dealer who was found in possession of a significant amount of cocaine base. He was indicted on a single count of possession with intent to distribute cocaine base and convicted following a jury trial. He was subsequently sentenced to 210 months of imprisonment. I was lead counsel in this case.

Opposing Counsel:

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(7) U.S. v. Monroe et al., 1:92-CR-119- JRN

The Honorable James R. Nowlin, U.S. District Court for the Western District of Texas

Date of Representation: July 23, 1992 – April 30, 1993

This case involved the interdiction of a significant quantity of cocaine and cocaine bases in transit to Austin from Houston. The defendants were indicted for possession of conspiracy to possess with intent to distribute cocaine and cocaine base, and convicted following a jury trial. Defendant S. Monroe was sentenced to 135 months imprisonment, and Defendant K. Monroe, a convicted felon, was sentenced to 151 months imprisonment. I was co-counsel in this case.

Opposing Counsel:

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(8) U.S. v Dudov , 1:94-CR-14-JRN

The Honorable James R. Nowlin, U.S. District Court, Western District of Texas

Date of Representation: February 15, 1994 – March 3, 1995

This case involved the procurement of fraudulent immigration documents by an individual who was indicted for bribery of a public official or witness, uttering or using false visas, permits or other entry documents, and unlawful procurement of citizenship or naturalization. Following investigation and extensive pretrial negotiation, the defendant agreed to cooperate and enter a guilty plea to the first two

charges for which he was sentenced to 120 and 60 months, respectively. I was sole counsel in this case.

Opposing Counsel:

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(9) U.S. v. Ba. Yett and Bu. Yett, 1:CR-95-33-JRN

The Honorable James R. Nowlin, U.S. District Court, Western District of Texas

Date of Representation: March 7, 1995 – November 16, 1995

This case involved brothers, one of whom was a previously convicted felon, who were involved in a conspiracy to distribute a significant quantity of cocaine base. Ba. Yett was indicted for a variety of drug and firearms charges. Ba. Yett entered a guilty plea to possession with intent to distribute cocaine base and a firearms charge, and was sentenced to 360 months and 120 months imprisonment, respectively. Bu. Yett entered a guilty plea to misprision of a felony and was sentenced to 24 months imprisonment. I was sole counsel in this case.

Opposing Counsel:

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(10) U.S. v. Whittington, 1:96-CR-141-JRN

The Honorable James R. Nowlin, U.S. District Court, Western District of Texas

Date of Representation: August 18, 1996 – March 20, 1997

Mr. Whittington, the former program director of Austin Recovery Center, Austin's largest treatment center for drug and alcohol abuse, pleaded guilty to conspiracy to commit money laundering after an audit revealed that he had misappropriated taxpayer funds intended to help recovering addicts. Whittington and a co-conspirator financed a lavish lifestyle with the proceeds of their embezzlement, and the case led to a statewide re-evaluation of agencies funded through the Texas Commission on Drug and Alcohol Abuse. Whittington was sentenced to a term of imprisonment of five years. I was sole counsel in this case.

Opposing Counsel:

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18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

The most rewarding experience of my legal career was my service as Interim U.S. Attorney during and following the events of September 11, 2001. As Interim U.S. Attorney for a district in which several significant events occurred and unique challenges existed, I was responsible for coordinating the response to emerging events and the planning for contingencies. With my staff, I organized the first Anti-Terrorism Task Forces (now Joint Terrorism Task Forces) and worked to improve cooperation and coordination among federal and state law enforcement agencies within the eight divisions of the district.

Also significant in my legal career was my service on detail to the Office of Legal Counsel (now General Counsel) of the Executive Office for U.S. Attorneys. At that time, the office was charged with providing advice and support to U.S. Attorney's Offices on both personnel and professional responsibility issues, the latter now handled by PRAO. I found especially rewarding the projects involving "putting out fires" in districts that were experiencing particularly urgent and difficult problems.

Finally, I have been privileged to be associated with the University of Texas School of Law and the College of Liberal Arts as an adjunct professor, frequent mock trial and moot court judge, and occasional guest lecturer and panelist at seminars and workshops.

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.

University of Texas School of Law, "Intermediate Civil Trial Skills" (2006 – 2011). Skills course concentrating on pretrial litigation skills and practice. Syllabus attached.

University of Texas, Plan II Honors Program, "Punishment in a Liberal Society" (2002 – 2011). Undergraduate honors seminar exploring the justification for and modes of criminal punishment in a society committed to individual liberty. Syllabus attached.

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

I have no such anticipated receipts.

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

I have no plans, commitments, or agreements to pursue outside employment if confirmed.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached financial disclosure report.

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

See attached net worth statement.

24. **Potential Conflicts of Interest:**

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

I would be recused from any case I supervised as U.S. Attorney for the Western District of Texas. If any matter were to arise that involved an actual or potential conflict of interest, I would handle it by careful and diligent application of the Code of Conduct for United States Judges as well as other relevant canons and statutory provisions.

- 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 any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such 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.

Throughout my legal career as a prosecutor and judge I have been prohibited by law or significantly limited in my ability to engage in the practice of law outside government service. However, I have taken advantage of other opportunities to discharge my pro bono obligations, such as mentoring students, and serving on non-profit boards and committees. In particular I have devoted substantial time and effort to mentor and advise students at the University of Texas, both in the Plan II program (an undergraduate honors program) and in the School of Law. I serve as a Community Fellow at the law school, which involves a commitment to attend a variety of formal and informal mentoring events. I have served on the Boards of United Cerebral Palsy, Heritage Society, the Production Team of the Hill Country Ride for AIDS, and the Inclusiveness Taskforce of the United Way. As a judge, I participated in an annual program of the Austin Independent School District to highlight the dangers of drinking and driving, culminating in a mock trial in my court that was filmed and shown to high school students.

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.

In August 2013, I submitted an application to the Federal Judicial Evaluation Committee formed by Senators Cornyn and Cruz. On November 22, 2013, I was interviewed by the Committee in Houston, Texas. On February 27, 2014, I met with Senators Cornyn and Cruz and their counsel in Washington, D.C. Since February 25, 2014, I have been in contact with officials from the Office of Legal Policy of the Department of Justice. On March 25, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 26, 2014, 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.

AFFIDAVIT

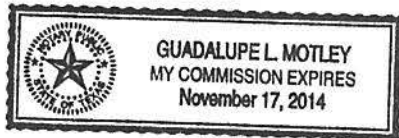
I, ROBERT LEE PITMAN, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

JUNE 26, 2014

(DATE)

Robert Lee Pitman

(NAME)



Guadalupe L. Motley

(NOTARY)