

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Rod Jay Rosenstein

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

Deputy Attorney General, United States Department of Justice

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

Office of the United States Attorney
36 South Charles Street
Baltimore, Maryland 21201

Residence: Bethesda, Maryland

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

January 13, 1965
Philadelphia, Pennsylvania

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.

Harvard Law School, 1986 – 1989
J.D., cum laude, 1989

University of Pennsylvania (Wharton School), 1982 – 1986
B.S. in Economics, summa cum laude, 1986

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.

COMPENSATED EMPLOYMENT

2005 – present

United States Attorney for the District of Maryland
36 South Charles Street
Fourth Floor
Baltimore, MD 21201

2001 – 2005

Principal Deputy Assistant Attorney General
Tax Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

1997 – 2001

Assistant United States Attorney
Office of the United States Attorney
United States Courthouse
6500 Cherrywood Lane
Greenbelt, MD 20770

1995 – 1997

Associate Independent Counsel
Office of the Independent Counsel
Washington, DC
(Office closed in 2004)

1994 – 1995

Special Assistant to the Assistant Attorney General
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

1993 – 1994

Counsel to the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

1990 – 1993

Trial Attorney (Attorney General's Honors Program)
Public Integrity Section
Criminal Division
United States Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530

1989 – 1990

Law Clerk

United States Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue, NW
Washington, DC 20001

Summer, 1988

Summer Associate

Schnader, Harrison, Segal & Lewis
1600 Market Street
Philadelphia, PA 19103

Summer, 1987

Summer Associate

Mudge Rose Guthrie, Alexander & Ferdon
New York, NY
(Law firm dissolved in 1997)

Summer, 1986

Employee

R/S/ Financial Corporation
Philadelphia, PA
(No longer in business)

UNCOMPENSATED EMPLOYMENT

2007 – 2011

Adjunct Professor

University of Baltimore School of Law
1420 N. Charles Street
Baltimore, MD 21201

2006 – 2011

Adjunct Professor

University of Maryland School of Law
500 West Baltimore Street
Baltimore, MD 21201

1988 – 1989

Resident Assistant

Harvard Law School
1557 Massachusetts Avenue
Cambridge, MA 02138

(Received free housing)

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 have registered for selective service.

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

University of Pennsylvania

1982 Benjamin Franklin Scholars Honors Program Scholarship
1986 Phi Beta Kappa
1986 Beta Gamma Sigma
1986 Pi Gamma Mu
1986 Royal Society of Arts Silver Medal

Harvard Law School

1997 Wasserstein Public Interest Fellow
2006 Traphagen Distinguished Alumni Speaker
2006 Federalist Society Distinguished Alumni Award

U.S. Department of Justice

1989 Attorney General's Honors Program
1993 Commendation Award, Criminal Division
1994 Outstanding Contribution to Justice, Office of the Deputy Attorney General
1997 Appreciation Award, Criminal Division, Public Integrity Section
2005 Appreciation Award, Tax Division
2008 Appreciation Award, Attorney General's Advisory Committee

Office of the Independent Counsel

1996 Special Achievement Award, Office of the Independent Counsel
1997 Appreciation Award, Office of the Independent Counsel

Other Government Agencies

1997 Appreciation Award, Immigration and Naturalization Service
1998 Certificate of Appreciation, Prince George's County Police Department
1999 Certificate of Appreciation, Bureau of Alcohol, Tobacco and Firearms
2001 Certificate of Appreciation, U.S. Secret Service
2001 Appreciation Award, Federal Bureau of Investigation
2001 Appreciation Award, U.S. Department of Agriculture, Inspector General
2001 Appreciation Award, IRS, Criminal Investigation, Baltimore Field Office
2001 Appreciation Award, IRS, Criminal Investigation, Indianapolis Field Office

- 2001 Appreciation Award, Treasury Inspector General for Tax Administration
- 2001 Appreciation Award, U.S. Dept. of Health & Human Services, Inspector General
- 2001 Appreciation Award, Internal Revenue Service
- 2001 Appreciation Award, Postal Inspection Service
- 2005 Chief's Award, IRS Criminal Investigation Division
- 2005 Appreciation Award, Treasury Inspector General for Tax Administration
- 2007 Certificate of Appreciation, U.S. Dept. of Homeland Security, Inspector General.
- 2009 Chief's Award, Baltimore County Police Department
- 2010 Certificate of Appreciation, Office of National Drug Control Policy
- 2010 Appreciation Award, Washington/Baltimore High Intensity Drug Trafficking Area
- 2012 Certificate of Appreciation, Council of the Inspectors General on Integrity & Efficiency

Other

- 2001 Recording Industry Association of America Honorary Award
- 2006 High School Hall of Fame, Lower Moreland High School
- 2006 Special Recognition Award, Federal Law Enforcement Officers Association
- 2007 Maryland Leadership in Law Award, Maryland Daily Record
- 2007 Appreciation Award, Certified Fraud Examiners, Maryland Chapter
- 2007 Certificate of Appreciation, Mid-Atlantic Regional Gang Investigators Network
- 2008 Certificate of Appreciation, Mid-Atlantic Regional Gang Investigators Network
- 2008 President's Award, Maryland State's Attorneys' Association
- 2009 Fraud Fighter of the Year, Ass'n of Certified Fraud Examiners, Maryland Chapter
- 2009 Certificate of Appreciation, National Center for Missing & Exploited Children
- 2011 Fallen Heroes Day Appreciation Award
- 2012 Peter A. DiRito Award, Federal Bar Association, Maryland Chapter
- 2012 Certificate of Appreciation, Maryland Law Enforcement Officers, Inc.
- 2012 Certificate of Appreciation, Maryland State Bar Association
- 2013 Certificate of Appreciation, Maryland Police & Correctional Training Comm's
- 2013 President's Award, Maryland State's Attorneys' Association
- 2013 Certificate of Appreciation, National Black Prosecutors Association

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

American Bar Association

Member (1990 – present)

American Bar Foundation

Member (2010 – present)

Federal Bar Association (Maryland Chapter)

Member (2002 – present), Board Member (2005 – 2012)

Maryland State Bar Association
Member (2003 – present)

U.S. Department of Justice

Various Committees and Working Groups (2005 – present)
Attorney General’s Advisory Committee (2007 (est.) – 2009)
Violent & Organized Crime Subcommittee (2006 – present)
 Vice Chair (2008 – 2012 (est.))
Cybercrime & Intellectual Property Subcommittee (2011 (est.) – present)
 Vice Chair (2014 (est.) – present)
White Collar Crime Subcommittee
Sentencing Working Group (2009 (est.) – 2011)
Criminal Practice Subcommittee (2010 – present)
Health Care Fraud Working Group (2010 – present)
Marijuana Enforcement Working Group (2013 – present)
Anti-Gang Coordination Committee (2007 – 2011 (est.))

Washington/Baltimore High Intensity Drug Trafficking Area Executive Board
Board Member, Ex Officio (2005 – present), Chair (2010)

Baltimore City Criminal Justice Coordinating Council
Board Member, Ex Officio (2005 – present)

10. Bar and Court Admission:

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

D.C. Court of Appeals, Admitted March 4, 1992, Active
Maryland Court of Appeals, Admitted June 24, 2002, Active
Pennsylvania Supreme Court, Admitted December 8, 1989, Temporary Inactive

I am on voluntary inactive status in Pennsylvania.

- 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.**

State Courts

D.C. Court of Appeals, Admitted March 4, 1992, Active
Maryland Court of Appeals, Admitted June 24, 2002, Active
Pennsylvania Supreme Court, Admitted December 8, 1989, Temporary Inactive

I am on voluntary inactive status in Pennsylvania.

Federal District Courts

District of Columbia, Admitted June 5, 1995, Active
Maryland, Admitted August 21, 2000, Active

Federal Circuit Courts

District of Columbia, Admitted September 12, 1990, Active
U.S. Court of Appeals for the First Circuit, Admitted December 7, 2004, Active
U.S. Court of Appeals for the Second Circuit, Admitted April 21, 2004, Inactive
(since December 20, 2013)
U.S. Court of Appeals for the Fourth Circuit, Admitted June 15, 1998, Active
U.S. Court of Appeals for the Fifth Circuit, Admitted November 1, 1991, Active
U.S. Court of Appeals for the Seventh Circuit, Admitted December 28, 2004,
Active
U.S. Court of Appeals for the Eighth Circuit, Admitted April 1, 2003, Active
U.S. Court of Appeals for the Ninth Circuit, Admitted December 7, 1992, Active
U.S. Court of Appeals for the Tenth Circuit, Admitted December 21, 2004, Active
U.S. Court of Appeals for the Eleventh Circuit, Admitted December 14, 2004,
Inactive (since June 25, 2011)

My memberships in two federal appellate court bars lapsed because I did not renew them.

Other Courts

U.S. Supreme Court, Admitted May 28, 2002, Active
U.S. Tax Court, Admitted January 23, 2003, Active

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.**

Edward Bennett Williams Inn of Court (2002 – present)

Lawyers' Round Table of Baltimore (2007 – present)

Serjeants Inn Law Club of Baltimore (2011 – present)

University of Pennsylvania Alumni Secondary School Committee (1998 (est.) – present)

Historical Society of the D.C. Circuit (2003 – 2012 (est.))

Wharton Club of D.C. (1999 (est.) – 2010 (est.))

Maryland State's Attorneys' Association (2005 – 2012)
Board Member, Ex Officio

Temple Sinai (2008 – 2014)

U.S. Holocaust Memorial Museum (2001 (est.) – 2011)

Harvard Law School Public Interest Reunion Advisory Committee (2007 – 2008)

Federalist Society for Law & Public Policy (1989 – 1992 (est.))

Harvard Law School Association of Maryland (2002 (est.) – 2007 (est.))

Concord-St. Andrews Cooperative Nursery School (2002 – 2007)

Jewish Community Center Sports League (1993 (est.) – 2012 (est.))

Seven Locks Swim Club (2005 – 2007)

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate 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 discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.**

With assistance, I have sought to locate all responsive items. Despite our efforts, there may be other materials that we have been unable to identify. Copies of responsive items are included in Appendix 12a.

- 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.

With assistance, I have sought to locate all responsive items. Despite our efforts, there may be other materials that we have been unable to identify. Copies of responsive items are included in Appendix 12b.

- 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 given any testimony or official statements. My office routinely issues press releases about newsworthy matters. With assistance, I have sought to locate all such items. Despite our efforts, there may be other materials that we have been unable to identify. Copies of responsive items are included in Appendix 12c.

- 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.**

I often speak about the work of my office, law enforcement issues and public service. Most of my remarks are extemporaneous, sometimes with brief notes. With assistance, I have sought to identify all responsive speeches and talks, and locate all responsive texts, outlines and notes. Despite our efforts, there may be other materials that we have been unable to identify. Copies of responsive items are included in Appendix 12d.

- 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 frequently give interviews about federal cases and law enforcement matters to newspapers, magazines and other publications, and radio and television stations. I sometimes schedule formal press conference, occasionally appear in documentary stories, and frequently agree to brief news interviews. With assistance, I have sought to identify all responsive interviews and locate all responsive clips or transcripts. Despite our efforts, there may be other materials that we have been unable to identify. Copies of responsive items are included in Appendix 12e.

13. 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.**

On November 5, 1985, I was elected to the office of Judge of Elections for Lower Moreland Township, Sixth District; Montgomery County, Pennsylvania. My term of service was 1986 – 1989.

On November 15, 2007, I was nominated to the office of United States Circuit Judge for the Fourth Circuit. The U.S. Senate did not consider my nomination.

I have been appointed to the following public offices:

1989 – 1990: Judicial Law Clerk; U.S. Court of Appeals for the District of Columbia Circuit; Douglas H. Ginsburg, Circuit Judge.

1990 – 1993: Trial Attorney (Attorney General's Honors Program); Public Integrity Section, Criminal Division, U.S. Department of Justice; Richard L. Thornburgh, Attorney General; Robert S. Mueller III, Assistant Attorney General.

1993 – 1994: Counsel to the Deputy Attorney General of the United States; Philip B. Heymann, Deputy Attorney General.

1994 – 1995: Special Assistant to the Assistant Attorney General, Criminal Division U.S. Department of Justice; Jo Ann Harris, Assistant Attorney General.

1995 – 1997: Associate Independent Counsel; Office of the Independent Counsel; Kenneth W. Starr, Independent Counsel.

1997 – 2001: Assistant U.S. Attorney; District of Maryland; Lynne A. Battaglia, United States Attorney.

2001 – 2005: Principal Deputy Assistant Attorney General; Tax Division, U.S. Department of Justice; John Ashcroft, Attorney General; Eileen J. O'Connor, Assistant Attorney General.

2005 – present: United States Attorney for the District of Maryland; President George W. Bush, with the advice and consent of the U.S. Senate.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have**

ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not been a member nor held office in or rendered services to any political party or election committee. I was a candidate to serve as a local election judge in 1985, as explained in response to Question 13(a).

14. Legal Career: Answer each part separately.

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

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

I served as a clerk to the Honorable Douglas H. Ginsburg, United States Court of Appeals for the District of Columbia Circuit, 1989 – 1990.

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

I have not practiced alone.

ii. 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.

Office of the United States Attorney for the District of Maryland
36 South Charles Street, Fourth Floor
Baltimore, MD 21201
United States Attorney, 2005 – present

United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Principal Deputy Assistant Attorney General (Tax), 2001 – 2005

Office of the United States Attorney for the District of Maryland
36 South Charles Street, Fourth Floor
Baltimore, MD 21201
Assistant U.S. Attorney, 1997 – 2001

Office of the Independent Counsel
Associate Independent Counsel, 1995 – 1997
(Office no longer exists)

United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Special Assistant to Assistant Attorney General (Criminal), 1994 – 1995

United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Counsel to Deputy Attorney General, 1993 – 1994

United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Trial Attorney, Criminal Division, Public Integrity Section, 1990 – 1993

United States Court of Appeals for the District of Columbia Circuit
333 Constitution Avenue, NW
Washington, DC 20001
Law Clerk to Judge Douglas H. Ginsburg, 1989 – 1990

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

I have not served as a mediator or arbitrator.

b. Describe:

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

From 1989 to 1990, I served as a judicial law clerk, conducting legal research and writing and preparing draft opinions.

From 1990 to 1993, as a Trial Attorney with the Public Integrity Section of the Justice Department's Criminal Division, I conducted grand jury investigations and prosecutions of public corruption cases, and I briefed and argued appeals. I appeared in court regularly.

From 1993 to 1995, as Counsel to the Deputy Attorney General and Special Assistant to the Assistant Attorney General, I worked on law enforcement policy issues.

From 1995 to 1997, as an Associate Independent Counsel, I conducted grand jury investigations and prosecutions of fraud and corruption cases, and I wrote appellate briefs. I appeared in court occasionally.

From 1997 to 2001, as a Maryland Assistant United States Attorney, I conducted grand jury investigations and handled criminal prosecutions and appeals in a wide range of criminal matters. I appeared in court frequently.

From 2001 to 2005, as Principal Deputy Assistant Attorney General for the Tax Division of the Department of Justice, I supervised the Tax Division's criminal enforcement and appellate sections, oversaw the federal criminal tax prosecution program, and served as the acting head of the Tax Division when the Assistant Attorney General was unavailable. I also personally handled appellate civil litigation. I appeared in court occasionally.

As United States Attorney, a position I have held since 2005, I oversee federal criminal and civil litigation and develop and implement federal law enforcement strategies in Maryland. I supervise an office of approximately 85 Assistant U.S. Attorneys and 75 other employees. My work involves extensive consultation with federal investigative agencies and with state and local law enforcement officials. I also personally handle some trial and appellate litigation. I appear in court occasionally.

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

I have represented the United States and its agencies, officers or employees throughout my legal career. I have specialized in criminal prosecution, trial litigation and appellate litigation for my entire career. During my clerkship, and since 2001, I also have worked on and supervised civil trial and appellate litigation. I specialized in tax enforcement from 2001 to 2005.

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.

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: | 0% |

ii. Indicate the percentage of your practice in:

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

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

I have tried 22 criminal cases and one civil case to verdict or judgment in federal district courts. In ten cases I was lead counsel. In 13 cases I was co-counsel. I have argued 20 appeals in federal appellate courts.

- i. What percentage of these trials were:

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

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

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

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

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

1. United States v. Cartwright
Case No. 16-CR-0188 (D.D.C. 2017)
U.S. District Court for the District of Columbia
Richard J. Leon
2012 – 2017

On June 8, 2012, Attorney General Eric H. Holder assigned me to conduct an investigation of alleged leaks of classified information. The defendant pleaded guilty on October 17, 2016, to the crime of falsely denying to federal authorities that he had disclosed classified information. On January 17, 2017, prior to

sentencing, President Barack Obama pardoned the defendant. I represented the United States as co-counsel.

Co-Counsel:
Leo J. Wise
Assistant U.S. Attorney
District of Maryland
36 S. Charles Street, Fourth Floor
Baltimore, MD 21201
(410) 209-4800

Principal Counsel for Opposing Party:
Gregory B. Craig
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
(202) 661-9100

2. United States v. Graham & Jordan
796 F.3d 332 (4th Cir. 2015)
U.S. Court of Appeals for the Fourth Circuit
Diana G. Motz, Stephanie. D. Thacker, Andre M. Davis
824 F.3d 421 (4th Cir. May 31, 2016) (en banc)
U.S. Court of Appeals for the Fourth Circuit
En banc (15 judges)
2014 – 2016

The defendants were convicted in the district court of multiple charges related to a series of six armed robberies of business establishments in Baltimore City and Baltimore County, Maryland. The appeal, inter alia, raised the question whether the Fourth Amendment requires the government to obtain a warrant supported by probable cause before obtaining records from cell phone providers showing historical cell-site location information. The government obtained the records pursuant to a federal court order issued under the Stored Communications Act, after presenting specific and articulable facts showing that there were reasonable grounds to believe that the records were relevant and material to an ongoing criminal investigation. A panel of the Fourth Circuit ruled that a search warrant is required, with a showing of probable cause. Sitting en banc, the entire Fourth Circuit ruled that no search warrant is required. I argued the case before the panel in 2014 and before the en banc court in 2016, on behalf of the United States.

Co-Counsel:
Sujit M. Raman
Associate Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.

Washington, DC 20530
(202) 514-2101

Principal Counsel for Opposing Parties:
Meghan S. Skelton (Graham)
Assistant Federal Public Defender
100 South Charles Street #900
Baltimore, MD 21201
(410) 962-3962

Ruth J. Vernet (Jordan)
31 Wood Lane
Rockville, MD 20852
(301) 251-9500

3. United States v. Jason Scott
Case No. 10-CR-0031-PJM (D. Maryland)
U.S. District Court for the District of Maryland
Peter J. Messitte
Case No. 12-4130, 531 Fed. Appx. 283 (4th Cir. Jun. 26, 2013)
U.S. Court of Appeals for the Fourth Circuit
Barbara M. Keenan, Henry F. Floyd, Henry E. Hudson
2010 – 2013

The defendant was convicted at trial of 11 counts relating to a series of crimes committed during more than 50 burglaries and nine armed home invasions, including carjacking, production of child pornography, theft of firearms and related gun charges. The federal judge imposed a sentence of 100 years. The defendant subsequently pleaded guilty in state court to two murders. I represented the United States as co-counsel at trial and as lead counsel on appeal.

Co-Counsel:
Stacy Dawson Belf (Trial)
State Street Corporation
SFC10
Boston, MA 02111
(617) 664-3855

Jonathan Biran (Appeal)
Biran Kelly
201 North Charles Street
Suite 2600
Baltimore, MD 21201
(410) 625-2500

Principal Counsel for Opposing Party:

Kobie Flowers (Trial)
Brown Goldstein Levy
1750 K Street, N.W.
Suite 200
Washington, DC 20006
(202) 742-5969

Marc Gregory Hall (Appeal)
20 Courthouse Square, Suite 214
Rockville, MD 20850
(301) 309-6678

4. United States v. Moye
454 F.3d 390 (4th Cir. 2006) (en banc)
U.S. Court of Appeals for the Fourth Circuit
William W. Wilkins, Hiram Emory Widener Jr., J. Harvie Wilkinson III, Paul V. Niemeyer, John Michael Luttig, Karen J. Williams, M. Blane Michael, Diana Gribbon Motz, William B. Traxler Jr., Robert B. King, Roger L. Gregory, Dennis W. Shedd, Allyson K. Duncan, Clyde H. Hamilton
2005 - 2006

The defendant was convicted at trial of the crimes of felon in possession of a firearm, 18 U.S.C. § 922(g), and possession of a stolen firearm, 18 U.S.C. § 922(c), after he was caught stealing weapons from a gun store. A Fourth Circuit panel majority reversed the convictions, concluding that there was insufficient evidence of guilt, that the government improperly suggested in closing argument that the jury could infer consciousness of guilt of a federal crime from the defendant's flight, and that the court gave an erroneous aiding-and-abetting instruction. Sitting en banc, the Fourth Circuit upheld the convictions. The court ruled unanimously that there was sufficient evidence and that there was no error in the government's closing arguing, and all but one judge ruled that the aiding and abetting instruction did not warrant reversal. I argued the en banc appeal on behalf of the United States.

Co-Counsel:
The Honorable George L. Russell, III
U.S. District Judge
District of Maryland
101 West Lombard Street
Baltimore, MD 21201
(410) 962-4055

Principal Counsel for Opposing Party:
William Scott Little
Stark & Little
723 South Charles Street

Baltimore, MD 21230
(410) 539-3545

5. Siddiqui v. United States
359 F.3d 1200 (9th Cir. 2004)
U.S. Court of Appeals for the Ninth Circuit
Arthur L. Alarcon, Robert R. Beezer, William A. Fletcher
2003 – 2004

An IRS agent violated 26 U.S.C. § 6103 by improperly disclosing information about a criminal tax investigation at a party attended by 100 people in Arizona, but the six plaintiffs suffered no actual harm. The district court ruled that each plaintiff was entitled to \$1,000 statutory damages under 26 U.S.C. § 7431 and that the statute did not authorize plaintiffs to recover punitive damages in the absence of actual damages. This appeal raised the questions whether (1) each plaintiff could recover \$1,000 for each person who heard the disclosure, and (2) plaintiffs could recover punitive damages in the absence of actual damages. The Ninth Circuit ruled that where an IRS agent makes an unauthorized disclosure of tax information but the plaintiff suffered no actual damages, the United States is liable for only \$1,000 for each act of disclosure and is not liable for punitive damages under 26 U.S.C. § 7431. I wrote the brief and argued the appeal on behalf of the United States.

Co-Counsel:
Jonathan S. Cohen
Tax Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2970

Principal Counsel for Opposing Parties:
A. Jerry Busby
deceased

6. United States v. Luskin
87-CR-478 (D. Maryland)
U.S. District Court for the District of Maryland
J. Frederick Motz
2001 WL 935350, Case No. 00-4846 (4th Cir. Aug. 17, 2001)
U.S. Court of Appeals for the Fourth Circuit
Karen J. Williams, Robert B. King, Roger L. Gregory
1999 – 2001

Paul Luskin was convicted in 1988 on eight felony counts after he hired hit men who made multiple attempts to murder his wife. In 2000, over the government's

objection, the district court granted a motion to reduce Luskin's sentence. The United States appealed, contending that the district court lacked jurisdiction to reduce the sentence and that the court erroneously granted the sentence reduction. The Fourth Circuit ruled for the United States, concluding that the district court erroneously reduced the sentence. I litigated the issue as lead counsel in the district court, then wrote the brief and argued the appeal on behalf of the United States.

Co-Counsel:
Stephen M. Schenning
36 S. Charles Street, Fourth Floor
Baltimore, MD 21201
(410) 209-4856

Principal Counsel for Opposing Party:
Martin S. Himeles, Jr.
Zuckerman Spaeder LLP
100 East Pratt Street, Suite 2440
Baltimore, MD 21202
(410) 332-0457

7. United States v. Oyefusi, Arinzechi & Udegbe
99-CR-367-AW (D. Maryland)
U.S. District Court for the District of Maryland
Alexander Williams, Jr.
1999 – 2001

Ligali Oyefusi, Godwin Arinzechi and Hyacinth Udegbe were indicted in 1999 on charges of conspiracy to defraud the United States by filing false claims, in violation of 18 U.S.C. § 286. The charges related to the submission of forged and fraudulent income tax returns requesting refund checks from the Internal Revenue Service in the names of other persons. Udegbe pleaded guilty to conspiracy, as did another co-conspirator, Olufemi Oduwole. In 2000, Oyefusi and Arinzechi were found guilty after a jury trial. Oduwole was sentenced to a term of probation and ordered to pay restitution of \$112,000. Udegbe was sentenced to serve 6 months in prison and pay restitution of \$256,000. Oyefusi was sentenced to serve 42 months in prison and Arinzechi to serve 33 months in prison, based on an intended fraud loss of \$773,000. Each defendant's term was to be followed by 3 years of supervised release. The court also imposed restitution against Arinzechi and Oyefusi in the amount of \$256,000. The convictions were upheld on appeal. I represented the United States as lead counsel during the investigation and trial.

Co-Counsel:
Gina L. Simms
Baker Donelson
1401 H Street, N.W.

Washington, DC 20005
(202) 326-5030

Principal Counsel for Opposing Parties:
Daniel W. Stiller (Oyefusi)
DStiller LLC
Box 511130
Milwaukee, WI 53203

Honorable Timothy J. Sullivan (Arinzechi)
U.S. Magistrate Judge
6500 Cherrywood Lane
Greenbelt, MD 20770
(301) 344-3593

Timothy F. Maloney (Udegbe)
Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane, Suite 400
Greenbelt, MD 20770
(301) 220-2200

8. United States v. Kinter
98-CR-493-DKC (D. Maryland)
U.S. District Court for the District of Maryland
Deborah K. Chasanow
235 F.3d 192 (4th Cir. 2000)
U.S. Court of Appeals for the Fourth Circuit
Paul V. Niemeyer, William B. Traxler, Jr., Frederick P. Stamp, Jr.
1998 – 2000

Paul Kinter was charged by indictment with the crimes of conspiracy, in violation of 18 U.S.C. § 371; payment of a bribe, in violation of 18 U.S.C. § 201(b)(1); and payment of a gratuity, in violation 18 U.S.C. § 201(c)(1)(A). The indictment charged that Kinter participated in a scheme to bribe an Internal Revenue Service official in order to secure government contracts for computer maintenance services. Kinter pleaded guilty to all counts of the indictment. The district court determined that the profit exceeded \$5 million and sentenced Kinter to serve 46 months in prison. IRS employee Scott King also pleaded guilty for his role in receiving bribe payments. Kinter's sentence was upheld on appeal. I represented the United States as lead counsel during the investigation, prosecution and appeal.

Co-Counsel:
Jan Paul Miller
Thompson Coburn LLP
One U.S. Bank Plaza
St. Louis, MO 63101

(314) 552-6000

Principal Counsel for Opposing Party:

Barry J. Pollack
Miller & Chevalier
900 16th Street, NW
Washington, DC 20006
(202) 626-5800

9. United States v. Dia April Montague
98-CR-205-DKC (D. Maryland)
U.S. District Court for the District of Maryland
Deborah K. Chasanow
1999 WL 1256876, Case No. 98-4787 (4th Cir. Dec. 28, 1999)
U.S. Court of Appeals for the Fourth Circuit
William W. Wilkins, J. Michael Luttig, John D. Butzner, Jr.
1998 – 1999

Dia April Montague, the head teller of the Maryland State Employees Credit Union in Silver Spring, Maryland, was charged by indictment with committing armed robbery of the credit union, in violation of 18 U.S.C. § 2113(a) and (d), and using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c). The jury found Montague guilty on all counts. The district court sentenced her to a total term of imprisonment of 195 months. The convictions were upheld on appeal. Co-conspirators Marques Boyer and Robert English pleaded guilty. I represented the United States as co-counsel during the investigation and trial, and as sole counsel during the appeal.

Co-Counsel:

Maury S. Epner
Selzer Gurvitch
4416 East West Highway
Fourth Floor
Baltimore, MD 20814
(301) 634-3175

Principal Counsel for Opposing Party:

Randolph O. Gregory, Sr.
deceased

10. United States v. J. McDougal, S. McDougal & J. Tucker
LR-CR- 95-713 (E.D. Arkansas)
U.S. District Court for the E.D. Arkansas, George Howard, Jr.
U.S. v. McDougal, 133 F.3d 1110 (8th Cir. 1998)
U.S. Court of Appeals for the Eighth Circuit
George G. Fagg, Frank J. Magill, David R. Hansen (J.McDougal)

U.S. v. McDougal, 137 F.3d 547 (8th Cir. 1998)
U.S. v. Tucker, 137 F.3d 1016 (8th Cir. 1998)
U.S. v. Tucker, 243 F.3d 499 (8th Cir. 2001)
Theodore McMillian, John R. Gibson, C. Arlen Beam (S. McDougal & J. Tucker)
1995 – 2001

James B. McDougal, Susan H. McDougal and Jim Guy Tucker were charged with conspiracy and engaging in fraudulent transactions, including misapplying funds from and entering false statements in the books and records of Madison Guaranty Savings & Loan, a federally-insured financial institution, and Capital Management Services (CMS), a small business investment company. The defendants sought to generate fraudulent profits and engage in land flips in which the investors incurred no personal risk. The schemes involved the use of third-party nominees, false appraisals and fraudulent loan documents.

After a three-month jury trial, James B. McDougal was convicted of conspiracy to defraud the United States, 18 U.S.C. § 371; wire, bank, and mail fraud, 18 U.S.C. §§ 1343, 1344, 1341; aiding and abetting false statements to and entries in the books and records of federal credit institutions, 18 U.S.C. § 1006; aiding and abetting false statements in loan and credit applications to influence a federal loan institution, 18 U.S.C. § 1014; and aiding and abetting misapplication of small business investment company funds, 18 U.S.C. § 657. James B. McDougal was sentenced to serve 36 months in prison.

Susan McDougal was convicted on four counts relating to a \$300,000 Small Business Administration loan. She was convicted of mail fraud for submitting a false document, in violation of 18 U.S.C. § 1341; aiding and abetting in the misapplication of the funds from the loan, in violation of 18 U.S.C.A. § 657; aiding and abetting the making of a false entry about the purpose of the loan, in violation of 18 U.S.C. § 1006; and aiding and abetting in making a false statement, in violation of 18 U.S.C.A. § 1014. Susan McDougal was sentenced to serve 24 months in prison.

Jim Guy Tucker was convicted of conspiracy, 18 U.S.C. § 371, and mail fraud, 18 U.S.C. § 1341, in connection with a loan from Capital Management Services to Castle Sewer and Water Corp. Tucker was sentenced to serve 18 months of home detention.

I represented the United States as co-counsel during the investigation, trial and appeals. All convictions and sentences were affirmed on appeal.

Co-counsel:
W. Ray Jahn
916 Garraty Road
San Antonio, TX 78209
(210) 828-7535

The Honorable Amy J. St. Eve
Judge, United States District Court
Northern District of Illinois
Everett McKinley Dirksen Building
219 South Dearborn Street
Chicago, IL 60604
(312) 435-5686

Jackie M. Bennett, Jr.
Taft
One Indiana Square
Suite 3500
Indianapolis, IN 46204
(317) 713-3444

Principal Counsel for Opposing Parties:

George B. Collins (Jim Guy Tucker)
deceased

Sam Heuer (James B. McDougal)
deceased

Jenniffer Horan (Susan McDougal)
Federal Public Defender
1401 West Capitol Avenue, Suite 490
Little Rock, AR 72201
(501) 324-6113

- 16. 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.)**

From 1989 to 1990, as a law clerk for the Honorable Douglas H. Ginsburg, U.S. Court of Appeals for the District of Columbia Circuit, I reviewed briefs, attended oral arguments, conducted legal research, wrote memoranda and helped the judge to prepare judicial opinions.

From 1990 to 1993, as a Trial Attorney with the Public Integrity Section of the Justice Department's Criminal Division, I conducted numerous grand jury investigations and prosecutions as lead counsel or second chair, and I tried four felony cases as co-counsel.

I wrote four criminal appellate briefs in whole or in substantial part, and I argued one appeal. I participated in two corruption prosecutions that involved federal judges and several sensitive investigations.

From 1993 to 1994, while I was serving on detail as Counsel to Deputy Attorney General Philip B. Heymann, I assisted the Deputy Attorney General in developing a series of recommendations to improve the capacity of federal law enforcement to deal with hostage/barricade situations, in connection with the Justice Department's review of the confrontation with the Branch Davidians in Waco, Texas. I also helped to revise the Office of Professional Responsibility's policies for misconduct allegations.

From 1994 to 1995, I was a Special Assistant to Criminal Division Assistant Attorney General Jo Ann Harris. I assisted the Assistant Attorney General in reviewing proposed criminal prosecutions and evaluating ethics issues, including proposals to establish a nationwide Professional Responsibility Officer program.

From 1995 to 1997, I served as an Associate Independent Counsel for the Whitewater investigation. From 1995 to 1996, I was based in Little Rock, Arkansas, where I conducted grand jury investigations and was a member of the trial team that prosecuted Arkansas Governor Jim Guy Tucker, James McDougal and Susan McDougal. I also wrote all or part of briefs defending their convictions on appeal.

From 1996 to 1997, I was the lead prosecutor conducting the Independent Counsel's "FBI Files" investigation of allegations that the White House wrongly obtained background reports from the FBI, in Washington, D.C. That investigation was closed without any prosecutions.

From 1997 to 2001, I was an Assistant United States Attorney in Maryland. I conducted many grand jury investigations, prosecuted approximately 100 criminal defendants and tried 15 felony jury trials. I also wrote 15 appellate briefs in whole or in part, and I argued two appeals.

In Maryland, I handled a felony docket that included prosecutions of tax fraud, mail fraud, bankruptcy fraud, public corruption, counterfeiting, identity fraud, bank fraud, health care fraud, cyber-crime, intellectual property theft, perjury, drug dealing, child sex abuse, money laundering, racketeering, automobile theft, armed bank robbery, illegal firearms possession, kidnapping and murder.

My white collar criminal cases included a conspiracy to bribe an IRS contracting officer in connection with a multi-million-dollar contract for IRS computers and a scheme to defraud major computer companies of several million dollars. I also prosecuted many illegal firearms and violent crime cases. I handled two significant cases of interstate travel with the intent to engage in sex with a child under the FBI's "Innocent Images" program, which began in Maryland. One defendant was a Broadway musical director and the other was an Army major. I also investigated and prosecuted the first

international parental kidnapping case in Maryland, and I led an intensive murder investigation that later resulted in the convictions of two defendants.

In 1998, I was co-counsel in the prosecution of three defendants for the armed robbery of the Maryland State Employees Credit Union. The thieves stole more than \$400,000 in what was reportedly the largest bank robbery in Maryland history.

As an Assistant U.S. Attorney, I also supervised the law student intern program and served as the coordinator of the credit card fraud and international assistance programs.

From 2001 to 2005, I served as Principal Deputy Assistant Attorney General for the Tax Division of the Department of Justice. I was responsible for supervising the Tax Division's four criminal trial and appellate sections, which included more than 90 attorneys and 30 support staff, and for coordinating the tax enforcement activities of the Internal Revenue Service, the Tax Division and the United States Attorneys. In addition, I oversaw civil litigation and served as the acting head of the Tax Division when the Assistant Attorney General was unavailable.

In addition to my supervisory work in the Tax Division, I personally briefed and argued appeals in civil cases. I was the primary author of the Government's briefs in two civil appeals, and I argued four civil appeals.

As United States Attorney, I oversee federal criminal and civil litigation and develop and implement federal law enforcement strategies in Maryland. I supervise an office of approximately 85 Assistant U.S. Attorneys and 75 other employees. My work involves extensive consultation with the various federal investigative agencies and with state and local law enforcement officials.

In addition to my supervisory and policymaking responsibilities, while serving as U.S. Attorney I personally presented 13 appellate arguments in the U.S. Court of Appeals for the Fourth Circuit, and I tried one civil case and two criminal cases before juries in the U.S. District Court for the District of Maryland. I also conducted a lengthy criminal investigation that resulted in a guilty plea in the U.S. District Court for the District of Columbia.

I also have participated, in the Attorney General's Advisory Committee of U.S. Attorneys and as a member of subcommittees and working groups over the past 12 years.

- 17. 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.**

As an adjunct professor, I co-taught a seminar on federal criminal prosecution at the University of Maryland School of Law from 2006 until 2011. Syllabuses are included in Appendix 17.

As an adjunct professor, I taught a seminar on trial advocacy at the University of Baltimore School of Law from 2007 until 2010. Syllabuses are included in Appendix 17.

Since 2002, I have served as a faculty member or guest for one to three days most summers at Georgetown University's National Institute for Trial Advocacy "Intensive Session in Trial Advocacy Skills."

All of my teaching has been without compensation.

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

None.

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

No.

- 20. 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).**

The current OGE-278 will be delivered directly to the Committee by the Office of Government Ethics.

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

A copy of my Net Worth Statement is attached.

- 22. Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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 have consulted with the Department of Justice's Designated Agency Ethics Officials to identify any potential conflict and will follow their guidance if confronted with a potential conflict of interest.

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

I will seek advice from the Department of Justice's Designated Agency Ethics Officials and take any appropriate steps to resolve any potential conflict.

- 23. 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 work load, 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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.**

My entire legal career has been devoted to public service, and much of my work directly benefits disadvantaged persons. In addition to my official duties and public speaking, I have taught without compensation at area law schools, served as a judge at law school moot court and mock trial competitions, and counseled other lawyers who have devoted some or all of their careers to public service.