

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Leonard Sinatra, Jr.

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

United States District Judge for the Western District of New York

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.

Hodgson Russ, LLP  
140 Pearl Street  
Buffalo, New York 14202

Residence: Amherst, New York

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

1972; Buffalo, New York

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

1993 – 1996, State University of New York at Buffalo, School of Law; J.D. (*cum laude*), 1996

1991 – 1993, State University of New York at Buffalo; B.A. (*magna cum laude*), 1993

1990, Syracuse University; no degree

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.

2008 – present  
Hodgson Russ, LLP  
140 Pearl Street  
Buffalo, New York 14202  
Partner

2011 – 2012  
The Sinatra Restaurant Group, LLC (now dissolved)  
Former operating address: 2729 Delaware Avenue  
Kenmore, New York 14217  
Member of LLC

2007 – 2008  
United States Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230  
Senior Counsel

1998 – 2007  
Jones Day  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Associate

1996 – 1998  
New York Court of Appeals  
20 Eagle Street  
Albany, New York 12207  
Law Clerk

Summer 1995  
Delaware North Companies Incorporated  
250 Delaware Avenue  
Buffalo, New York 14202  
Summer Law Clerk

Summer 1994  
Lipsitz, Green, Scime, Cambria, LLP  
42 Delaware Avenue, Suite 120  
Buffalo, New York 14202  
Summer Law Clerk

1986 – 1996  
LJZ Enterprises, Inc., DBA Sinatra's Restaurant  
938 Kenmore Avenue  
Buffalo, New York 14216

Family business with various duties

Other Affiliations (Uncompensated):

2012 – present  
American Red Cross, Western New York Chapter  
786 Delaware Avenue  
Buffalo, New York 14209  
Member of Advisory Board

2012 – present  
St. Thomas More Guild, Inc.  
Post Office Box 35  
Buffalo, New York 14201  
Director

Estimated 2001 – 2006  
Cleveland Association of Phi Beta Kappa  
Cleveland, Ohio  
President (2004 – 2006)  
Trustee (estimated 2001 – 2006)

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 did not serve in the military. I registered for selective service upon turning 18.

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

Listed in *Best Lawyers in America* (Commercial Litigation) (2018)

Listed in *Upstate New York Super Lawyers* (2017)

Degree from SUNY – Buffalo School of Law conferred *cum laude* (1996)

Recipient of the Robert J. Connelly Trial Technique Award (1996)

Notes and Comments Editor, *Buffalo Law Review* (1995 – 1996)

Degree from SUNY – Buffalo conferred *magna cum laude* (1993)

Member, Phi Beta Kappa (1993)

Member, Phi Alpha Theta, National History Honorary Society (1993)

Recipient, New York Regents scholarship (1990)

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.

Cleveland (Ohio) Bar Association (1998 – 2007)

Erie County (New York) Bar Association (2008 – present)

New York State Bar Association (2008 – 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.

New York (1997)

Ohio (1998)

There have been no lapses in membership. From approximately 2008, my membership in the Ohio Bar has been in inactive status.

- 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.

Supreme Court of the United States (2006)

United States Court of Appeals for the Second Circuit (2008)

United States Court of Appeals for the Sixth Circuit (2000)

United States Court of Appeals for the Eighth Circuit (2017)

United States Court of Federal Claims (2011)

United States District Court for the Eastern District of New York (2008)

United States District Court for the Northern District of New York (2012)

United States District Court for the Northern District of Ohio (1999)

United States District Court for the Southern District of New York (2008)

United States District Court for the Western District of New York (2008)

New York Supreme Court, Appellate Division, Third Department (1997)

Supreme Court of Ohio (1998)

There have been no lapses in membership.

11. **Memberships:**

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

American Red Cross, Western New York Chapter (2012 – present)  
Member of Advisory Board

Cleveland Association of Phi Beta Kappa (estimated 2001 – 2006)  
President (2004 – 2006)  
Trustee (estimated 2001 – 2006)

The Federalist Society (1993 – present)  
Member

St. Thomas More Guild, Inc. (2012 – present)  
Director

- 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.

The St. Thomas More Guild is a faith-based organization of Catholic lawyers. To my knowledge, the Guild has not, in practice, required a particular religious affiliation for membership. To the best of my knowledge, none of the organizations listed above 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.

*Boeing Settles False Claims Act Lawsuit for \$18 Million*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (October 19, 2015). Copy supplied.

*IRS Whistleblowers Collect More Than \$230 Million Over Three Years*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (July 20, 2015). Copy supplied.

*Inside the Minds of Fellow GCs*, Hodgson Russ Website Posting, [www.hodgsonruss.com/general-counsel-insights-april-2015.html](http://www.hodgsonruss.com/general-counsel-insights-april-2015.html) (April 2015). Copy supplied.

*Adventist to Pay \$5 Million to Resolve False Claims Act Allegations*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (March 24, 2015). Copy supplied.

*Inside the Minds of Fellow GCs*, Hodgson Russ Website Posting, [www.hodgsonruss.com/general-counsel-insight.html](http://www.hodgsonruss.com/general-counsel-insight.html) (estimated 2014). Copy supplied.

*SEC Encourages Would-Be Whistleblowers to Comply With Internal Reporting Programs First*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (November 18, 2014). Copy supplied.

*46 States, DC Reach Settlement Agreement With Medtronic for False Claims Act Violations*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (September 25, 2014). Copy supplied.

*Research Grant Fraud*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (June 3, 2014). Copy supplied.

*Medical Devices Offer Fertile Ground for Future Whistleblower Activity*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (May 29, 2014). Copy supplied.

*IRS Paid \$53 Million to 122 Whistleblowers in 2013*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (April 7, 2014). Copy supplied.

*JPMorgan Chase to Pay Over \$600M in Whistleblower Case*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (March 11, 2014). Copy supplied.

John L. Sinatra, Jr. and Reetuparna Dutta, *A Double-Edged Sword Cuts Both Ways*, Contract Management Magazine (March 2014), at 19. Copy supplied.

*Second Circuit Vacates Trial Court's Dismissal in DHL False Claims Case*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (February 5, 2014). Copy supplied.

*FreshPoint to Pay \$4.2M to Settle FCA Lawsuit*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (November 21, 2013). Copy supplied.

*Hodgson Russ Helps Plaintiffs in Largest-Ever False Claims Act Settlement in Risperdal Lawsuits Against Johnson & Johnson*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (November 11, 2013). Copy supplied.

*\$17 Million False Claims Judgment Entered Against D.C. Doctor*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (August 1, 2013). Copy supplied.

*Hodgson Russ Client to Receive Portion of \$15 Million False Claims Act Settlement*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (May 28, 2013). Copy supplied.

*Billions of Dollars Lost to Fraud Every Year, Much of It Unreported*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (April 29, 2013). Copy supplied.

*Par Pharmaceutical Agrees to Pay \$45 Million to Resolve Liability*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (March 6, 2013). Copy supplied.

*American Sleep Medicine to Pay More Than \$15.3 Million to Resolve Allegations of Medicare Fraud*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (February 7, 2013). Copy supplied.

*Justice Department Announces Record Single-Year False Claims Act Recovery*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (December 5, 2012). Copy supplied.

*Sometimes the Government's Intervention Decision Can Take Several Years*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (October 24, 2012). Copy supplied.

*U.S. Pays \$104 Million Reward to Tax Whistleblower*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (September 12, 2012). Copy supplied.

*What's It Like to Be a Relator? And Key Attributes of a Good Relator*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (July 31, 2012). Copy supplied.

*St. Jude Medical Pays \$3.65 Million to Settle Overcharge Claims*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (June 1, 2012). Copy supplied.

*LifeWatch Services to Pay \$18.5 Million to Resolve False Claims Act Allegations*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (April 5, 2012). Copy supplied.

*Pharma Company Settles Whistleblower Suit Alleging Wrong Treatment of Drugs as Generic*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (February 17, 2012). Copy supplied.

*Inflated Charges to Medicare for Radiopharmaceutical Lead to \$30 Million False Claims Act Settlement*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (January 25, 2012). Copy supplied.

*Whistleblower Suit Alleges Inflated Medicare Reimbursement Charges*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (December 8, 2011). Copy supplied.

*Oracle Whistleblower to Receive \$40 Million in False Claims Act Suit*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (October 21, 2011). Copy supplied.

*MN Joint Venture Fined for False Claims of DBE Use*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (August 25, 2011). Copy supplied.

*Teleradiology Ghost Reading Could Present False Claims Act Issues*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (July 11, 2011). Copy supplied.

*Government Brings FCA Suit Against Deutsche Bank and Its Mortgage Subsidiary*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (May 12, 2011). Copy supplied.



*Senators Hatch and Baucus Request Fraud-Fighting Reports From Health and Human Services, Centers for Medicare & Medicaid Services*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (April 1, 2011). Copy supplied.

*New Government Numbers for False Claims Act Filings*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (February 8, 2011). Copy supplied.

*CareSource Whistleblower Settlement Shows Emphasis on Health Care Fraud Prevention*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (February 4, 2011). Copy supplied.

*Whistleblowers' Proceeds Taxable as Income*, Hodgson Russ Whistleblower Blog, <http://www.hodgsonruss.com/blogs-whistleblowerblog> (December 22, 2010). Copy supplied.

*Non-Involvement in Design of End Product Can Help Limit Exposure*, Hodgson Russ Alert, June 25, 2009. Copy supplied.

*Eight Steps Companies Can Take To Prevent Whistleblower Liability*, N.Y. L.J. (March 3, 2009), at 4. Copy supplied.

*Excessive Legal Fees in a Bad Economy*, Hodgson Russ Briefing Publication, (January 2009). Copy supplied.

*Congress Broadens False Claims Act; DOJ Reaches Sizeable Whistleblower Settlements*, Hodgson Russ (2009). Copy supplied.

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

None.

- 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.

None.

- 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.

April 1, 2017: Moot Court Judge, Buffalo Moot Court Board's 2017 Herbert Wechsler Competition, State University of New York at Buffalo School of Law. I have no notes, transcript, or recording from judging this moot court competition. The competition was held at: Erie County Courthouse, 25 Delaware Ave., Buffalo, New York 14202.

January 30, 2017: Panel Participant, False Claims and Qui Tam Enforcement CLE, American Conference Institute, New York, New York. During this seminar, I discussed what it was like to have False Claims Act cases for relators as well as for defendants, and I discussed relator's counsel intake considerations. I have no notes, transcript, or recording from this talk. The address for the American Conference Institute is: 45 West 25th Street, 11th Floor, New York, New York 10010.

July 29, 2009: Speaker, New York Medicaid Compliance Update, Hodgson Russ, LLP, Buffalo, New York. Copy of presentation supplied.

March 28, 2009: Moot Court Judge, State University of New York at Buffalo School of Law Moot Court Competition. I have no notes, transcript, or recording from judging this moot court competition. The competition was held at: John Lord O'Brian Hall, State University of New York at Buffalo School of Law, Amherst, New York 14260.

October 2 – 3, 2008: Presenter, The New Federal Rule of Evidence 502 and Other Privilege Issues, Trade Secrets and Non-Compete Agreements Seminar, United States Law Firm Group, Chicago, Illinois. Copy of presentation 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.

*Circuit Reinstates Whistleblower Suit Against DHL*, 251 N.Y. L.J 25 (February 6, 2014). Copy supplied.

*2nd Circuit Revives DHL Contractors' Whistleblower Claims*, Law 360 (February 5, 2014). Copy supplied.

*DHL Asks 2nd Circ. To Nix Fuel Surcharge Whistleblower Suit*, Law 360 (March 21, 2013). Copy supplied.

AM Buffalo, WKBW-TV, Buffalo, New York, Segment Regarding Family Catering Business (December 11, 2012). Copy supplied.

In 2005 or 2006, I participated in a brief radio interview that, to my recollection, related to the educational mission of the Cleveland Association of Phi Beta Kappa. I cannot recall the radio station. I have no copies of this interview.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? \_\_\_\_\_
- i. Of these, approximately what percent were:
- |                       |                     |
|-----------------------|---------------------|
| jury trials:          | _____%              |
| bench trials:         | _____% [total 100%] |
| civil proceedings:    | _____%              |
| criminal proceedings: | _____% [total 100%] |
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

I have not held judicial office.

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

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

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

Senior Counsel (2007 – 2008), United States Department of Commerce, Washington, D.C. Appointed March 2007 by President George W. Bush.

I applied to be a judge on the New York Court of Appeals in 2012 and 2013. Each time, I submitted an application to the New York State Commission on Judicial Nomination. My applications were unsuccessful.

I applied to be a magistrate judge for the Western District of New York in June 2015. My application was unsuccessful.

- 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.

In approximately spring 2016, I was listed as a host for a fundraiser for Chris Jacobs for New York State Senate.

In October or November 2006, I volunteered for a weekend to knock on doors to get out the vote for United States Representative Thomas Reynolds of Clarence, New York. My role was to drive student volunteers from neighborhood to neighborhood.

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

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

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

From 1996 to 1998, I served as a judicial clerk at the New York Court of Appeals. I was responsible for assisting all of the judges with *certiorari*-based motions for leave to appeal. I also assisted the Clerk of Court with *sua sponte* dismissals on jurisdictional grounds. I also assisted Judge Howard Levine with a merits opinion.

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

I have not 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.

1998 – 2007

Jones Day  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Associate

2007 – 2008  
United States Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, D.C. 20230  
Senior Counsel

2008 – present  
Hodgson Russ, LLP  
140 Pearl Street  
Buffalo, New York 14202  
Partner

- 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.

In 2016, I successfully served as a mediator in a Surrogate's Court dispute among a decedent's family members. *Estate of Edwards*, SF2013-900991 (Surrogate's Court, Erie County, New York).

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.
- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

From 1998 until 2007, I was a litigation associate at Jones Day. During that time, my typical clients were companies facing significant civil litigation brought by other companies or individuals. I was involved in the defense of complex disputes such as class actions and individual cases over crankshafts and welding fumes, several cases brought by building owners alleging defective welding electrodes, and matters alleging unfair competition and breach of contract.

Since joining Hodgson Russ in 2008, my practice has focused on complex civil litigation. I have represented individuals and companies in a wide range of disputes, including traditional business litigation, representations on both sides of the False Claims Act, and high-value trust administration proceedings. My False Claims Act clients have included whistleblowers

revealing government fraud. In many cases my clients suffered retaliation for coming forward.

- 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.

While associated with a law firm from 1998 to 2007, and then again from 2008 to present, at least 95% of my practice has been in litigation, with approximately ten court appearances per year over the last ten years.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 45% |
| 2. state courts of record:  | 55% |
| 3. other courts:            | 0%  |
| 4. administrative agencies: | 0%  |

- ii. Indicate the percentage of your practice in:

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

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

I have tried four cases to verdict. In two, I was associate counsel. In one, I shared trial responsibility equally with my law partner. In one, I was chief counsel.

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 50% |
| 2. non-jury: | 50% |

- 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.

Petition for Writ of Certiorari, *Florida ex rel. Grupp v. DHL Express (USA), Inc.*, 567 U.S. 906 (2012) (No. 11-1316). Petition available at 2012 WL 1561113.

I have not argued before the Supreme Court.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of

the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

1. *Westside Assocs., Ltd. v. Lincoln Electric Co.*, No. SC 045651 (Los Angeles Cty. Super. Ct. 2000) (Judge Edward Kakita).

This was a case brought by the owner of an office building against the manufacturer of a welding electrode used in the building's steel frame structure. The owner alleged damage to the building's welded beam-to-column connections as a result of the 1994 Northridge earthquake. I was an active part of the trial team defending the electrode maker, Lincoln Electric Company. I participated extensively in the summary judgment briefing and all trial submissions and motions. I assisted with witness outlines, attended part of the trial, and drafted several overnight evidentiary motions. The trial focused on causation, and the jury found for my client. In related follow-on cases, I successfully handled other substantive legal defenses. The dates of my representation were 1998 to approximately 2001.

Co-counsel for Lincoln Electric Company:

Thomas Yoo  
Reed Smith LLP  
355 South Grand Avenue, Suite 2900  
Los Angeles, California 90071  
(213) 457-8011

Richard Werder, Jr.  
Quinn Emanuel Urquhart & Sullivan LLP  
51 Madison Avenue, 22nd Floor  
New York, New York 10010  
(212) 849-7000

Richard Bedell  
Robert Faxon  
Jones Day  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
(216) 586-3939



Principal Counsel for Westside Associates:

George Soneff  
Manatt, Phelps & Phillips, LLP  
11355 West Olympic Boulevard  
Los Angeles, California 90064  
(310) 312-4186

2. *Interstate Sw., Ltd. v. AVCO Corp.*, No. 29,385, 2005 WL 6003421 (Grimes Cty., Tex., 278th Jud. Dist. Mar. 29, 2005) (Judge Jerry Sandel), *rev'd*, 251 S.W.3d 632 (Tex. App., Houston 2007).

This case, which lasted from approximately 2003 to 2007, involved a dispute between my client, the Lycoming Engines Division of AVCO, which made reciprocating engines for small aircraft, and its supplier of crankshaft forgings. The central issue was whether the supplier's forgings contained defects in the microstructure of the steel. I took and defended dozens of depositions, and worked extensively on all motion practice, discovery, expert witness work, and trial submissions. I participated with the trial team in all facets of the jury trial, including witness preparations and a cross examination. The jury verdict in favor of the supplier was reversed on appeal.

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3. *Jim Ball Pontiac-Buick-GMC, Inc. v. DHL Express (USA), Inc.*, No. 08-cv-761F, 2015 WL 1401778 (W.D.N.Y. Mar. 26, 2015) (Magistrate Judge Leslie Foschio).

In this putative class action filed in 2008, my car dealer client, Jim Ball, sued DHL alleging that DHL improperly applied jet fuel surcharges on shipments it delivered solely by ground transportation. As team leader, I worked on all facets of discovery, as well as class certification and summary judgment briefs. I conducted a bench trial on the breach of contract claim, but we were unsuccessful. The case concluded in 2015.

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Principal Counsel for DHL:

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4. *U.S. ex rel. Grupp v. DHL Express (USA), Inc.*, 47 F. Supp. 3d 171 (W.D.N.Y. 2014)(Judge John Curtin), *aff'd*, 604 F. App'x 40 (2d Cir. 2015).

In this 2008 False Claims Act case, my clients were relators Kevin Grupp and Robert Moll. As whistleblower/relators, they sued DHL for improperly applying jet fuel

surcharges to government shipments delivered solely by ground transportation. As team leader, I worked extensively on two rounds of dispositive motions and appeals. In the end, the case was unsuccessful for my clients. The case concluded in 2015.

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5. *New York ex rel. Grupp v. DHL Express (USA), Inc.*, 28 Misc. 3d 973 (N.Y. Sup. Ct., Erie County 2010) (Justice John Curran), *rev'd*, 83 A.D.3d 1450 (4th Dep't 2011), *aff'd*, 19 N.Y.3d 278 (2012).

In this 2009 New York False Claims Act case, my clients were relators Kevin Grupp and Robert Moll. As whistleblower/relators, they sued DHL for improperly applying jet fuel surcharges to New York state shipments delivered solely by ground transportation. As team leader, I worked extensively on the dispositive motion and both appeals, which focused on DHL's federal preemption defense. In the end, the case was unsuccessful for my clients. The case concluded in 2012.

Co-counsel for Grupp and Moll:

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6. *In re HSBC Bank USA, N.A. (Knox)*, 98 A.D.3d 300 (4th Dep't 2012) (Erie Cty. Surrogate Judge Barbara Howe, below).

I began working on this trust administration case when I arrived at Hodgson Russ in 2008. The case, on behalf of minor Knox family trust beneficiaries, focused on HSBC's alleged mismanagement of several trust investments. I worked up the entire case in discovery and tried it with one of my partners. We obtained a large judgment, which was later reduced to a very favorable settlement benefitting the trust. I worked on this and related proceedings until approximately 2016.

Co-counsel for Knox Minor Beneficiaries:

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7. *United States ex rel. Robins v. Lincare, Inc.*, No. 1:10-cv-12256 (DPW) (D. Mass.) (Judge Douglas Woodlock).

In this 2009 False Claims Act case, I represented whistleblower/relators SallyJo Robins and Kathleen Marie, who were terminated by their employer, Lincare. The case alleged that Lincare overcharged Medicare and other government payors for Oxygen-related

supplies. Working with co-counsel, I worked up the entire case in discovery and through extensive summary judgment filings. In 2017, the matter was resolved to the satisfaction of all involved parties, with no admission of liability by any party.

Co-counsel for Robins and Marie:

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Assistant United States Attorney  
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8. *United States ex rel. Love v. Trustees of Columbia Univ. in the City of New York*, No. 11-cv-4353 (LGS) (S.D.N.Y.) (Judge Lorna Schofield).

In this 2011 case, I represented terminated whistleblower/relator Craig Love. The case alleged that Columbia University submitted false claims in connection with federal grants that the University obtained to fund AIDS- and HIV-related work. I worked extensively with the government lawyers and investigators to assist in their factual investigation and settlement negotiations. The case was resolved in 2014 to the satisfaction of all parties.

Co-counsel for Love:

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9. *Qwinstar Corp. v. Anthony*, Civ. No. 15-2343 (RHK/FLN), 2016 WL 6821069 (D. Minn. Nov. 17, 2016) (Judge Richard Kyle), *rev'd in part*, 882 F.3d 748 (8th Cir. 2018).

In this 2015 breach of contract dispute, my client, Qwinstar, sued over an alleged shortfall in parts pursuant to a contract with another individual and his company. The contract required them to supply parts to Qwinstar and for the individual to join Qwinstar's workforce. Qwinstar believed there was a parts shortfall, so it terminated this employment and sued for damages. I led our litigation team on robust multi-state discovery and in extensive summary judgment filings. The District Court ruled against my client, and we appealed. I argued the appeal to the Eighth Circuit Court of Appeals and, on February 16, 2018, the Eighth Circuit reversed in part and remanded the case for trial.

Co-counsel for Qwinstar:

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10. *New York ex rel. Campagna v. Post Integrations, Inc.*, No. 100516/14 (N.Y. Supr. Ct., New York Cty.) (Justice James D'Auguste).

In this New York State False Claims Act case, pending since 2014, the relator alleges that my clients, Post Integrations, *et al.*, improperly failed to file a New York franchise (income) tax return and to pay New York franchise (income) taxes. I filed and argued a motion to dismiss, primarily on the grounds that there was no Constitutional nexus with New York and there is no substantive liability under the state false claims act, even if nexus existed. The court recently denied the motion, and we appealed to the Appellate Division, First Department. The appeal is pending at case number 2018-261. In addition, I worked extensively on the parties' discovery motions. In a related New Jersey False Claims Act case involving the same parties and counsel, I obtained a dismissal of the case, which was affirmed on appeal. *See New Jersey ex rel. Campagna v. Post Integrations*, 451 N.J. Super. 276 (2017).

Co-Counsel for Post Integrations, Ebocom, LLC, and Mary Gerdts:

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Primary Counsel for Campagna:

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Primary Counsel for New York State:

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Office of the New York Attorney General  
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Court-Appointed Discovery Referee:

James Chou  
Moritt Hock & Hamroff LLP  
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New York, New York 10018  
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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.)

While at the Commerce Department, I provided advice to the Secretary and helped with various tasks in the operation of the Office of the General Counsel. I assisted the Department in its compliance with oversight committee inquiries for documents and staff interviews. On a few occasions, I prepared Commerce employees for interviews with Congressional staff members, and accompanied them during these interviews.

Throughout my career, I counseled various clients, including a major consumer product company regarding a safety and product labeling issue, an attorney involved in the dissolution of a law firm, and the Board of a major entertainment company evaluating whether its CEO usurped corporate opportunities.

I have never acted or registered as a lobbyist.

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

I have not taught any classes.



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

My firm provides partners and employees with a qualified defined benefit pension. I would receive pension payments when I reach retirement age. The amount of that benefit depends upon my departure date from the firm. In the event I am fortunate enough to be confirmed, the pension would pay approximately \$28,272 annually, starting at age 65.

In addition, upon withdrawal from my firm in the event I am fortunate enough to be confirmed, I would be entitled to return of my capital contribution as well as a proportional share of certain accounts receivable, pursuant to a formula in the partnership agreement. The most recent figures available to me are approximately \$49,000 of capital, and approximately \$62,000 of accounts receivable.

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.

None.

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).

Please see the attached Financial Disclosure Report.

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

Please see the attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse myself in any litigation where I have played a role. For a period of time, I anticipate recusing in all cases where my current firm, Hodgson

Russ, represents a party. I will evaluate any other real or potential conflict, or relationships that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal where necessary.

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

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

My traditional pro bono activities include the representation of an African-American woman in the mediation of her discrimination case against her former employer. I spent about a week meeting with the client, preparing for the mediation, and conducting the mediation. In addition, I counseled a woman seeking unemployment benefits after her allegedly unlawful termination. I spent about two days on this matter. I also counseled a pastor involved in an alleged RICO case, including counseling him after his involvement as a party. Some of this work was at a discounted rate, and some was pro bono. I have spent several weeks on this matter.

Over the years, I have spent additional time on volunteer activities not directly related to the practice of law. For instance, I spent about three years as a "Big Brother" mentor paired with three different "Little Brothers" who had no father in the home. This volunteer time, as part of the Big Brothers/Big Sisters of Greater Cleveland, involved various activities such as sporting events, movies, family visits, and opportunities for life advice. Also while in Cleveland, I spent several hours a month as a board member and president of the local Phi Beta Kappa association, which raised money to provide scholarships to disadvantaged youth. Since I returned to Buffalo, I have spent about ten to fifteen hours a year on the advisory board of the American Red Cross, and about ten to fifteen hours a year on the board of the St. Thomas More Guild. In 2016, I spent about fifteen hours assisting with fundraising for scholarships for disadvantaged students to attend St. Joseph's Collegiate Institute.

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.

After the election, I mentioned my interest in serving as a federal judge to several friends and colleagues. On March 29, 2017, I was contacted by the White House Counsel's Office and asked to interview for a federal judgeship. On April 6, 2017, I interviewed in Washington, D.C. with attorneys from the White House Counsel's Office and the Office of Legal Policy of the Department of Justice. Since then, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy.

On June 30, 2017, I received a call from the White House Counsel's Office, informing me that my name would be submitted for consideration to both New York Senators for the position of United States District Judge for the Western District of New York.

On December 8, 2017, I received a call from Lois Carter Schlissel at Meyer Suozzi. Ms. Schlissel informed me that she was representing Senator Schumer's judicial screening committee.

On May 15, 2018, the President submitted my nomination to the Senate.

I have communicated regularly with the Office of Legal Policy in the preparation of my answers to this questionnaire and the completion of other related materials.

- 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.