

Indira Talwani
111 Devonshire Street
5th Floor
Boston, MA 02109

January 6, 2014

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on September 24, 2013, to be United States District Judge for the District of Massachusetts. Incorporating the additional information below, I certify that the information contained in that document is, to the best of my knowledge, true and accurate.

8. Honors and Awards:

Selected for inclusion in Boston Magazine's Top Women Attorneys in Massachusetts, 2013.

12. Published Writings and Public Statements:

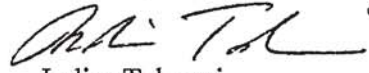
d. December 7, 2013: Speaker, "How to Negotiate a Post-Residency Employment Contract," the Committee of Interns and Residents, Service Employees International Union's Post-Residency Life Workshop, Boston, Massachusetts. The topic was substantially the same as the topic for the February 2, 2013 event for which a PowerPoint has been supplied.

17. Litigation:

(1) *Am. Steel Erectors, Inc. v. Local Union No. 7, Int'l Ass'n of Bridge, Structural, Ornamental & Reinforcing Iron Workers*, 1st Cir. Docket No. 13-1531, 13-1665. I have recently participated in drafting the defendant's reply brief in this appeal and cross-appeal.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,

A handwritten signature in black ink, appearing to read 'Indira Talwani', written in a cursive style.

Indira Talwani

cc: The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Indira Talwani

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

United States District Judge for the District of Massachusetts

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: Segal Roitman, LLP
 111 Devonshire Street
 Fifth Floor
 Boston, Massachusetts 02109

Residence: Auburndale, Massachusetts

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

1960; Englewood, New Jersey

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.

1985 – 1988, University of California, Berkeley, School of Law; J.D. (Order of the Coif), 1988

Spring 1984, City College of San Francisco; no degree

1978 – 1982, Harvard / Radcliffe College; B.A. (*cum laude*), 1982

Summer 1980, Columbia 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.

1999 – present

Segal Roitman, LLP (and its predecessor, Segal, Roitman & Coleman, LLP)
111 Devonshire Street
Fifth Floor
Boston, Massachusetts 02109
Partner (2003 – present)
Of Counsel (1999 – 2002)

November 2011 – February 2012
Northeastern University Law School
400 Huntington Avenue
Boston, Massachusetts 02115
Part-time Lecturer

Summer 1987, 1989 – 1999

Altshuler, Berzon, Nussbaum, Berzon and Rubin (and its predecessor, Altshuler & Berzon, now Altshuler Berzon LLP)
177 Post Street
Suite 300
San Francisco, California 94108
Partner (1996 – 1999)
Associate (1989 – 1995)
Summer Associate (1987)

September – December 1997
City College of San Francisco
Labor and Community Studies
(current address)
50 Phelan Avenue
San Francisco, California 94112
Part-time Instructor

1988 – 1989

Honorable Stanley A. Weigel (deceased)
United States District Court for the Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102
Law Clerk

1987 – 1988

Neyhart, Anderson, Nussbaum, Reilly and Freitas (now Neyhart, Anderson, Flynn & Grosboll)
(current address)

369 Pine Street, Suite 800
San Francisco, California 94104-3323
Law Clerk (part-time)

January – May 1987
Boalt Hall School of Law
Berkeley, California 94720
Academic Support Program Tutor (part-time)

1986 – 1987
Mocine & Eggleston (no longer exists)
(former address)
1440 Broadway
Oakland, California 94612
Law Clerk (part-time)

Summer 1986
Law Offices of Mary Louise Frampton (no longer exists)
(former address)
2444 Main Street
Fresno, California 93721
Law Clerk (part-time)

Summer 1986
Law Offices of Paul Ostroff (no longer exists)
(former address)
925 N Street
Fresno, California 93721
Law Clerk (part-time)

1984 – 1985
Service Employees International Union, Local 250 (now, SEIU – United Healthcare
West)
(current address)
560 Thomas L. Berkley Way
Oakland, California 94612
Organizer (Fresno and Merced)

1983 – 1984
TemPositions
(current address)
140 Geary Street
San Francisco, California 94108
Document Coder

October 1982 – March 1983

National Union of Hospital and Health Care Employees, District 1199 (now, 1199SEIU,
United Healthcare Workers East)

(current address)

150 Mt. Vernon Street

Third Floor

Boston, Massachusetts 02125

Clerical

September 1982

Massachusetts Fair Share

(current address)

44 Winter Street, Fourth Floor

Boston, Massachusetts 02108

Canvasser

Other Affiliations (uncompensated)

2011 – present

Lawyers Coordinating Committee of the AFL-CIO

815 16th Street, N.W.

Sixth Floor

Washington, D.C. 20037

Member, Board of Directors

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

I have not served in the military. I was not required to register for selective service.

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

Martindale-Hubbell Peer Review AV rated (2000 – present)

Selected for inclusion in The Best Lawyers in America for Employment Law –
Individuals for 2013 and 2014 (2012, 2013)

Selected for inclusion in Massachusetts Super Lawyers (2012, 2013)

Chinese Progressive Association, Workers Justice Award (2012)

Massachusetts Lawyers Weekly, Leaders in the Law, Lawyer of the Year (2010)

Order of the Coif, University of California, Berkeley (1988)

Cowell Labor Fellowship (1986 – 1987)

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 Law Student Trial Advocacy Competition in Employment
Law

Boston Regional Co-chair (2009 – 2010)

Bar Association of San Francisco

Lawyers Coordinating Committee of the AFL-CIO

Member of Board of Directors (2011 to present)

Massachusetts Bar Association

Massachusetts Employment Lawyers Association

South Asian Bar Association of Greater Boston

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.

Massachusetts, 1999

California, 1988

There have been no lapses in membership.

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

United States Supreme Court, 2013

United States Court of Appeals for the First Circuit, 2002

United States Court of Appeals for the Ninth Circuit, 1988

United States Court of Appeals for the Tenth Circuit, 1996

United States District Court for the Central District of California, 1993

United States District Court for the Eastern District of California, 1989

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

United States District Court for the District of Massachusetts, 2001

California State Courts, 1988

Courts of the Commonwealth of Massachusetts, 1999

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.

Auburndale Community Library (2009 – 2010)

Burr Elementary School Parent-Teacher Organization
(2000 – 2006, 2009 – present)

Day Middle School Parent-Teacher Organization (2001 – 2004, 2006 – 2008)

Kaiser Elementary School Parent-Teacher Organization (1995 – 1999)

Newton North High School Parent-Teacher Organization (2004 – 2012)

Oakland Ski Club (1996 – 1999)

Penguin Ski Club (2000 – 2006)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

With Janine M. Martin & Catherine J. Trafton, Leave for Employee and Family Health Conditions: The Interplay of the ADA, FMLA, Workers' Compensation and Collective Bargaining Agreements (June 3, 2010) (AFL-CIO Lawyers Coordinating Committee Conference Paper). Copy supplied.

FMLA Update: Recent FMLA Changes and Strategies for Union Lawyers (April 17, 2009) (American Federation of Teachers Lawyers Conference Paper). Copy supplied.

FMLA Update: Strategies for Union Lawyers (May 20, 2008) (AFL-CIO Lawyers Coordinating Committee Conference Paper). Copy supplied.

THE FAMILY AND MEDICAL LEAVE ACT (Michael J. Ossip & Robert M. Hale, Editors in Chief, Gail Coleman & Indira Talwani, Associate Editors, American Bar Association and Bureau of National Affairs, 2006). One hard copy supplied.

Strategic Litigation of Medical Issues Under the Family and Medical Leave Act (June 24, 2004) (National Employment Lawyers Association Conference Paper). Copy supplied.

Labor Law Issues for the Non-Union Worksite in HANDLING DISCIPLINE AND DISCHARGES (Massachusetts Continuing Legal Education, 2003). Copy supplied.

Nine Years after Passage of the Family and Medical Leave Act: The Current State of the Law (August 13, 2002) (American Bar Association Annual Meeting, Section of Labor and Employment Law Conference Paper). Copy supplied.

With Robert M. Hale, Key Issues of the Family and Medical Leave Act in Massachusetts (April 24, 2002) (National Business Institute Conference Paper). Copy supplied.

Settlement and Mediation of Individual Employment Disputes in the Unionized Workplace (March 20, 2002) (ABA Section of Labor and Employment Law, Equal Employment Opportunity Committee, Conference Paper). Copy supplied.

Significant Common Law Tort Cases of 2001, 4TH ANNUAL MASSACHUSETTS EMPLOYMENT LAW CONFERENCE (Massachusetts Continuing Legal Education, December 7, 2001). Copy supplied.

With Robert M. Hale, *Family and Medical Leave Act Basics*, (ABA Section of Labor and Employment Law, December 6, 2001). Copy supplied.

Letter to the Editor, *Phelan's Dismissal Puts Harvard Arts in Peril*, THE HARVARD CRIMSON, June 4, 2001. Copy supplied.

With Scott Kronland, *Organizing-Related State and Local Legislation*, 2001 AFL-CIO Union Lawyers Conference, San Francisco (May 2001). Copy supplied.

“Is the Low-Wage Worker an ‘Employee’ Under Wage and Hour Laws?” *Handling Wage and Hour Cases for Low Income Workers* (Massachusetts Continuing Legal Education, Inc., 2000). 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.

According to the minutes of the Board of Supervisors of the City and County of San Francisco, on July 29, 1996, I was given an opportunity to speak regarding a proposed Charter amendment to the San Francisco city charter. The minutes reflect that the amendment concerned collective bargaining and that I took no position. I have no recollection of the hearing, but I would have been there on behalf of a client, the Municipal Attorney's Association of San Francisco, and not on my own behalf. Minutes supplied.

I have not otherwise issued or provided or had others present on my behalf any such communication to public bodies or public officials.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

March 22, 2013: Panelist, "The Triangulation of Employment Relations," "Employed or Just Working? Rethinking Employment Relationships in the Global Economy" Symposium, Northeastern University Law Journal Symposium, Boston, Massachusetts. I discussed the decision of the Massachusetts Supreme Judicial Court in *Coverall N. Am., Inc. v. Com'r of Div. of Unemployment Assistance*, 447 Mass. 852 (2006). I have no notes, transcript or recording. The address of the Northeastern University Law Journal is 400 Huntington Avenue, Boston, Massachusetts 02115.

February 2, 2013: Speaker, "How to Negotiate a Post-Residency Employment Contract," the Committee of Interns and Residents, Service Employees International Union's Post-Residency Life Workshop, Boston, Massachusetts. PowerPoint on which the presentation was based supplied.

May 22, 2012: Moderator, “The Rules of the Road of the Fair Labor Standards Act,” 2012 AFL-CIO Union Lawyers Conference, Chicago, IL. The panel’s first session addressed employee rights under the Fair Labor Standards Act and the second session addressed litigation issues arising in Fair Labor Standards Act cases. I have no notes, transcript or recording. The address of the Coordinating Committee of the AFL-CIO is 815 16th Street, N.W., Sixth Floor, Washington, D.C. 20037.

January 28, 2012: Speaker, “How to Negotiate a Post-Residency Employment Contract,” the Committee of Interns and Residents, Service Employees International Union’s Post-Residency Life Workshop, Boston, Massachusetts. The topic was substantially the same as the topic for the February 2, 2013 event, for which a PowerPoint has been supplied.

January 29, 2011: Speaker, “How to Negotiate a Post-Residency Employment Contract,” the Committee of Interns and Residents, Service Employees International Union’s Post-Residency Life Workshop, Boston, Massachusetts. The topic was substantially the same as the topic for the February 2, 2013 event, for which a PowerPoint has been supplied.

June 3, 2010: Panelist, “Leave for Employee and Family Health Conditions: The Interplay of the ADA, FMLA, Workers’ Compensation and Collective Bargaining Agreements,” 2010 AFL-CIO Union Lawyers Conference, Washington, D.C. I have no notes, transcript, or recording but the paper on which the presentation was based is supplied in response to question 12.a.

May 27, 2010: Speaker, “How to Deal with Sexual Harassment and Discrimination Complaints,” Segal Roitman Seminar, Boston, Massachusetts. This presentation for union representatives addressed handling sexual harassment and discrimination complaints brought by union members against supervisors and other union members, and handling discipline imposed on union members in response to sexual harassment and discrimination complaints. I have no notes, transcript, or recording. Segal Roitman LLP’s address is 111 Devonshire Street, Fifth Floor, Boston, MA 02109.

February 6, 2010: Speaker, “How to Negotiate a Post-Residency Employment Contract,” the Committee of Interns and Residents, Service Employees International Union’s Post-Residency Life Workshop, Boston, Massachusetts. The topic was substantially the same as the topic for the February 2, 2013 event, for which a PowerPoint has been supplied.

2010: Panelist, “Advanced FMLA Issues: A Guide for the Perplexed” (teleconference and live audio webcast), American Bar Association, Section of Labor and Employment Law and the ABA Center for Continuing Legal Education (2010). I spoke on Family and Medical Leave issues relating to collective bargaining, employer and employee obligations for notice under the Family and

Medical Leave Act, medical certifications and intermittent leave. A copy of the outline for the teleconference is supplied.

December 10, 2009: Panelist, "What Union Lawyers Need to Know About the Family and Medical Leave Act," AFL-CIO Lawyers Coordinating Committee Northeastern Regional Meeting, New York, New York. This presentation reviewed Department of Labor Fact Sheets on the Family and Medical Leave Act. I have no notes, transcript or recording. The address of the Coordinating Committee of the AFL-CIO is 815 16th Street, N.W., Sixth Floor, Washington, D.C. 20037.

November 7, 2009: Panel Member, "Unraveling Statutory Protections for Workplace Leaves and Absences," ABA Section of Labor & Employment Law Conference, Washington, D.C. A copy of the panel's PowerPoint presentation (prepared primarily by my co-panelist, Pamela Hemminger, but with my minor contributions) on which the presentation was based is supplied.

May 6, 2009: Panel Member, "Non-Traditional Workers and the Employment Laws," Massachusetts Continuing Legal Education, Boston, Massachusetts. I spoke on federal and state enforcement of wage and hour laws. I have no notes, transcript or recording. The address of Massachusetts Continuing Legal Education is 10 Winter Place, Boston, Massachusetts 02108.

April 17, 2009: Speaker, "FMLA Update: Recent FMLA Changes and Strategies for Union Lawyers, American Federation of Teachers Lawyers Conference," Philadelphia, Pennsylvania. Paper on which presentation was based supplied in response to question 12.a.

February 26, 2009: Speaker, "Using the Family Medical Leave Act Strategically: On the Job, In Grievance Proceedings, and in Collective Bargaining," Segal Roitman Seminar, Boston, Massachusetts. This presentation for union officers and staff provided information on Family and Medical Leave Act rights and responsibilities. I have no notes, transcript, or recording. The address of Segal Roitman LLP is 111 Devonshire Street, Fifth Floor, Boston, Massachusetts 02109.

May 20, 2008: Panelist, "FMLA Update: Strategies for Union Lawyers," 2008 AFL-CIO Union Lawyers Conference, Seattle, Washington. I have no notes, transcript, or recording but the paper on which the presentation was based is supplied in response to question 12.a.

March 24, 2008: Panelist, American Bar Association – Section of Labor and Employment Law. The panel was about career opportunities in this field of law. It took place at Boston University School of Law. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

September 25, 2007: Panelist, FMLA Roundtable, Massachusetts Bar Association, Worcester, Massachusetts. The panel discussed recent developments under the FMLA. I have no notes, transcript, or recording. The address of the Massachusetts Bar Association is 20 West Street, Boston, Massachusetts 02111.

May 9, 2007: Panelist, "The Scope of Judicial Review of an Arbitrator's Award," Massachusetts Bar Association 28th Annual Labor and Employment Law Spring Conference, Boston, Massachusetts. Materials on which presentation was based are supplied.

June 24, 2005: Panelist, "Family and Medical Leave Act Basic Law and Procedure," ABA Section of Labor and Employment Law Committee and the Center for Advanced Legal Studies at Suffolk University Law School, Boston, Massachusetts. PowerPoint on which the presentation was based is supplied.

June 24, 2004: Panelist, "Strategic Litigation of Medical Issues under the Family and Medical Leave Act," National Employment Lawyers Association conference, San Antonio, Texas. I have no notes, transcript or recording, but the paper on which presentation was based is supplied in response to question 12.a.

2003: Speaker, "Labor Law Issues for the Non-Union Worksite." This talk was part of a continuing education program entitled "Handling Discipline and Discharges," presented by Massachusetts Continuing Legal Education, in Boston, Massachusetts. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

2003: Speaker, "Lessons Learned from the Janitors' Strike," Massachusetts Bar Association, Boston, Massachusetts. I spoke at this roundtable discussion about union member participation in negotiations and fears of reprisals. I have no notes, transcript, or recording but press coverage is supplied. The address of the Massachusetts Bar Association is 20 West Street, Boston, Massachusetts 02111.

August 13, 2002: Speaker, "Nine Years after Passage of the Family and Medical Leave Act: The Current State of the Law," American Bar Association Annual Meeting, Section of Labor and Employment Law, Washington, D.C. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a and press coverage is supplied.

April 24, 2002: Panelist, "Key Issues of the Family and Medical Leave Act in Massachusetts," National Business Institute, Boston, Massachusetts. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

March 20, 2002: Speaker, "Settlement and Mediation of Individual Employment Disputes in the Unionized Workplace," ABA Section of Labor and Employment

Law Equal Employment Opportunity Committee, 2002 Midwinter Meeting, San Diego, California. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

December 7, 2001: Speaker, "Significant Common Law Tort Cases of 2001," Fourth Annual Massachusetts Employment Law Conference, Massachusetts Continuing Legal Education, Boston, Massachusetts. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

December 6, 2001: Panelist, "Family and Medical Leave Act Basics," ABA Section of Labor and Employment Law Conference, Washington, D.C. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

August 6, 2001: Panelist, "Family and Medical Leave Act Basics," ABA Annual Meeting – Section of Labor and Employment Law, Chicago, Illinois. I have no notes, transcript or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654.

May 2001: Panelist, "Organizing-Related State and Local Legislation," 2001 AFL-CIO Union Lawyers Conference in San Francisco, California. I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

2000: Panelist, "Is the Low-Wage Worker an 'Employee' Under Wage and Hour Laws?" This panel was part of a continuing education program entitled "Handling Wage and Hour Cases for Low Income Workers," hosted by Massachusetts Continuing Legal Education, Boston, Massachusetts (2000). I have no notes, transcript, or recording but the paper on which presentation was based is supplied in response to question 12.a.

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

Thomas E. Egan and Al Turco, *Retaliation Allowed in the Mutual Fund Industry*, MASS. LAW. WKLY., Feb. 14, 2012. Copy supplied.

"Honesty without Fear" interview on the Progressive Radio Network, regarding the First Circuit's interpretation of the Sarbanes-Oxley's whistleblower provision, on February 7, 2012. I have been unable to obtain a copy.

No SOX Protection for Whistleblowers Working for Contractors of Public Companies, LAW. FOR CIV. JUST., Feb. 6, 2012. Copy supplied.

Christina Pazzanese, *Deal Close in Grocery Dispute*, BOSTON GLOBE, Sept. 24, 2011. Copy supplied.

Profiles of our 2010 Lawyers of the Year, MASS. LAW. WKLY., Jan. 7, 2011. Copy supplied.

Lawyers of the Year 2010, MASS. LAW. WKLY., Jan. 3, 2011. Copy supplied.

David E. Frank, *Sarbanes-Oxley Act Applies to the Mutual Fund Industry*, MASS. LAW. WKLY., Apr. 19, 2010. Copy supplied.

Elise Czajkowski, *Fidelity Whistleblower Suits Get Green Light*, LAW 360, Apr. 1, 2010. Copy supplied.

Ross Kerber, *Mutual Fund Workers Get Whistle-Blower Cover - Judge*, REUTERS NEWS, Mar. 31, 2010. Copy supplied (reprinted in multiple outlets).

Ross Kerber, *Layoff Warning Law Falls Short*, BOSTON GLOBE, Dec. 23, 2008. Copy supplied.

Jonathan Saltzman, *Marshal Awarded \$150,000, Jury Found Boss Used Retaliation*, BOSTON GLOBE, June 25, 2008. Copy supplied.

Jonathan Saltzman, *Former US Marshal Loses Sex Discrimination Case*, BOSTON GLOBE, June 24, 2008. Copy supplied.

Ross Kerber, *Fidelity Fund Costs Questioned: Ex-employee Says She Was Forced Out After Raising Issue*, BOSTON GLOBE, Mar. 27, 2008. Copy supplied.

John C. Bailar, III, et al., *IBM, Elsevier Science, and Academic Freedom*, 13 INT. J. OCCUPATIONAL ENVTL. LAW 2007: 312-17. Copy supplied.

Sean P. Murphy, *US Probe of Marshal Completed in March*, BOSTON GLOBE, June 3, 2005. Copy supplied.

Sean P. Murphy, *US Marshal Said to Face Earlier Probe*, BOSTON GLOBE, Nov. 1, 2004. Copy supplied.

Michael Blanding, *The Man Who Knew Too Much*, BOSTON MAG., Aug. 2004. Copy supplied.

Dan Ferber, *A Response from IBM*, SCIENCE, Vol. 305, July 16, 2004. Copy supplied.

Antonio Regalado and William M. Bulkeley, *IBM Cancer Data Fuel Debate Over*

Publication, WALL ST. J., June 24, 2004. Copy supplied.

Meredith Wadman, *Scientists Cry Foul as Elsevier Axes Paper on Cancer Mortality*, NATURE, VOL. 429, June 17, 2004. Copy supplied (reprinted in multiple outlets).

Appeal Dropped in Globe Freelance Case, MASS. LAW. WKLY., Jan. 26, 2004. Copy supplied.

Freelancers Drop Appeal of Lawsuit Against Boston Globe, AP ALERT – MASS., Jan. 16, 2004. Copy supplied (reprinted in multiple outlets).

Mark Jurkowitz, *Freelancers Drop Globe Ruling Appeal*, BOSTON GLOBE, Jan. 16, 2004. Copy supplied.

Jay DeFoore, *Plaintiffs To Appeal Boston Globe Decision*, FILM J., Jan. 2, 2003. Copy supplied.

Freelancers Lose Copyright Battle with Boston Globe, REP. COMMITTEE FOR FREEDOM OF THE PRESS, December 9, 2002. Copy supplied.

Meg Weaver, *News Alert*, THE WOODEN HORSE PUB. NEWS, Dec. 6, 2002. Copy supplied.

Mark Jurkowitz, *Judge Rules in Favor of the Globe in a Suit Filed by Freelancers*, BOSTON GLOBE, Nov. 27, 2002. Copy supplied.

Tasini Ruling Will Give Databases a Shake, NEWSINC, July 2, 2001. Copy supplied.

Mark Jurkowitz, *Publishers Plan to Delete Archive Material*, BOSTON GLOBE, June 26, 2001. Copy supplied.

Peter Geier, *Union Sues Hagerstown-Based Allegheny Power over Intermittent Leave Policy*, DAILY REC. (Baltimore, MD), May 23, 2001. Copy supplied.

Mark Jurkowitz, *MBTA in Talks for Free Daily*, BOSTON GLOBE, Feb. 1, 2001. Copy supplied.

Wendy L. Pfaffenbach, *Newspaper Can Be Sued for Ch. 93A Violation*, MASS. LAW. WKLY., Jan. 29, 2001. Copy supplied.

Colin Meek, *Freelancers Lose Action Against 'Cyberspace Sweatshop'*, JOURNALISM.COM, Aug. 16, 2000. Copy supplied.

Attorney: Don't Let E-World Abrogate Rights, TEXT & ACAD. AUTHOR ASS'N, Aug. 11, 2000. Copy supplied.

Boston E-Rights Battle Destined to Stay in Courts, TEXT & ACAD. AUTHOR ASS'N, Aug. 1, 2000. Copy supplied.

Mark Jurkowitz, *Judge Denies Request for Injunction Against Globe Clears Way for Pact with Free-Lancers*, BOSTON GLOBE, June 27, 2000. Copy supplied.

Judith Kelliher, *Freelancers Lose Injunction Against Boston Globe*, LAW.COM, June 27, 2000. Copy supplied.

Mark Jurkowitz, *Judge to Rule Soon on Challenge to Globe's Terms for Freelancers*, BOSTON GLOBE, June 24, 2000. Copy supplied.

Ruling Favors Billboard Industry Firms Challenge Limit on Liquor Advertising, SAN JOSE MERCURY NEWS, Jan. 19, 1999 (reprinted in multiple outlets). Copy supplied.

Dale Rodebaugh, *Lawsuit Against UFW Dropped Charges: Women Said Union Official Suggested They Use Sex to Sign up Workers*, SAN JOSE MERCURY NEWS, Aug. 6, 1997. Copy supplied.

Stephen Schwartz, *Union Can't Intercede for Fired DAs, Judge Says*, SAN FRANCISCO CHRON., Aug. 7, 1996. Copy supplied.

Kathleen Sullivan, *Workers' Comp Law Survives Challenge Court Tells Firm It Must Comply*, SAN FRANCISCO EXAMINER, Mar. 18, 1993. Copy supplied.

California: Enviro Groups, State Settle on Prop 65, ENV'T & ENERGY PUB., Jan. 8, 1993. Copy supplied.

Environmentalists and Wilson Administration Agree to Settle Long-Standing Proposition 65 Dispute, BUS. WIRE, Jan. 4, 1993. Copy supplied.

US Appeals Court Prohibits Use of Cancer-Causing Pesticides in Food, J. COM. 7A, July 10, 1992. Copy supplied.

U.S. Industry Group Criticizes Ruling on Pesticides, REUTERS, July 9, 1992. Copy supplied.

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

I have not held any judicial offices.

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 served as a judge.

- 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.

I have never held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

2006: Deval Patrick for Massachusetts Governor. On two occasions, I volunteered to hold signs for the campaign.

2008: Barack Obama for President. I volunteered to knock on doors on one occasion and on another occasion, I held signs.

2010: Martha Coakley for United States Senate. On one occasion, I volunteered to hold signs for the campaign.

2012: Elizabeth Warren for United States Senate. On several occasions, I volunteered to knock on doors and make phone calls.

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 1988 to 1989, I clerked for the Honorable Stanley A. Weigel, District Judge of the United States District Court for the Northern District of California.

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

I have not practiced alone.

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

1989 – 1999

Altshuler, Berzon, Nussbaum, Berzon and Rubin (and its predecessor, Altshuler & Berzon, now Altshuler Berzon LLP)

177 Post Street

Suite 300

San Francisco, California 94108

Associate (1989 – 1995)

Partner (1996 – 1999)

1999 – present

Segal Roitman, LLP (and its predecessor, Segal, Roitman & Coleman, LLP)

111 Devonshire Street

Fifth Floor

Boston, Massachusetts 02109

Of Counsel (1999 – 2002)

Partner (2003 – present)

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

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

b. Describe:

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

My law practice since 1989 has focused primarily on civil litigation in state and federal court.

From 1989 to 1999, I was with Altshuler, Berzon, Nussbaum, Berzon and Rubin (and its predecessor). My practice included litigation, grievance and interest arbitrations, and agency hearings on a range of workplace issues, including gender and race discrimination, sexual harassment, terminations without just cause, and occupational safety and health issues. I handled depositions and other discovery, and drafted motions and supporting memoranda. I also argued motions in the state trial court and in federal district court. As I became more senior, I took on primary responsibility for a number of these cases. I also participated in the drafting of appellate briefs, particularly during my first five years at the firm. After my first few years of practice, I also regularly handled numerous labor arbitrations, where I was the sole attorney representing our clients.

From 1999 to the present, my practice has been with Segal Roitman, LLP (and its predecessor). My practice has continued to focus on litigation, grievance arbitration, and agency hearings on a range of workplace issues. I have served as lead or sole attorney on most of my cases, and have represented our clients through discovery, pre-trial motions, trials (with co-counsel), appeals and remand. I have also continued to handle labor arbitrations.

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

At Altshuler, Berzon, my typical clients were labor organizations, ranging from local unions to labor federations. I also represented individuals and groups of employees, and California Rural Legal Assistance. The primary focuses of my practice were labor and employment and environmental law.

At Segal, Roitman, I have continued to represent labor unions, handling complex litigation for my partners' private sector union clients (including in a major antitrust case), and I have also represented several public sector unions in negotiations, arbitrations and proceedings before the Commonwealth's Department of Labor Relations. A significant portion of my practice now includes representing individual employees and groups of workers in employment related matters.

- 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 estimate that 80% of my practice has been in litigation. During my first ten years of practice, I was in court occasionally and, after the first two years of practice, I also had numerous arbitration cases. During the past fourteen years, I have been in court frequently (including trials), and have had one to three arbitration cases per year:

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|--------------------|
| 1. federal courts: | 40% |
| 2. state courts of record: | 35% |
| 3. other courts: | 15% (arbitrations) |
| 4. administrative agencies: | 10% |

- 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.

In addition to trying to final decision approximately 25 cases before neutral arbitrators, I have tried three cases in courts of record to verdict, final judgment or final decision. These cases included four trials because one case was tried twice. I tried two as chief counsel and two as co-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.

In a pending matter, *Lawson v. FMR LLC*, Supreme Court docket 12-3, I have assisted in drafting the petition for certiorari (2012 WL 2516707), petitioners' reply brief (2012 WL 3875293), petitioners' supplemental brief (2013 WL 1751485), petitioner's brief on the merits (2013 WL 3972434), and petitioner's reply brief (copy supplied).

In *Ragsdale v. Wolverine Worldwide, Inc.*, 535 U.S. 81 (2002), I assisted in drafting an amicus brief in support of petitioners, 2001 WL 1077951, on behalf of the American Federation of Labor and Congress of Industrial Organizations and others.

In *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999), I assisted in drafting an amicus brief in support of petitioner, 1998 WL 898907, on behalf of the American Federation of Labor and Congress of Industrial Organizations.

In *National Agr. Chemicals Ass'n v. Les*, petition for writ of certiorari denied, 507 U.S. 950 (1993), I assisted in drafting a brief and a supplemental brief in opposition to the petition for certiorari. Copies supplied.

I have not been counsel of record in any case 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) *Am. Steel Erectors, Inc. v. Local Union No. 7, Int'l Ass'n of Bridge, Structural, Ornamental & Reinforcing Iron Workers*, No. 04-12536, 932 F.Supp. 2d 240 (D. Mass. Mar. 25, 2013) (Judge Richard G. Stearns), *appeal docketed*, No. 13-1531 (Apr. 25, 2013), *cross-appeal docketed*, No. 13-1665 (May 21, 2013); *Am. Steel Erectors, Inc. v. Local Union No. 7, Int'l Ass'n of Bridge, Structural, Ornamental & Reinforcing Iron Workers*, 2010 WL 3946345 (D. Mass. Oct. 8, 2010) (Judge Richard G. Stearns); *Am. Steel Erectors, Inc. v. Local Union No. 7, Int'l Ass'n of Bridge, Structural, Ornamental & Reinforcing Iron Workers*, 2009 WL 1690941 (D. Mass. June 17, 2009) (Judge Richard G. Stearns); *Am. Steel Erectors, Inc. v. Local Union No. 7, Int'l Ass'n of Bridge, Structural, Ornamental & Reinforcing Iron Workers*, 480 F.Supp. 2d 471 (D. Mass. 2007) (Judge Richard G. Stearns), *rev'd*, 536 F.3d 68 (1st Cir. 2008) (Judge Norman H. Stahl, Judge Jeffrey R. Howard, and Judge Eugene Siler (of the Sixth Circuit)); 2004 – present.

Together with colleagues at my firm, I defended Local Union No. 7 of the International Association of Bridge, Structural, Ornamental & Reinforcing Iron Workers in a suit brought by five nonunion steel erectors who alleged that the union conspired with unionized employers to monopolize the structural steel erection industry in the greater Boston area in violation of both antitrust and labor laws. Plaintiffs sought damages in excess of \$10,000,000, treble damages, and injunctive relief on the antitrust counts.

I participated in drafting the union's initial briefs on summary judgment, where we prevailed in the district court. I also participated in drafting our brief in the first appeal, but did not argue the appeal. After the district court was reversed by the First Circuit, I participated as co-counsel in a jury trial on the labor law count, where the court entered judgment as a matter of law in favor of the union as to three of the plaintiffs and judgment against the union as to two of the plaintiffs. I then drafted further summary judgment papers, with assistance from my co-counsel, and argued the final summary judgment motion on the antitrust counts. We prevailed on the motion, with the court concluding that the union's job targeting program did not violate the antitrust laws, and instead promoted competition. Plaintiffs' second appeal and defendant's cross-appeal are currently pending in the First Circuit. I have recently participated in drafting the defendant's brief in this appeal and cross-appeal.

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(2) *Lawson v. FMR LLC*, 724 F. Supp. 2d 141 (D. Mass. 2010) (Judge Douglas P. Woodlock, *rev'd*, 670 F.3d 61 (1st Cir. 2012) (Chief Judge Sandra L. Lynch, Judge Jeffrey R. Howard and Judge O. Rogeriee Thompson), *cert. granted*, 2013 WL 2149801 (U.S. May 20, 2013); 2008 – present.

I represent plaintiff Lawson, who contends that she was retaliated against for reporting violations of rules and regulations of the Securities and Exchange Commission or other federal laws concerning fraud against shareholders. The litigation has focused on the scope of the whistleblower protections under the Sarbanes Oxley Act (“SOX”). The District Court denied the defendants’ motion to dismiss the action, but on interlocutory appeal, a divided panel of the First Circuit concluded that employees of contractors of public companies are not protected by SOX. In May, our petition for writ of certiorari to the First Circuit was granted. I served as plaintiff’s sole counsel in the District Court and at the United States Court of Appeals, and am assisting counsel of record at the Supreme Court.

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(3) *Liu v. Winvest LLC*, Civil Action SUCV2009-4154, Suffolk Superior Court, consolidated with *Wong v. Luu*, Civil Action SUCV 2009-3472, Suffolk Superior Court (lead case), *Wincent International, Inc. v. Luu*, Civil Action SUCV2009-3473, Suffolk Superior Court, *Tin World, Inc. v. Super 88, LLC*, Civil Action SUCV2009-0368, Suffolk Superior Court, *Hop Lee Trading Co., Inc. v. Wincent International, Inc.*, SUCV2009-3959, Suffolk Superior Court; *Cheng Lee Co., Inc. v. Super 88 Allston LLC*, Civil Action SUCV2010-0668, Suffolk Superior Court, *Wong v. Haymarket Capital, LLC*, Civil Action SUCV2010-4961, Suffolk Superior Court; and *Chang and Sons Enterprises, Inc. v. Super 88 Supermarket II, Inc.*, Civil Action SUCV 2012-2128 Suffolk Superior Court (Judge D. Lloyd Macdonald), 2009 – present; *In re Cheng Kwong Sea Food Market, Inc.*, Case 09-20089 (Bankr. D. Mass.), *Super 88, LLC*, Case 09-20143 (Bankr. D. Mass.), *Super 88 Market Malden II, LLC*, Case 09-20152 (Bankr. D. Mass.), *Super 88 Supermarket II, Inc.*, Case 09-20144 (Bankr. D. Mass.), and *Super 88 Warehouse, LLC*, Case 09-20150 (Bankr. D. Mass.) (Judge William C. Hillman); 2009 – present.

I served as lead counsel for plaintiffs Liu and Zhu and worked together throughout the litigation with Cynthia Mark of Greater Boston Legal Services. We filed this class action on behalf of over 200 former employees of the Super 88 grocery store chain, seeking minimum wage, overtime and holiday pay under Massachusetts law. We obtained injunctive relief in the state court to secure assets during the pendency of the suit, participated in the bankruptcy proceeding that resulted in the dismissal of the defendants' bankruptcy petitions as fraudulent, obtained class certification, were appointed class counsel, and negotiated the settlement approved by the Court. The wage case ultimately settled, with formal court approval, with a \$950,000 judgment for the plaintiffs. The case is consolidated with cases brought by creditors and competing buyers, and although class members have now been paid and the sale of one store has been finalized, the claims of trade creditors remain pending and final judgment has not yet entered.

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(4) *DeCaire v. Gonzales*, 474 F. Supp. 2d 241 (D. Mass. 2007) (Judge William G. Young), *vacated sub nom. DeCaire v. Mukasey*, 530 F.3d 1 (1st Cir. 2008) (Judge Juan R. Torruella, Judge Sandra L. Lynch and Judge Kermit V. Lipez), *on remand sub nom. Bohn v. Mukasey*, United States District Court for the District of Massachusetts, Civil Action No. 04-10593 (Judge Edward F. Harrington); 2004 – 2008.

My client, a Deputy United States Marshal, sued the United States Attorney General, alleging that the U.S. Marshal for the District of Massachusetts had discriminated against her on the basis of gender and retaliated against her after she filed internal complaints with the U.S. Marshals Service's Equal Employment Opportunity office. I served as lead or sole counsel throughout the litigation, including discovery, pre-trial motions, a bench trial, an appeal, and a subsequent jury trial.

On appeal following the bench trial and defense verdict, the First Circuit reversed the district court, determining as a matter of law that there was no "disloyalty" defense to a claim of retaliation in violation of Title VII, that it did not matter for retaliation whether the employer would have treated a male employee the same way it treated a female plaintiff who has filed a gender discrimination complaint, and that the district court erred in supplying a justification for the employer's action not raised by either plaintiff or defendant. On remand, the jury found for my client on the retaliation claim, awarding her \$150,000 in damages. Plaintiff was also awarded her attorneys' fees for the bench trial, the appeal and the jury trial.

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(5) *Wong, et al. v. Power-One, Inc.*, United States District Court for the District of
Massachusetts, Civil Action No. 03-10350 RCL; Judge Reginald C. Lindsay (dec.); 2003
– 2005.

I served as lead counsel for plaintiffs and was assisted throughout by co-counsel Cynthia
Mark of Greater Boston Legal Services. This class action was filed on behalf of
approximately 120 laid-off employees for violation of the Worker Adjustment and
Retraining Notification (WARN) Act requirements of sixty days' notice of a planned
plant closing. Attorney Mark and I conducted extensive discovery, obtained class
certification, were appointed class counsel, defeated defendant's motion for summary
judgment, and negotiated a favorable settlement approved by the Court. We obtained a
class-wide settlement of approximately \$300,000.

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(6) *JCI Communications, Inc. v. International Brotherhood of Electrical Workers Union, Local 103*, 2002 WL 2005852 (D. Mass. Aug. 29, 2002) (Judge Rya Zobel), *aff'd* 324 F.3d 42 (1st Cir. 2003) (Judge Norman H. Stahl, Judge Sandra L. Lynch, and Judge Jeffrey R. Howard); 2002 – 2003.

I was lead counsel on the case in the district court and on appeal. This case involved a petition by a telecommunications company to vacate an arbitral award concerning a work jurisdiction dispute, and a cross-petition by my client, a local union, for confirmation of award. The district court granted the union's motion for summary judgment, and on appeal, the Court of Appeals affirmed that decision, holding that: (1) the employer was not entitled to trial on the issue of whether a separate jurisdictional agreement governed the relationship between the parties; (2) the arbitrators did not exceed the scope of their authority when they considered the validity and effect of the jurisdictional agreement; and (3) the employer did not preserve any claim that industry arbitrators were biased because they worked for the employer's competitors.

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(7) *Marx v. Globe Newspaper Co.*, 2002 WL 31662569 (Mass. Super. Nov. 26, 2002) (Judge Ralph D. Gants (now Justice, Massachusetts Supreme Judicial Court)); 2002-2004.

I represented plaintiffs in this suit challenging the Boston Globe's actions towards its regular freelance contributors. Pursuant to oral agreements, these freelancers had provided articles and photographs for one-time publication in the print edition of the

Boston Globe and had retained the copyright in their work. The Boston Globe sought to republish the work on-line on its website, Boston.com, and to transfer or sublicense the use of certain articles and photographs to other online media, such as Mead Data Central Corp.'s NEXIS database, where they would be republished under the Globe's name. To obtain the consent of its frequent freelance contributors, the Globe demanded that the contributors give the Globe a license to reuse and modify their past work, and set an ultimatum that if the freelancers rejected this demand for a license to use the past work, it would not accept further content from them. The lawsuit attempted to challenge this practice; the court denied the Globe's motion to dismiss, but following discovery, granted its motion for summary judgment. The court concluded that requiring the freelancers to give up part of their copyright was not akin to giving up earned compensation, and that there was no violation of the implied covenant of good faith and fair dealing by doing so.

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(8) *Sims v. Alameda-Contra Costa Transit Dist.*, 2 F. Supp. 2d 1253 (N.D. Cal. 1998); Judge Charles A. Legge (ret.); 1996-1998.

I brought this action on behalf of the plaintiff against his former employer, alleging that it violated the Family and Medical Leave Act (FMLA) by failing to provide him with notice of his rights and obligations under the FMLA, and by terminating him based in part on an absence due to a serious medical condition under the FMLA. I successfully opposed defendant's motion for summary judgment and obtained a partial summary judgment for plaintiff, establishing that: (1) where the employer did not seek a subsequent medical opinion within a reasonable time period after the employee submitted his initial sufficient certification of a serious health condition, the employer could not challenge the validity of the initial medical certification submitted by employee; and (2) the employer could not deny leave based on a minor deficiency in medical certification, where it did not meet its obligation under the statute to notify the employee of the perceived deficiency and provide him a reasonable opportunity to cure it. The case settled thereafter.

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(9) *Employee Staffing Services, Inc. v. Aubry*, Civil Action C-92-4096, 1993 WL 83310 (N.D. Cal. 1993) (Judge Stanley A. Weigel (dec.)), *aff'd*, 20 F.3d 1038 (9th Cir. 1994)

(Judge Robert R. Beezer (dec.), Judge Andrew Jay Kleinfeld and Judge Cecil F. Poole (dec.)); 1992 – 1994.

Together with colleagues from my firm, I represented intervenor International Ladies Garment Workers' Union in opposing this action brought by a staffing company and its subsidiary against the California Division of Labor Standards Enforcement. The plaintiffs asserted that the Employee Retirement Income Security Act (ERISA) preempted California's mandating of workers' compensation insurance. I argued at the district court hearings and participated with colleagues at my firm in the drafting of briefs in support of motions for leave to intervene and to dismiss the complaint, in opposition to plaintiffs' request for a preliminary injunction, and on appeal. We prevailed in both the district court and on appeal, with the Ninth Circuit finding that ERISA preemption did not bar state workers' compensation requirement even though the employer provided coverage for work-related injuries as part of the multibenefit ERISA plan.

Co-counsel

Marsha Berzon (now, Circuit Judge for the United States Court of Appeals for the Ninth Circuit)

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John M. Rea

(no current business address or phone available)

(10) *Les v. Reilly*, 968 F.2d 985 (9th Cir. 1992) (Judge Richard Harvey Chambers (dec.), Judge Robert R. Beezer (dec.), Judge Mary M. Schroeder)), and *cert. denied sub nom. National Agr. Chemicals Ass'n v. Les*, 507 U.S. 950 (1993); 1991 to 1993.

Together with colleagues in my firm, I represented petitioner-intervenor AFL-CIO. I played a lead role in the joint briefing challenging a decision by the Environmental Protection Agency (EPA) on behalf of the petitioners and petitioner-intervenors Natural Resources Defense Council, Inc., and Public Citizen. The EPA found that four pesticides that had previously been permitted for use as food additives were carcinogens. Despite the finding, the EPA refused to revoke regulations permitting the pesticides' approval as food additives, on the ground that the risk of cancer posed by these chemicals was "de minimus." The petitioners and petitioner-intervenors challenged the EPA's final order permitting the use of the four chemicals on the ground that the use violated the Delany clause, 21 U.S.C. § 348(c)(3), which prohibited the use of any food additive that is found to induce cancer. The Ninth Circuit granted the petition for review, setting aside the EPA's order after finding that the language of the Delaney clause required the EPA to prohibit all additives that are carcinogens, regardless of the degree of risk involved.

Co-counsel:
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18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe

the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Much of my practice has involved law and motion and appellate practice in state and federal courts addressing disputed issues of law. I have described my participation in the most significant of these cases in response to the prior question. Generally, for at least the past ten years, I have determined the legal strategy in these cases, have drafted legal briefs (sometimes with the assistance of colleagues at my firm), and have argued many of the cases.

A significant part of my practice has included labor arbitrations. These private trials have involved discipline or discharge of union members, contract interpretation disputes, health and safety issues and similar matters. In these proceedings I typically gather information pre-hearing through information requests, witness interviews and review of documents. At the arbitration hearings, I give opening statements, engage in examination or cross-examination of all witnesses, make and oppose evidentiary objections, and give closing arguments, either orally or through post-hearing briefs. I estimate that I have tried more than 25 arbitration cases as lead or sole counsel.

I have also represented clients in other formal evidentiary hearings. For example, I represented a local union in an extensive hearing before the California Division of Occupational Safety (Cal OSHA) concerning ergonomic issues at an automobile plant. The case settled following the introduction of evidence. I also defended nine tenured faculty members facing threat of prosecution under the False Claims Act relating to the administration of government-funded grants. The matter proceeded first as a grievance before a university committee on privileges and tenure. Following the committee's fact-finding and decision in favor of my clients, I was able to negotiate a global resolution of the matter with no charges brought against my clients by the government or university.

I have also drafted, or assisted in drafting, amicus curiae briefs, including *Coverall N. Am., Inc. v. Com'r of Div. of Unemployment Assistance*, 447 Mass. 852 (2006) (brief filed on behalf of the Service Employees International Union and SEIU Local 615, defending the Massachusetts Division of Unemployment Assistance's determination that alleged "franchisees" were "employees" of janitorial company for purposes of unemployment assistance), *Town of Bedford v. AFSCME Council 93, Local 1703*, 69 Mass. App. Ct. 110, 866 N.E.2d 936, 937 (2007) (brief filed on behalf of Massachusetts AFL-CIO, in support of an appeal by the American Federation of State, County and Municipal Employees Council 93 arguing that the question of whether town timely received grievances from union was an issue for arbitration because the issue was procedural); and *Combined Mgmt., Inc. v. Superintendent of Bureau of Ins. of State of Me.*, 22 F.3d 1, 2 (1st Cir. 1994) (brief filed on behalf of the American Federation of Labor and Congress of Industrial Organizations and the International Ladies' Garment Workers' Union, AFL-CIO, supporting appellee Superintendent of the Bureau of Insurance for the State of Maine on an appeal by a staffing company of the district court's dismissal of its action to

enjoin the Superintendent from enforcing certain provisions of Maine's workers' compensation statute as preempted by ERISA).

I have also represented several public sector unions under state public employee bargaining laws. In San Francisco, I was counsel to the association of lawyers employed by the City and County of San Francisco (assistant city attorneys, assistant district attorneys and assistant public defenders), and engaged in negotiations, mediation and interest arbitration on the association's behalf. In Massachusetts, I have represented independent associations representing librarians and other library employees in contract negotiations and mediation, as well as in proceedings before the Massachusetts Department of Labor Relations.

I have not performed lobbying activities for any client or organization.

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 taught at Northeastern Law School during the Winter Quarter, 2011 – 2012. The course, entitled “Employment Law – Compensation, Benefits, & Retirement,” is regularly taught by Professor Karl Klare and I used his material in teaching the course. The course covered misclassification of employees, the Family and Medical Leave Act, Unemployment Insurance, Social Security and ERISA. Syllabus supplied.

I also taught in the Labor Studies Program at City College of San Francisco during the 1997 Fall Semester. I do not remember the name of the course, but it provided an overview of the legal framework governing labor-management relations. I do not have a copy of the syllabus for the course.

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

Under my partnership agreement with Segal Roitman LLP, upon my resignation from the firm, I will receive my share of net income for the year I leave the firm (based on my percentage interest in the firm and the months with the firm during that year) and my share (based on my percentage interest in the firm) of the firm's capital account.

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

I have no plans, commitments or agreements to pursue outside employment, with or without compensation if confirmed.

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

See Financial Disclosure Report.

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

See 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.

My husband's ongoing law practice may present a conflict of interest. So long as he has an interest in that firm that could be affected by the outcome of proceedings, I would recuse myself from cases brought by his firm consistent with applicable rules.

There would also be a conflict of interest as to cases I handled or that were handled by my firm while I was associated with it. I would recuse myself from all such cases consistent with applicable rules.

- 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 handle all matters involving actual or potential conflicts of interest through diligent and careful application of Canon 3 of the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any and all other laws, rules and practices governing such circumstances. I will also consult with the Administrative Office of the U.S. Courts for additional guidance.

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.

I have viewed addressing “the need for legal services for those unable to pay reasonable fees” described under Canon 2 as an integral part of my practice over the past 24 years.

I have co-counseled two class actions with Greater Boston Legal Services on behalf of disadvantaged, non-English-speaking workers earning poverty-level wages seeking enforcement of statutory wage protections. In each case, the court-approved settlements we ultimately negotiated for the class included payment by the respective defendant of statutory fees to Greater Boston Legal Services and my firm, but in both cases, we sought only a substantially reduced rate in order to maximize the amounts available to the class members.

I have provided pro bono representation to a number of women who work alone at night cleaning office buildings and who have alleged sexual harassment by their supervisors. In one of these cases, my client ultimately sought no monetary resolution but a change in the employer’s procedures for addressing sexual harassment. I was able to negotiate changes to the company’s procedures and ensure the appropriate training of managers, supervisors and office personnel.

I have also handled several smaller matters on a pro bono basis, including representing claimants in several unemployment hearings and representing a consumer in a state district court suit for default on a car loan.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In March 2013, Senator Elizabeth Warren announced the appointment of an Advisory Committee on Massachusetts judicial nominations to solicit applications for federal District Court vacancies in Springfield and Boston. On April 15, 2013, I submitted my application to the Advisory Committee for the Boston vacancy. On May 8, 2013, I was interviewed by the Committee in Boston, Massachusetts. I was informed by the Chair of the Committee that the Committee recommended my nomination to Senator Warren. On June 17, 2013, I was interviewed by Senator Warren in Boston, Massachusetts, and she informed me that my name would be forwarded to the President. Since June 19, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 26, 2013, I interviewed with attorneys from the White House Counsel’s

Office and the Department of Justice in Washington, D.C. On September 24, 2013, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

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

9/25/13
(DATE)

Indira Talwani

(NAME)

[Handwritten Signature]

(NOTARY)