

Vince Girdhari Chhabria
City Hall Room 234
San Francisco, CA 94102

January 6, 2014

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

Dear Mr. Chairman:

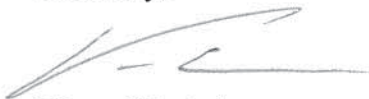
I have reviewed the Senate Questionnaire I previously submitted in connection with my nomination on July 25, 2013 to be a United States District Judge for the Northern District of California. Incorporating the additional information below, I certify that the information contained in that document is and remains, to the best of my knowledge, true and accurate.

Question #16(e)

Plumhoff v. Rickard, No. 12-1117 (Brief of the National Conference of State Legislatures, National League of Cities, National Association of Counties, International City/County Management Association, U.S. Conference of Mayors, and International Municipal Lawyers Association as Amici Curiae in Support of Petitioners) (filed January 6, 2014) (Amicus Counsel). I will submit a copy of the final brief by close of business today.

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

Sincerely,



Vince Chhabria

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).

Vince Girdhari Chhabria

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

United States District Court for the Northern District of California

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: San Francisco City Attorney's Office
City Hall, Room 234
One Dr. Carlton B. Goodlett Place
San Francisco, California 94102

Residence: Corte Madera, California

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

1969; San Francisco, California

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.

1995 – 1998, Berkeley Law School (Boalt Hall); J.D., 1998

1987 – 1991, University of California, Santa Cruz; B.A., 1991

July 1990 – August 1990, Casa Nicaraguense de Espanol; 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.

2005 – present
San Francisco City Attorney's Office
City Hall, Room 234
One Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Deputy City Attorney for Government Litigation (2005 – present)
Co-Chief of Appellate Litigation (2011 – present)

2002 – 2004
Covington & Burling, LLP
One Front Street, 35th Floor
San Francisco, California 94111
Litigation Associate

2001 – 2002
Supreme Court of the United States
One First Street, NE
Washington, DC 20543
Law Clerk to Associate Justice Stephen G. Breyer

2001
Keker & Van Nest, LLP
633 Battery Street
San Francisco, California 94111
Litigation Associate

1999 – 2000
United States Court of Appeals for the Ninth Circuit
The James R. Browning Courthouse
95 Seventh Street
San Francisco, California 94103
Law Clerk to Judge James R. Browning

1998 – 1999
United States District Court for the Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102
Law Clerk to Judge Charles R. Breyer

Summer 1997
Office of Policy Development (now Office of Legal Policy)
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Summer Law Intern

Summer 1996 (now defunct)
Graham & James, LLP
Los Angeles, California
Summer Associate

1992 – 1995
Representative Lynn C. Woolsey (Ret.)
United States House of Representatives
Washington, DC 20515
Legislative Assistant, Washington Office (1995)
Deputy Campaign Manager, Petaluma (1994)
Legislative Assistant, Washington Office (1993 – 1994)
Campaign Field Coordinator, Petaluma (1992)

1992
University of California at Santa Cruz
1156 High Street
Santa Cruz, California 95064
Teaching Assistant, Politics Department

1991
Atchison, Barisone, Condotti & Kovacevich
333 Church Street
Santa Cruz, California 95060
Legal Assistant

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 timely registered for selective service.

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

California Lawyers of the Year, The Recorder (2009)

Best Lawyers Under 40, National Asian Pacific American Bar Association (2009)

Top 20 Lawyers Under 40 in California, The California Daily Journal (2008)

Young Public Lawyer of the Year, International Municipal Lawyers Association (2008)

Order of the Coif, Boalt Hall School of Law (1998)

Honors in the Politics Major, University of California at Santa Cruz (1991)

Honors in the Politics Oral Examination, University of California at Santa Cruz (1991)

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.

Asian American Bar Association of the Greater Bay Area

California Bar Association

National Asian Pacific American Bar Association

North American South Asian Bar Association

South Asian Bar Association of Northern California

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.

California, 2001

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, 2005

Ninth Circuit Court of Appeals, 2002

Northern District of California, 2001

Central District of California, 2001

Southern District of California, 2001

Eastern District of California, 2001

California Courts, 2001

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 Constitution Society for Law and Policy
(approximately 2006 – present)

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

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

12. Published Writings and Public Statements:

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

Tribute, *Play Soft Music For Them*, 73 Mont. L. Rev. 1, 9 (Winter 2012). Copy supplied.

Blog, *49er Huddle*, San Jose Mercury News (2006 – 2007). Partial collection supplied. Due to a server change, the San Jose Mercury News has lost most of my blog entries from this site. I was able to recover the following entries from the internet archive, and have supplied copies of them:

Chronicles Of A Quarterbacking Disaster (Nov. 12, 2007)

Rock Bottom (Oct. 28, 2007)

Finally, An End-Around (Sept. 11, 2007)

Final Roster Cuts: Is Williams On A Scholarship? (Sept. 3, 2007)

Why Patrick Willis Scares Me (Apr. 19, 2007)

"Youth" Not The Reason For 49ers' Failings (Oct. 17, 2006)

Observations: Bad Defensive Coaching, Bad Defensive Players, Or Both? (Oct. 15, 2006)

49ers-Chargers: What To Look For (Oct. 12, 2006)

Will Smith Prove Himself Worthy Of The #1 Pick? (Oct. 11, 2006)

Observations: Win Deflects Criticism Of Defense . . . For Now (Oct. 8, 2006)

49ers-Raiders: What To Look For (Oct. 5, 2006)

John York Or Al Davis: Which Owner Would You Prefer? (Oct. 3, 2006)

49ers-Chiefs: Searching Desperately For A Bright Side (Oct. 1, 2006)

49ers-Chiefs: What To Look For (Sept. 28, 2006)

No Comparison Between Nolan's Decision And Mariucci's (Sept. 26, 2006)

49ers-Eagles: Observations (Sept. 24, 2006)

49ers-Eagles: What To Look For (Sept. 21, 2006)

Should 49ers Spell Gore A Bit? (Sept. 20, 2006)

Win Puts A Rosy Gloss On Bryant's Outburst (Sept. 18, 2006)

49ers-Rams Observations (Sept. 17, 2006)

49ers-Rams: What To Look For (Sept. 14, 2006)

49ers' 2-Tight End Sets Part Of Growing League Trend (Sept. 13, 2006)

49ers-Cardinals: Observations (Sept. 11, 2006)

49ers-Cardinals: What To Look For (Sept. 8, 2006)

Managing Expectations (Sept. 7, 2006)

Rating The Rookies (Sept. 5, 2006)

The Final Roster Cuts (Sept. 4, 2006)

49ers-Chargers: Observations (Sept. 2, 2006)

The 49ers And Your Fantasy Draft (Sept. 1, 2006)

With T. Stewart, *Courts Wrongly Continue Bias Against Gays*, Daily Journal (Sept. 25, 2006). Copy supplied.

Letters to the Green, *Make A Deal*, San Francisco Chronicle (Apr. 9, 2006). Copy supplied.

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

I have not prepared or contributed to the preparation of any reports, memoranda or policy statements on behalf of any bar association, committee, conference, or organization of which I am or was a member.

- 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.

Joint letter to Senate Judiciary Committee supporting nomination of Alison J. Nathan to become a judge on the United States District Court for the Southern District of New York (2011). Copy supplied.

Letter to the Administrative Office of the U.S. Courts, Committee on Rules of Practice and Procedure, opposing an amendment to the Federal Rules of Appellate Procedure allowing unpublished memorandum dispositions to be cited as precedent by litigants. (2004). Copy supplied.

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

March 27, 2013: Speaker, San Francisco Affirmative Litigation Program Seminar, Yale Law School, New Haven, Connecticut. I discussed strategic issues in

constitutional litigation, focusing on San Francisco's legal defense of its universal health care program and its challenge to California's ban on same-sex marriage. I have no notes, transcript or recording. The address of Yale Law School is 127 Wall Street, New Haven, CT 06511.

June 25, 2011: Panelist, "Supreme Court Term Review," North American South Asian Bar Association (NASABA), Annual Convention, Los Angeles, California. I have no notes, transcript or recording. NASABA can be contacted through its president, Nadeem Bezar, Kolsby Gordon LLP, 2000 Market Street, 28th Floor, Philadelphia, PA 19103.

Summer 2011: Co-Speaker, Brown Bag Lunch, United States District Court for the Northern District of California, San Francisco, California. I spoke to a group of law clerks and externs about working at the City Attorney's Office. I have no notes, transcript or recording. The address of the United States District Court for the Northern District of California is 450 Golden Gate Avenue, San Francisco, CA 94102.

May 10, 2011: Panel moderator, "Judgment Day for Class Actions at the Supreme Court," sponsored by the Northern California Chapter of the Association of Business Trial Lawyers, San Francisco, California. The panel focused on the then-pending Supreme Court decisions in *Wal-Mart v. Dukes*, Case No. 10-277, and *AT&T Mobility v. Concepcion*, Case No. 09-893. I have no notes, transcript or recording. The Executive Director of the Northern California Chapter of the Association of Business Trial Lawyers, Michele Bowen, can be reached at P.O. Box 696, Pleasanton, CA 94566.

September 2010: Panelist, Annual Law Clerk Orientation, Ninth Circuit Court of Appeals, San Francisco, California. The panel consisted of former Ninth Circuit clerks describing their experiences. I have no notes, transcript or recording. The address of the Ninth Circuit Court of Appeals is the James R. Browning Courthouse, 95 Seventh Street, San Francisco, CA 94103.

Summer 2010: Co-Speaker, Brown Bag Lunch, United States District Court for the Northern District of California, San Francisco, California. I spoke to a group of law clerks and externs about working at the City Attorney's Office. I have no notes, transcript or recording. The address of the United States District Court for the Northern District of California is 450 Golden Gate Avenue, San Francisco, CA 94102.

June 5, 2010: Panelist, "Innovation in Law and Public Policy," National Asian Pacific American Bar Association (NAPABA), Western Regional Conference, San Francisco, California. This panel consisted of lawyers and legislators, and focused on the relationship between lawyers and legislators in the policymaking process. I have no notes, transcript or recording. NAPABA can be contacted

through its Executive Director, Tina Matsuoka, at 1612 K Street, NW, Suite 1400, Washington, DC 20006.

February 2, 2010: Speaker, "American Constitution Society Presents Vince Chhabria," University of San Francisco Law School, San Francisco, California. I spoke to students about San Francisco's universal health care program and our office's defense of that program in court. I have no notes, transcript or recording. This event was sponsored by the University of San Francisco student chapter of the American Constitution Society, whose address is 2199 Fulton Street, San Francisco, CA 94117.

September 2009: Panelist, Annual Law Clerk Orientation, Ninth Circuit Court of Appeals, San Francisco, California. This panel consisted of former Ninth Circuit clerks describing their experiences. I have no notes, transcript or recording. The address of the Ninth Circuit Court of Appeals is James R. Browning Courthouse, 95 Seventh Street, San Francisco, CA 94103.

June 26, 2009: Panelist, "Appellate Advocacy," North American South Asian Bar Association (NASABA), Annual Convention, Vancouver, Canada. This panel provided guidance to practitioners on how to brief and argue appeals. I have no notes, transcript, or recording. NASABA can be contacted through its president, Nadeem Bezar, Kolsby Gordon LLP, 2000 Market Street, 28th Floor, Philadelphia, PA 19103.

Spring 2009: Speaker, Seminar on Advanced Issues In Constitutional Law, Berkeley Law School, Berkeley, California. I spoke to students about San Francisco's challenge to California's ban on same-sex marriage. I have no notes, transcript or recording. The address of Berkeley Law School is University of California, Berkeley, Boalt Hall, Berkeley, CA 94720.

Fall 2008: Speaker, Seminar on Local Government Law, Berkeley Law School, Berkeley, California. I spoke to a seminar of students about issues in local government law, including the relationship between attorneys and legislators. I have no notes, transcript or recording. The address of Berkeley Law School is University of California, Berkeley, Boalt Hall, Berkeley, CA 94720.

June 18, 2008: Panelist, "Former Clerks Share Advice on Clerkship Applications And Experiences," Bay Area Lawyer Chapter of the American Constitution Society, San Francisco, California. This panel spoke to law students about the experience of clerking in the federal courts and the process of applying for federal judicial clerkships. I have no notes, transcript or recording. The address of the American Constitution Society is 1333 H Street Northwest, 11th Floor, Washington, DC 20005.

May 2, 2008: Panelist, "Health Care Reform: Does the Federal Law Prevent Local Governments from Providing Universal Health Care to Their Citizens?," Bay

Area Lawyer Chapter of the American Constitution Society, San Francisco, California. This panel discussed the litigation involving San Francisco's universal health care program and its implications for health reform in other jurisdictions. I have no notes, transcript or recording. The address of the American Constitution Society is 1333 H Street Northwest, 11th Floor, Washington, DC 20005.

February 7, 2007: Participant, affirmative litigation workshop, Berkeley Law School, Berkeley, California. This course was taught by lawyers from the San Francisco City Attorney's Office in conjunction with Berkeley Law School faculty. I attended the February 7 session to review and provide feedback to students' affirmative litigation ideas relating to youth and family issues. I have no notes, transcript or recording. The address of Berkeley Law School is Boalt Hall, Berkeley, CA 94720.

April 1994: Speaker, Meeting of the Marin Interfaith Task Force on Central America, Petaluma, California. I spoke on behalf of Rep. Lynn Woolsey about my experience as an election monitor at the 1994 presidential election in El Salvador. I have no notes, transcript or recording. The address of the Marin Interfaith Task Force on Central America (which is now called the Marin Interfaith Task Force on the Americas) is P.O. Box 925, Larkspur, CA 94925.

- 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.

In addition to the interviews listed below, on several occasions I have spoken with groups of reporters on behalf of my clients outside the courthouse immediately following hearings in my high-profile cases. Although transcripts are not available for these sessions with reporters, my comments are essentially captured by the articles that quoted me from these sessions. I have listed all such articles below. In addition, although local television and radio stations were typically present at these courthouse media sessions, in most instances footage of the local television and radio reports are unavailable on the internet and unavailable from the stations themselves. I have included in the list below all television and radio interviews identified to me by the local stations, as well as all television and radio interviews I was able to recall independently or find online.

Ronnie Cohen, Steve Gorman, Scott Malone, Nick Zieminski, *San Francisco Surrenders In Fight Over Cell Phone Warnings*, Reuters News (May 8, 2013). Copy supplied. (Reprinted in multiple outlets).

Adam Liptak, *Marriage Ban Led Lawyers To Shift Role*, New York Times (Mar. 19, 2013). Copy supplied. (Reprinted in multiple outlets).

Stephanie M. Lee, *Mixed Reaction From Experts After Italian Ruling On Brain*

Tumor, San Francisco Chronicle (Nov. 7, 2012). Copy supplied. (Reprinted in multiple outlets).

Laird Harrison, *SF Recycling Center Takes Inspiration From 1967 Hippie Protest*, KQED Bay Area News Blog (Sept. 14, 2012). Copy supplied.

Television interview regarding Haight-Ashbury Recycling Center, KTVU (Sept. 14, 2012). I have no notes, transcript or recording, but press coverage is supplied.

Bob Egelko, *New Review Of S.F. Permit Rules For Tow Trucks Ordered*, San Francisco Chronicle (Aug. 29, 2012). Copy supplied.

C.W. Nevius, *On San Francisco: Car Theft Victim Gets Taken For Costly Ride*, San Francisco Chronicle (Aug. 14, 2012). Copy supplied.

Josh Wein, *Robust Supreme Court First Amendment Jurisprudence Could Prove Problematic For San Francisco Cellphone Law*, Communications Daily (Aug. 10, 2012). Copy supplied. (Reprinted in multiple outlets).

Marguerite Reardon, *San Francisco Faces Wireless Industry In Court Over Radiation Warnings*, CNET News (Aug. 9, 2012). Copy supplied. (Reprinted in multiple outlets).

C.W. Nevius, *Infinite Democracy – And Endless Delays*, San Francisco Chronicle (July 7, 2012). Copy supplied.

C.W. Nevius, *Haight Recycling Center Finished – Isn't It?*, San Francisco Chronicle (July 5, 2012). Copy supplied.

Robert Iafolla, *Behind-Closed-Doors Process Is High Stakes*, Daily Journal (May 14, 2012). Copy supplied.

The War Room with Jennifer Granholm, *The Justices Turn Hostile During The Second Day Of The Health Care Case*, CurrentTV (March 27, 2012). I have been unable to obtain a complete copy, but a clip is available at <http://current.com/shows/the-war-room/videos/the-justices-turn-hostile-during-the-second-day-of-the-health-care-case>.

Cynthia Foster, *Cell Industry Lawyers Thrown Curve On Fee Request*, The Recorder (Jan. 4, 2012). Copy supplied.

Kate Moser, *Youth Movement In Santa Clara*, The Recorder (Dec. 2, 2011). Copy supplied.

Bob Egelko, *Both Sides To Appeal Scaled-Back S.F. Law*, San Francisco Chronicle (Nov. 10, 2011). Copy supplied.

Louis Trager, *Judge To Rule On San Francisco Radiation Ordinance Within Days, After Unloading on City Attorney*, Communications Daily (Oct. 21, 2011). Copy supplied. (Reprinted in multiple outlets).

Ginny LaRoe, *S.F.'s Fight With Cellphone Industry Tests Compelled Speech*, The Recorder (Oct. 7, 2011). Copy supplied. (Reprinted in multiple outlets).

Louis Trager, *CTIA Tones Down Promise To Resume Lawsuit Against San Francisco Radiation Ordinance*, Communications Daily (Aug. 24, 2011). Copy supplied. (Reprinted in multiple outlets).

Louis Trager, *San Francisco Says Radiation-Disclosure Law Change Dooms CTIA Court Challenge*, Communications Daily (Aug. 9, 2011). Copy supplied. (Reprinted in multiple outlets).

Fiona Smith, *S.F. Supervisors Revise Cell Phone Law*, Daily Journal (July 21, 2011). Copy supplied.

Lawrence Hurley, *Did Fates Conspire To Allow Kagan To Duck Health Care Issue?*, Washington Briefs Blog (Apr. 7, 2011). Copy supplied.

Kent German, *CTIA Argues SF Cell Phone Law Violates First Amendment*, CNET News (Apr. 1, 2011). Copy supplied. (Reprinted in multiple outlets).

Rachel Gordon, Heather Knight, *Park Vendor Goes To Court*, San Francisco Chronicle (Mar. 10, 2011). Copy supplied.

Andrew S. Ross, *Radiation Postings Delayed*, San Francisco Chronicle (Feb. 27, 2011). Copy supplied.

Ginny LaRoe, *Catholics Get Standing To Sue S.F. (but Don't Win)*, The Recorder (Nov. 1, 2010). Copy supplied.

Bob Egelko, *Court Rejects Suit Over S.F.'s Blast At Vatican*, San Francisco Chronicle (Oct. 23, 2010). Copy supplied. (Reprinted in multiple outlets).

Julia Cheever, *Catholic Church's Suit Against SF Supes Condemnation of Archbishop's 'Hateful' Statement Dismissed*, The San Francisco Appeal (Oct. 22, 2010). Copy supplied.

Appellate Lawyers' Roundtable, Daily Journal (Oct. 4, 2010). Copy supplied.

Radio interview regarding the nomination of Goodwin Liu to be a judge on the Ninth Circuit Court of Appeals, KPFA Radio (Sept. 24, 2010). I have no notes or transcript, and I have been unable to obtain a copy.

Lawrence Hurley, *Breyer To Step In As Chief Dissenter?*, Daily Journal (July 16, 2010). Copy supplied. (Reprinted in multiple outlets).

Television interview regarding Healthy San Francisco lawsuit, KTVU (July 6, 2010). I have no notes or transcript, and I have been unable to obtain a copy.

Karen Setze, *U.S. Supreme Court Denies Cert For San Francisco Healthcare Mandate Challenge*, State Tax Today (June 29, 2010). Copy supplied.

Evan George, *Court Declines Health Care Law Review*, Daily Journal (June 29, 2010). Copy supplied.

Karen Setze, *U.S. Supreme Court Cert. Decision Expected For San Francisco Healthcare Case*, State Tax Today (June 15, 2010). Copy supplied.

Bob Egelko, *Court Finds Defect In Drugstore Ban*, San Francisco Chronicle (June 9, 2010). Copy supplied.

Lawrence Hurley, *Call For Court Consensus Builder May Be Overrated*, Daily Journal (May 7, 2010). Copy supplied.

Letters to Washington: Debate On Goodwin Liu's Nomination And Judicial Philosophy, KPFA Radio (Apr. 16, 2010). Recording available at <http://www.kpfa.org/archive/id/60292>.

Kate Moser, *Recorder Names 2009 Attorneys Of The Year*, The Recorder (Feb. 23, 2010). Copy supplied.

Lawrence Hurley, *Former Clerks Are Sitting Pretty*, Daily Journal (Jan. 4, 2010). Copy supplied.

Bob Egelko, *Catholic Group Wins Hearing In Supes' Case*, San Francisco Chronicle (Nov. 6, 2009). Copy supplied.

Karen Setze, *U.S. Supreme Court Seeks Solicitor General Opinion For Healthcare Case*, State Tax Today (Nov. 2, 2009). Copy supplied.

Forum With Michael Krasny: Healthy San Francisco, KQED Radio (Oct. 7, 2009). Recording available at <http://www.kqed.org/a/forum/R910070900>.

Kate Moser, *Ninth Circuit OKs S.F. Cigarette Law*, The Recorder (Sept. 10, 2009). Copy supplied.

Kate Moser, *Health Care Debate Raised In Cert Briefs*, The Recorder (Aug. 26, 2009). Copy supplied.

Dhyana Levey, *Philip Morris Says Cigarette-Sale Ban Violates Its Free Speech Rights*, Daily Journal (Aug. 13, 2009). Copy supplied.

Kate Moser, *Tobacco Sales Ban Hits Ninth Circuit*, The Recorder (Aug. 13, 2009). Copy supplied.

Television interview regarding Philip Morris lawsuit challenging San Francisco's ban on tobacco sales in pharmacies, KTVU (Aug. 12, 2009). I have no notes or transcript, and I have been unable to obtain a copy.

Wendi Jonassen, *How Healthy Is Healthy SF?*, The San Francisco Bay Guardian (July 22, 2009). Copy supplied.

Amanda Bronstad, *S.F. Restaurant Owners Seek Review Of Health Care Law*, The Recorder (June 26, 2009). Copy supplied.

Heather Knight, *Supreme Court Asked To Ax Health Care Law*, San Francisco Chronicle (June 9, 2009). Copy supplied. (Reprinted in multiple outlets).

Bob Egelko, *City Resolution Condemning Vatican Policy Upheld As Legal*, San Francisco Chronicle (June 4, 2009). Copy supplied. (Reprinted in multiple outlets).

Bay City News, *San Francisco Restaurants' Petition Denied By U.S. Supreme Court*, KGO-TV News (Mar. 30, 2009). Copy supplied.

Lynn Sorrel, *San Francisco Employer Mandate Law May End Up In Supreme Court*, American Medical News (Mar. 30, 2009). Copy supplied.

Heather Knight, *Not All Restaurants Back Suit Over Health Care Law*, San Francisco Chronicle (Mar. 22, 2009). Copy supplied. (Reprinted in multiple outlets).

Heather Knight, *Appeal On Health Coverage*, San Francisco Chronicle (Mar. 20, 2009). Copy supplied.

Lawrence Hurley, *S.F. Restaurant Owners Seek Stay In Health Care Case*, California Daily Journal (Mar. 20, 2009). Copy supplied.

Pamela A. MacLean, *Circuit Lets Insurance Mandate Live*, The National Law Journal (Mar. 16, 2009). Copy supplied.

Karen Setze, *Ninth Circuit Denies Rehearing In San Francisco Healthcare Case*, State Tax Today (Mar. 13, 2009). Copy supplied.

Evan Hill, *S.F. Health Law Critics Hope For High Court*, The Recorder (Mar. 10,

2009). Copy supplied.

Sarah Phelan, *Will The Supremes Take Healthy SF Challenge?*, San Francisco Bay Guardian (Mar. 10, 2009). Copy supplied.

John Cote, *Healthy SF Wins Another Court Round*, San Francisco Chronicle (Mar. 9, 2009). Copy supplied.

Heather Knight, *CITY INSIDER: Big Honor For S.F. Attorney*, San Francisco Chronicle (Jan. 27, 2009). Copy supplied.

Evan George, *20 Under 40: Vince Chhabria*, Daily Journal (Jan. 21, 2009). Copy supplied.

Bob Egelko, *Judge Rules Tobacco Ban Not Free Speech Violation*, San Francisco Chronicle (Dec. 6, 2008). Copy supplied.

Report, *Philip Morris Appealing Challenge To SF Tobacco Ban*, KTVU.COM (Dec. 5, 2008). Copy supplied.

Karen Setze, *Full Court Hearing Sought In San Francisco Healthcare Case*, State Tax Today (Nov. 12, 2008). Copy supplied.

Bob Egelko, *Ban On Tobacco Sales In Drugstores Upheld*, San Francisco Chronicle (Nov. 7, 2008). Copy supplied. (Reprinted in multiple outlets).

Report, *Judge Denies Bid To Stop SF Ban On Tobacco Sales At Pharmacies*, KTVU.COM (Nov. 6, 2008). Copy supplied.

Bob Egelko, *Judge Sets Hearing For Possible Injunction*, San Francisco Chronicle (Oct. 10, 2008). Copy supplied. (Reprinted in multiple outlets).

Karen Setze, *Ninth Circuit Decision Will Prompt Appeal of San Francisco Healthcare Case, Sources Say*, State Tax Today (Oct. 6, 2008). Copy supplied.

Television interview regarding Healthy San Francisco lawsuit, KTVU (Oct. 2, 2008). I have no notes or transcript, and I have been unable to obtain a copy.

Television interview regarding Walgreens lawsuit challenging San Francisco's ban on tobacco sales in pharmacies, KTVU (Oct. 2, 2008). I have no notes or transcript, and I have been unable to obtain a copy.

Dhyana Levey, *Walgreens Loses Bid To Halt Drug Store Cigarette Sale Ban*, Daily Journal (Oct. 1, 2008). Copy supplied.

John Cote, *Judge OKs Start Of Cigarette Ban*, San Francisco Chronicle (Oct. 1,

2008). Copy supplied. (Reprinted in multiple outlets).

Evan Hill, *Walgreens Loses Bid To Block S.F. Tobacco Law*, The Recorder (Oct. 1, 2008). Copy supplied.

Staff Report, *Cigarettes Removed From San Francisco Pharmacies*, Legal Newsline (Oct. 1, 2008). Copy supplied.

Television interview regarding Walgreens lawsuit challenging San Francisco's ban on tobacco sales in pharmacies, KTVU (Sept. 30, 2008). I have no notes or transcript, and I have been unable to obtain a copy.

Television interview regarding Walgreens lawsuit challenging San Francisco's ban on tobacco sales in pharmacies, KGO-TV News (Sept. 30, 2008). I have no notes or transcript, and I have been unable to obtain a copy.

Karen Gullo and Matthew Hirsch, *Walgreen Fails To Stop San Francisco Tobacco-Sale Ban*, Bloomberg News (Sept. 30, 2008). Copy supplied.

Carolyn Tyler, *SF Tobacco Ban Approved By Judge*, KGO-TV News (Sept. 30, 2008). Copy supplied.

Bay City News, *Judge Refuses To Block City Ban On Tobacco Sales By SF Pharmacies*, KTVU.COM (Sept. 26, 2008). Copy supplied. (Reprinted in multiple outlets).

Heather Knight, *Philip Morris Suing The City Over Its Ban On Selling Of Tobacco*, San Francisco Chronicle (Sept. 25, 2008). Copy supplied.

Report, *Philip Morris Files Second Lawsuit Challenging SF Tobacco Sales Ban*, KTVU.COM (Sept. 25, 2008). Copy supplied.

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Alysoun Bonde, *California Supreme Court Hears Gay Marriage Case*, The California Aggie (Mar. 10, 2008). Copy supplied.

Karen Setze, *Appeal To U.S. Supreme Court In San Francisco Health Plan Case*, State Tax Notes Magazine (Feb. 4, 2008). Copy supplied.

Evan George, *Appeals Court Allows S.F. Health Plan: Panel Orders Emergency Stay Of Dec. 26 Ruling*, Daily Journal (Jan. 10, 2008). Copy supplied.

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Robert Selna and Wyatt Buchanan, *Judge Asks Why Supervisors Messed With Sludge Contract*, San Francisco Chronicle (Dec. 14, 2007). Copy supplied.

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David Louie, *Judge To Rule On S.F. Employee Health Care*, KGO-TV (Nov. 2, 2007). Copy supplied.

Pamela MacLean, *ERISA Pre-empts Local Attempts To Mandate Coverage, Businesses Say*, The National Law Journal (Aug. 27, 2007). Copy supplied.

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Bonnie Eslinger, *Restaurant Group: You Can't Mandate Health Benefits*, San Francisco Examiner (July 13, 2007). Copy supplied.

Bob Egelko, *Judge Tosses Most Of Suit Against Pit Bull Neuter Law*, San Francisco Chronicle (Mar. 2, 2007). Copy supplied.

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Bob Egelko, *Court Upholds \$30,300 Award To White Applicant In Race-Bias Suit; Airport Worker's Promotion Unfairly Delayed By City*, San Francisco Chronicle (Feb. 24, 2006). Copy supplied.

Associated Press, *Appeals Court Upholds Race Bias Ruling Against S.F. Airport*, San Jose Mercury News (Feb. 24, 2006). Copy supplied. (Reprinted in multiple outlets).

Cecilia M. Vega, Charlie Goodyear, *Relocation Assistance Law Is Upheld; All Tenants Evicted Under Ellis Act Are Eligible For Help*, San Francisco Chronicle (Feb. 22, 2006). Copy supplied.

Pam Smith, *Oh, Shut Up And Pay The Ticket, Already*, Legal Pad Blog (Feb. 22, 2006). Copy supplied.

Pam Smith, *Appeal Panel Upholds Renters' Ordinance*, The Recorder (Feb. 22, 2006). Copy supplied.

Donna Domino, *Tenant Buyout Provision Appears Safe, For Now*, Daily Journal (Jan. 25, 2006). Copy supplied.

Dennis J. Opatrny, *NRA Sues Over Handgun Initiative*, Daily Journal (Dec. 30, 2005). Copy supplied.

Bob Egelko, *Terror Rulings Highlight Supreme Court Term; Liberals, Conservatives Can Count Victories, But Justices Leave Many Questions Hanging*, San Francisco Chronicle (July 5, 2004). Copy supplied.

John Scheibe, *Cross Issue Solution Pleases All: City Avoids Costly Legal Fight; People Can Still Enjoy Landmark*, Ventura County Star (Sept. 24, 2003). Copy supplied. (Reprinted in multiple outlets).

Tom Kiskien, *Defender Of Faith – Or Assailant? Group Opposed To Cross Says It's Protecting Rights*, Ventura County Star (Sept. 21, 2003). Copy supplied.

Steve Chawkins, *Future A Bit Dimmer For Ventura Cross*, Los Angeles Times (Aug. 23, 2003). Copy supplied.

John Scheibe, *Ventura Adds Conditions To Cross Sale: City Council Votes On Lights, New Structure*, Ventura County Star (Aug. 22, 2003). Copy supplied.

John Scheibe, *Supporters Raising Funds To Buy City's Cross: Landmark's Highest Bidder Might Also Destroy It*, Ventura County Star (Aug. 9, 2003). Copy supplied.

John Scheibe, *More Suits Threatened Over Vote To Sell Cross: Neither Side Satisfied With Council Action*, Ventura County Star (Aug. 2, 2003). Copy supplied.

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John Scheibe, *City Might Auction Landmark Cross: Step Proposed To Avoid Long Lawsuit; Buyer Wouldn't Have To Keep Cross*, Ventura County Star (May 29, 2003). Copy supplied.

Tracy Wilson, Steve Chawkins, *Ventura's Plan To Sell Cross Is On Shaky Ground, Suit Says*, Los Angeles Times (May 10, 2003). Copy supplied. (Reprinted in multiple outlets).

John Scheibe, *Conservative Legal Group Offers To Defend Cross: Mayor Says Ventura Hopes To Settle Out Of Court*, Ventura County Star (Apr. 23, 2003). Copy supplied.

Sean Scully, *Ventura Faces Suit Over Park's Cross; Atheists, Agnostics Say Christian Symbol 'Treads On Their Rights'*, Washington Times (Apr. 14, 2003). Copy supplied.

Steve Chawkins, *Ventura's Hilltop Cross Now A Beacon for Controversy*, Los Angeles Times (Apr. 3, 2003). Copy supplied.

John Scheibe, *Attorney Takes Aim At Cross Above Ventura: Religious Symbol On City Parkland Violates Constitution, Says S.F. Lawyer Representing Group Of County Residents*, Ventura County Star (Mar. 29, 2003). Copy supplied.

Sylvia Rubin, *Singing the Praises of 'Sopranos'; Bay Area Fans Have Their Own Club*, San Francisco Chronicle (June 29, 1999). Copy supplied.

Patrick May, *For Some, It Was A Non-Event; Many TV Viewers Had Hoped For A Discussion Of Sex Allegations*, San Jose Mercury News (Jan. 28, 1998). Copy supplied.

John D. O'Connor and John Flynn, *Stories Tell Of The Awful And Absurd*, Denver Rocky Mountain News (Oct. 20, 1989). 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 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 never been 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 not held any public offices. I have not had any unsuccessful candidacies for elective 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.

From September to November 1992, I served as a field coordinator for the campaign of Lynn C. Woolsey, then vice-mayor for the City of Petaluma, to become a member of the U.S. House of Representatives for the Sixth Congressional District of California. I was responsible for coordinating the activities of campaign volunteers in the areas of fundraising and voter outreach.

From April to November 1994, I served as deputy campaign manager for Representative Woolsey's reelection campaign. I was responsible for fundraising, voter outreach and media relations.

I served as an election weekend volunteer for then-Assemblyman Mike Honda's campaign to become a member of the U.S. House of Representatives in 2000 and for then-Senator John Kerry's campaign to become president in 2004.

In 2012, I periodically volunteered for the campaign of City Attorney Dennis J. Herrera to become mayor of San Francisco.

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 1998 to 1999, I was a law clerk to Judge Charles R. Breyer, District Judge of the United States District Court for the Northern District of California.

From 1999 to 2000, I was a law clerk to Judge James R. Browning, Circuit Judge of the United States Court of Appeals for the Ninth Circuit.

From 2001 to 2002, I was a law clerk to Justice Stephen G. Breyer, Associate Justice of the Supreme Court of the United States.

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

I have never practiced 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.

2001

Keker & Van Nest, LLP
633 Battery Street
San Francisco, California 94111
Litigation Associate

2002 – 2004

Covington & Burling, LLP
One Front Street, 35th Floor
San Francisco, California 94111
Litigation Associate

2005 – present

San Francisco City Attorney's Office
City Hall, Room 234
One Dr. Carlton B. Goodlett Place
San Francisco, California 94102
Deputy City Attorney for Government Litigation (2005 – present)
Co-Chief of Appellate Litigation (2011 – 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.

b. Describe:

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

In 2001, between my clerkships for the Ninth Circuit and the Supreme Court, I worked as a litigation associate at Keker & Van Nest, LLP, in San Francisco. I primarily defended corporate clients in intellectual property disputes.

From 2002 to 2004, I worked as a litigation associate at Covington & Burling, LLP, in San Francisco. I primarily defended corporate clients and corporate executives in white collar criminal cases and related civil matters. I also developed a pro bono relationship with the Marin County Public Defender's Office, for which I tried two cases and handled numerous others that resolved before trial.

Since February 2005, I have practiced as a member of the Government Litigation Team in the San Francisco City Attorney's Office. In this capacity, I defend the voters of San Francisco, the Mayor, the Board of Supervisors, and other government agencies in challenges to local ordinances, regulations or policies. In almost every instance, I serve as lead counsel, briefing and arguing all motions, responding to media inquiries on behalf of the clients, and overseeing discovery when applicable. In addition to my duties as a member of the Government Litigation Team, I began serving as Co-Chief of Appellate Litigation for the office in 2011, overseeing all appeals. In this capacity I review and edit briefs, provide strategic guidance, prepare attorneys for oral argument, and personally handle certain appellate arguments. Sometimes I also do trial work in the City Attorney's Office, assisting the Trial Team in defending the City or its employees at trial. I occasionally participate in affirmative litigation matters as well.

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

At Kecker & Van Nest, LLP, I primarily defended corporations in intellectual property disputes.

At Covington & Burling, LLP, I primarily defended corporations and corporate executives in criminal and civil proceedings. For example, I defended a natural gas derivatives trader charged with price manipulation, a credit card company CEO in criminal and civil securities fraud proceedings, a nursing home corporation in a criminal investigation regarding nursing home practices and procedures, an elected official in a trial involving allegations of political corruption, and a medical device company CFO in criminal and civil securities fraud proceedings.

Since coming to the City Attorney's Office in February 2005, I have primarily defended the voters of San Francisco, the Mayor of San Francisco, the San Francisco Board of Supervisors, San Francisco's various departments and commissions, and the San Francisco Unified School District. These cases usually involve challenges to local ordinances, regulations or policies. In my capacity as Co-Chief of Appellate Litigation at the City Attorney's Office, my clients are the City and its individual employees. Most commonly in this capacity I defend San Francisco police officers who have been accused of violating the rights of criminal suspects, and other employees who have been accused of engaging in employment discrimination or other unlawful conduct.

I am primarily a generalist due to the variety of litigation matters generated by my clients, but I have developed some specialization in the areas of First Amendment and preemption law based on the frequency

with which those issues have arisen in lawsuits challenging ordinances, regulations and policies.

- 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.

Virtually 100% of my practice has been in litigation throughout my career. In my capacity as a Deputy City Attorney, I appear in court regularly. While in private practice in 2001 and again from 2002 to 2004, I appeared in court occasionally, except during the six-month period in which I handled matters for the Marin County Public Defender's Office, during which I appeared in court regularly.

While in private practice, a higher percentage of my practice was in state court and in criminal proceedings. While at the City Attorney's Office, a higher percentage of my practice has been in federal court, and all of it has been in civil proceedings. Averaging the two, I estimate that 75% of my practice has been in federal court and 75% of my practice has been in civil proceedings.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 75% |
| 2. state courts of record: | 25% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 75% |
| 2. criminal proceedings: | 25% |

- 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 two criminal cases as sole counsel, one criminal case as associate counsel, two civil cases as co-counsel, and one civil case as associate counsel.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 67% |
| 2. non-jury: | 33% |

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

I have not argued before the Supreme Court of the United States. I have served as associate counsel in one case for which the Court granted certiorari: *Hollingsworth v. Perry*, No. 12-144.

I have served as counsel of record, supervising counsel or amicus counsel in nine cases in which the Court denied certiorari. The briefs from these ten cases are supplied and are listed below:

Hollingsworth v. Perry, No. 12-144 (Brief in Opposition to Petition for a Writ of Certiorari, 2012 WL 3724711; Brief of Respondent City and County of San Francisco, 2013 WL 662703)

Alvis v. Espinosa, No. 11-84 (Petition for a Writ of Certiorari, 2011 WL 2877873; Reply in Support of Petition for a Writ of Certiorari, 2011 WL 6098047)

Catholic League for Religious and Civil Rights v. City and County of San Francisco, No. 10-1034 (Brief in Opposition to Petition for a Writ of Certiorari, 2011 WL 1155225)

Florence v. Board of Chosen Freeholders of the County of Burlington, No. 10-945 (Brief of City and County of San Francisco, International Municipal Lawyers Association, and California State Association of Counties as Amici Curiae in Support of Respondents, 2011 WL 3821290)

Beer v. United States, No. 09-1395 (Brief of the International Municipal Lawyers Association as Amicus Curiae in Support of Petitioners, 2010 WL 2481443)

Hollingsworth v. United States District Court, No. 09-1238 (Brief in Opposition to Petition for a Writ of Certiorari, 2010 WL 2665549)

Rodis v. City and County of San Francisco, No. 09-275 (Brief in Opposition to Petition for a Writ of Certiorari, 2009 WL 4709547)

Golden Gate Restaurant Association v. City and County of San Francisco, No. 08-1515 (Joint Response to Application for Order Vacating Stay of District Court Judgment, copy supplied; Joint Response to Application for Order Staying Mandate and Vacating Stay of District Court Judgment, copy supplied; Brief for Respondent in Opposition, 2009 WL 2625866; Supplemental Brief of Respondent, 2010 WL 2354754)

City and County of San Francisco v. Harman, No. 07-1377 (Petition for a Writ of Certiorari, 2008 WL 1958626; Reply Supporting Petition for a Writ of Certiorari, 2008 WL 2323311)

City and County of San Francisco v. Rodis, No. 07-1376 (Petition for a Writ of Certiorari, 2008 WL 1958625; Reply Supporting Petition for a Writ of Certiorari, 2009 WL 4882612)

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.

The following cases are listed in reverse chronological order from start date:

1. *Conley v. City and County of San Francisco, et al.*, U.S. District Court Case No. 12-00454; Honorable Joseph C. Spero (N.D. Cal.); 2013.

I serve as co-counsel representing the City and a police officer in a wrongful conviction lawsuit brought under 42 U.S.C. section 1983. I briefed and argued the defendants' motion for summary judgment, assisted in trial preparation strategy, and am currently handling the appellate work. The plaintiff alleges he was wrongfully convicted and imprisoned for murder based on a Brady violation by the police officer, and that the City is for the officer's conduct based on an alleged custom of allowing officers to commit Brady violations. The defendants contend there was no Brady violation, the City has no custom of allowing officers to commit Brady violations, and that in any event the police officer is entitled to qualified immunity.

Co-Counsel:

Peter Keith
Joshua White
San Francisco City Attorney's Office
1390 Market Street
San Francisco, CA 94102
415-554-4700

Opposing Counsel:

Daniel Purcell
Keker & Van Nest
633 Battery Street
San Francisco, CA 94111
415-773-6697

2. *Mattingly v. City and County of San Francisco*, U.S. District Court Case No. 10-0193; Honorable Jacqueline Scott Corley (N.D. Cal.); 2011-2012.

I served as co-counsel representing a police officer in a federal jury trial, handling eight witnesses, including direct examinations, cross-examinations, and expert testimony. I also prepared and argued jury instructions and motions in limine. The plaintiff alleged the officer broke his arm during an arrest, while the officer contended the plaintiff was highly intoxicated during the arrest and that his injury must have occurred before the arrest. The trial lasted approximately two weeks. The jury returned a verdict for the officer.

Co-counsel:

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Margaret Baumgartner
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1390 Market Street
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415-554-4700

Opposing Counsel:

David Helbraun
351 California Street, Suite 700
San Francisco, CA 94104
415-982-4000

3. *BHR v. City and County of San Francisco*, San Francisco Superior Court Case No. 10-498514; Honorable Richard A. Kramer; 2011 – present.

I served as co-counsel for the City in a state-court bench trial, handling the witnesses who testified at trial, delivering the opening statement, and serving as lead author in pre-trial briefing. The case involves a challenge to a regulation implementing San Francisco's hotel occupancy tax. The plaintiffs argue that the regulation represents an unreasonable interpretation of the underlying tax ordinance, and that San Francisco is barred from enforcing the regulation because tax officials enforced the ordinance in a manner inconsistent with the regulation prior to its enactment. The City argues that the regulation is authorized by the

ordinance and that its tax officials did not interpret the ordinance differently prior to the regulation's enactment. The matter is presently under submission.

Co-counsel:

Peter Keith
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1390 Market Street
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415-554-4700

Opposing Counsel:

David Gross
Tamara Shepard
DLA Piper
555 Mission Street
San Francisco, CA 94111
415-836-2500

4. *CTIA – the Wireless Association v. City and County of San Francisco*, Ninth Circuit Case Nos. 11-17707 and 11-17773, 494 Fed.Appx. 752, Honorable Consuelo Callahan, Mary Schroeder and Edward Korman (by designation); 827 F.Supp.2d 1054 (N.D. Cal. 2011); Honorable William Alsup (N.D. Cal.); 2010 – 2013.

I served as lead counsel for the City, handling all discovery, motions, and arguments. This case involved a First Amendment and federal preemption challenge to an ordinance requiring retailers to disclose information about the possible health effects of radiofrequency energy from cell phones. The district court granted in part and denied in part the Cellular Telecommunications Industry Association's (CTIA) motion for a preliminary injunction, ruling that the disclosure requirement was not preempted and would satisfy First Amendment scrutiny so long as certain potentially misleading aspects of it were removed. The parties cross-appealed, and the Ninth Circuit held for the plaintiff, ruling in an unpublished opinion that the First Amendment precludes governments from requiring disclosures about the possible health effects of radiofrequency energy from cell phones because there is disagreement in the scientific community about its possible health effects, and because the Federal Communications Commission has determined that cell phones compliant with its guidelines are safe for use. The Ninth Circuit denied the City's petition for rehearing en banc, and the City reached a settlement with the plaintiff whereby a stipulated judgment was entered against the City in exchange for a waiver of attorney's fees.

Co-counsel:

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Opposing Counsel:

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Craig Stewart
Jones Day
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San Francisco, CA 94104
415-875-5714

Andrew McBride
Joshua Turner
Wiley Rein, LLP
1776 K Street, NW
Washington, DC 20006
202-719-7135

5. *Walgreen Co. v. City and County of San Francisco*, 185 Cal.App.4th 424 (2010), Honorable William McGuinness, Stuart Pollak, Martin Jenkins (First District Court of Appeal); Superior Court Case No. 479553, Honorable Peter Busch (S.F. Superior); 2008 – 2010.

I served as lead counsel defending the City, handling all motions and arguments. The case involved an equal protection challenge to an ordinance banning the sale of tobacco products in drug stores. Plaintiff argued that the City violated equal protection by banning tobacco sales in drug stores that contained pharmacies, but not grocery stores or big box stores that contained pharmacies. Plaintiff also argued that the City violated Proposition I, a local initiative measure, by enacting the legislation prior to the preparation of an economic impact report. The trial court ruled in favor of the City. The California Court of Appeal reversed on the equal protection issue, holding that the complaint stated a claim for violation of the equal protection provisions of the federal and state constitutions. The appellate court affirmed the trial court's ruling that the City did not violate Proposition I. The San Francisco Board of Supervisors, to obviate the need for litigation on the appropriate remedy for the equal protection violation on remand, enacted legislation extending the tobacco sales ban to grocery stores and big box stores that contain pharmacies. Safeway challenged the amended ordinance in federal court on equal protection and other grounds, but the district court granted the City's motion to dismiss, and Safeway did not appeal.

Opposing Counsel:

Daniel Kolkey
Rebecca Justice Lazarus
Gibson, Dunn & Crutcher
555 Mission Street, Suite 3000
San Francisco, CA 94105
415-393-8240

6. *Catholic League for Religious and Civil Rights v. City and County of San Francisco*, United States Supreme Court Case No. 10-1034; 624 F.3d 1043 (9th Cir. 2011) (en banc), Honorable Alex Kozinski, Pamela Ann Rymer, Andrew Kleinfeld, Michael Hawkins, Sidney Thomas, Barry Silverman, Susan Graber, Margaret McKeown, Richard Clifton, Jay Bybee, Sandra Ikuta; 567 F.3d 595 (9th Cir. 2009), Honorable Richard Paez, Marsha Berzon and Proctor Hug; 484 F.Supp.2d 938 (N.D. Cal. 2006), Honorable Marilyn Hall Patel (N.D. Cal.); 2006 – 2011.

I served as lead counsel defending the City, handling all briefing and argument. The case involved an Establishment Clause challenge to a resolution enacted by the Board of Supervisors criticizing the Vatican's statements that children should not be placed for adoption with same-sex couples. The plaintiffs argued that the resolution expressed hostility towards religion in violation of the Establishment Clause. The City argued that the resolution was directed at discrimination rather than religion. Under San Francisco law, the Board of Supervisors can enact nonbinding resolutions without involvement of the City Attorney's Office, but the Office defends the Board in any lawsuit arising from such resolutions. The district court granted the City's motion to dismiss, and a three-judge panel of the Ninth Circuit affirmed. The full Ninth Circuit ordered rehearing en banc, and again affirmed, with five judges concluding that the plaintiffs lacked standing, and three judges concluding that the plaintiffs had standing but failed to state an Establishment Clause claim. Plaintiff filed a petition for a writ of certiorari with the Supreme Court, which was denied.

Opposing Counsel:

Robert Muise
American Freedom Law Center
3000 Green Road, No. 131098
Ann Arbor, MI 48113
855-835-2352

7. *Golden Gate Restaurant Association v. City and County of San Francisco*, United States Supreme Court Case No. 10-1034; 546 F.3d 639 (9th Cir. 2008) (opinion on the merits), 512 F.3d 1112 (9th Cir. 2008) (opinion granting

emergency stay application), Honorable Stephen Reinhardt, William Fletcher, Alfred Goodwin (Ninth Circuit); 535 F.Supp.2d 968 (N.D. Cal. 2007); Honorable Jeffrey White (N.D. Cal.); 2006 – 2010.

I served as lead counsel defending the City, handling all discovery, briefing, and argument. The case involved a preemption challenge to the portion of San Francisco's universal health care program that requires employers to make health care expenditures on behalf of employees. The plaintiff argued that the health care spending requirement was preempted by the Employee Retirement Income Security Act of 1974 ("ERISA") on the ground that local governments may not impose employee benefit spending requirements on employers. The City argued that the ordinance was not preempted because it gave employers a reasonable, non-ERISA option for complying with the spending requirement (namely, paying the City to fund Healthy San Francisco, the City's government-run health care program). The district court granted summary judgment for the plaintiff, but the Ninth Circuit stayed the district court's ruling and ultimately reversed, holding that the ordinance was not preempted by ERISA. The plaintiff filed a petition for a writ of certiorari. The Supreme Court called for the views of the Solicitor General and then denied the petition.

Co-Counsel:

Steve Berzon
Scott Kronland
Stacey Leyton
Counsel for Defendants/Intervenors
Altshuler Berzon
177 Post Street
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415-421-7151

Paul R.Q. Wolfson
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1875 Pennsylvania Avenue, NW
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Opposing Counsel:

Charles Dyke
(formerly Nixon Peabody)
Trucker Huss
One Embarcadero Center, 12th Floor
San Francisco, CA 94111-3617
415-277-8063

Rick Rybicki
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Napa, CA 95449
707-222-6361

Curtis Cole
Cole Pedroza LLP
200 South Los Robles Avenue, Suite 300
Pasadena, CA 91101
626-431-2787

8. *The Marriage Cases* (2007 – 2013).

I have served as associate counsel in San Francisco's challenge to California's ban on same-sex marriage. In *In re Marriage Cases*, 43 Cal.4th 757 (2008), I served as lead brief writer and assisted in oral argument in the California Supreme Court phase of San Francisco's challenge to California's statutory ban on marriage by same-sex couples. The California Supreme Court ruled that California's statutory ban on marriage by same-sex couples violated the due process and equal protection provisions of the California Constitution. In *Strauss v. Horton*, 46 Cal.4th 364 (2009), I played the same role in an original writ petition brought by San Francisco in the California Supreme Court challenging Proposition 8 on the ground that it constituted a "revision" rather than an "amendment" to the state constitution and therefore was not enacted pursuant to the procedures set forth in Article 18 of the California Constitution. The Supreme Court rejected the petition. In *Hollingsworth v. Perry*, U.S. Supreme Court Case No. 12-144; 671 F.3d 1052 (9th Cir. 2012); 704 F.Supp.2d 921 (N.D. Cal. 2010), I have served as associate counsel in the City's challenge to Proposition 8 on federal equal protection and due process grounds, assisting in discovery and witness preparation at trial, the preparation of the briefs at the Ninth Circuit and Supreme Court, and preparation for oral argument in the Ninth Circuit and Supreme Court. The district court, after a bench trial, ruled that Proposition 8 violates the federal due process and equal protection provisions, and the Ninth Circuit affirmed. The United States Supreme Court vacated the judgment of the Ninth Circuit, ruling that the petitioners (the official proponents of Proposition 8) lacked standing to appeal.

Co-Counsel:

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Denny Chou
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9. *Brennan v. San Francisco Unified School District*, Superior Court Case Nos. 404817 and 448383 (S.F. Superior), Honorable James Warren, Kevin McCarthy and Harold Kahn; 2005 – 2010.

I served as lead counsel defending the San Francisco Unified School District in two class action lawsuits, handling all motions and arguments, and handling or supervising all discovery. The cases involved the school district's imposition of developer fees (fees imposed by school districts on residential and commercial development to mitigate the impact of development on school enrollment). In the first lawsuit, the plaintiffs contended that the school district had used developer fee revenue for purposes other than those set forth in the developer fee statutes, namely, construction and reconstruction of school facilities. They sought an order requiring the school district to refund \$17 million in fees to the owners of the properties for which the fees had been paid. In the second lawsuit, the plaintiffs contended that the school district was not entitled to collect developer fees in the first place, because such fees were unnecessary for the construction and reconstruction of school facilities in light of declining enrollment. On the eve of trial, after extensive discovery and motions practice and after the school district defeated a class certification motion in the second case, the parties agreed to a settlement in both cases.

Co-counsel:

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Opposing Counsel:

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10. *People v. Wharton Brown*, Marin County Superior Court Case No. 125595A, Honorable James Ritchie; 2003.

I served as defense counsel in a criminal jury trial involving charges that the defendant committed domestic abuse and resisted arrest. The trial lasted approximately one and one half weeks, with approximately ten witnesses taking the stand. The jury acquitted on one domestic abuse count, hung on another domestic abuse count, and convicted on the resisting arrest count.

Opposing Counsel:

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

The vast majority of my practice has always involved litigation. However, I occasionally provide written or verbal advice, outside the context of litigation, to the Mayor, the Board of Supervisors, members of San Francisco's agencies or commissions, or the San Francisco Unified School District, regarding legal risks associated with proposed policies or practices. For example, over the course of several years I provided legal advice to the school district as it considered how to revise its student assignment plan, and I am providing legal advice to the Mayor and Board of Supervisors about the interaction between the Affordable Care Act and San Francisco's universal health care program.

I also recently assisted the City Attorney in creating the Surcharge Fraud Enforcement Program in response to allegations that businesses were imposing surcharges on their customers for employee health care, but not using that money to provide health care to

employees. Through this program, the City Attorney provided an amnesty period in which businesses could agree to distribute a set amount of money to current and former employees to remedy past violations, in exchange for an agreement not to take further legal action against the businesses for those violations. Dozens of businesses participated in this program, resulting in the distribution of approximately \$2 million to current and former employees.

I am not a registered lobbyist, and I have not performed any lobbying activities on behalf of any clients or organizations.

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 courses.

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

I am a member of the San Francisco Employees' Retirement System defined benefit plan, which has vested.

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.

If confirmed, I have no plans, commitments, or agreements to pursue any outside employment during judicial service.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. Potential Conflicts of Interest:

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

If confirmed, I would recuse myself from any case in which I had previously participated as an attorney. I also anticipate recusing myself for a period of time from any case in which a party is represented by the San Francisco City Attorney's Office. Otherwise, I am unaware of any individuals, whether relatives or otherwise, who would be likely to present a conflict of interest. I would review, on a case-by-case basis, the existence of a potential conflict of interest arising from any personal or former client relationships or financial interests, and would apply generally applicable principles and rules concerning ethics and conflicts of interest in conducting such an inquiry and assessing whether a recusal is warranted.

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

I would consult applicable rules, canons and decisions addressing conflicts of interest, including 28 U.S.C. § 455, the Code of Conduct for United States Judges, and the American Bar Association's Model Code of Judicial Conduct.

- 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.

While at Covington & Burling's San Francisco office, I devoted substantial time to pro bono activities. I handled several individual matters, but the large majority of my pro bono time was devoted to establishing and executing two long-term relationships between the office and entities within the community. These relationships enabled other attorneys to devote substantial pro bono time as well. First, I arranged for the office to participate in the "Tuesday Night Clinic" for the Lawyers' Committee for Civil Rights whereby associates would conduct intake interviews of indigent people with legal problems, and handle their cases where appropriate. I handled one such matter through that clinic. Second, I established a pro bono relationship between the firm and the Marin County Public Defender's Office, whereby an associate would spend a period of six months handling selected misdemeanor cases, while still working out of the firm's office and representing the firm's paid clients. I was the first such associate, and handled numerous misdemeanor cases, including two trials.

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, I submitted an application to Senator Boxer's judicial selection committee, and I interviewed with this committee on May 6, 2013. The committee recommended my nomination, and Senator Boxer submitted my name to the White House. Thereafter, I was in contact with officials with the Office of Legal Policy at the Department of Justice. On June 21, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On July 25, 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, Vince G. Chhabria, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

7/29/13

(DATE)

[Signature]

(NAME)

Anita Murdock

(NOTARY)

