

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Philip S. Hadji

Philip Serge Hadji
Philip Andrew Serge Hadji-Mihaloglou
Philip Andrew Serge Hadji

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

Judge, United States Court of Federal Claims

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

Office of the General Counsel
Department of the Navy
Naval Litigation Office
720 Kennon Street, Southeast, Room 233
Washington, DC 20374

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

1981; Cleveland, Ohio

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.

2010 – 2011, The George Washington University Law School; LL.M. in Government Procurement Law, 2011

2006 – 2009, Case Western Reserve University School of Law; J.D., 2009

2000 – 2004, Hamilton College; A.B. (*cum laude*), 2004

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.

2022 – present
Office of the General Counsel
Department of the Navy
Naval Litigation Office
720 Kennon Street, Southeast, Room 233
Washington, DC 20374
Senior Trial Attorney

2020 – 2022
Office of the General Counsel
Department of the Navy
Naval Information Warfare Systems Command (NAVWAR)
1325 10th Street, Southeast
Washington, DC 20374
Deputy Counsel, D.C. Office (2021 – 2022)
Associate Counsel (2020 – 2021)

2016 – 2020
Office of the General Counsel
Department of the Navy
Acquisition Integrity Office
720 Kennon Street, Southeast, Room 214
Washington, DC 20374
Associate Counsel and Division Director (2017 – 2020)
Assistant Counsel (2016 – 2017)

2011 – 2016
Office of the General Counsel
Department of the Navy
Naval Facilities Engineering and Expeditionary Warfare Center (EXWC)
1000 23rd Avenue
Port Hueneme, California 93043
Assistant Counsel

2011
Acquisition and Logistics Division
Office of the General Counsel
Department of Defense
1600 Defense Pentagon
Washington, DC 20301
Legal Intern

2011
Special Counsel
1920 L Street, Northwest
Suite 550
Washington, DC 20036
Attorney

2010
Legal Source
2020 K Street, Northwest, Suite 700
Washington, DC 20006
Attorney

2008
The Honorable Charles P. Kocoras
United States District Court
219 South Dearborn Street
Chicago, Illinois 60604
Extern

2007
Office of the Solicitor
United States Department of Labor
200 Constitution Avenue, Northwest
Washington, DC 20210
Legal Intern

2004 – 2006
Office of U.S. Senator Robert C. Byrd
311 Hart Senate Office Building
Washington, DC 20510
Legislative Correspondent

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

I did not serve in the military. I timely registered for the 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.

Department of the Navy Superior Civilian Service Award (2021)

Department of the Navy Meritorious Civilian Service Award (2020)

NAVFAC Command Coin (2016)

EXWC Command Coin (2016)

American Bar Association Public Contract Law Section Writing Award (2011)

Case Western Reserve University School of Law

Editor-in-Chief, *Case Western Reserve Journal of International Law*

Law School Leadership Award (2009)

Cox Center International Law Award (2009)

Hamilton College

President, Class of 2004

Pi Sigma Alpha Political Science Honorary Society (2004)

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 (approximately 2010 – 2011)

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.

Maryland, 2009

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.

None.

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.

National Contract Management Association, Student Member (approximately 2010 – 2012)

- 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, the above organization does not currently discriminate and did not formerly discriminate on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Death Benefits for Servicemembers: A Case Study on the Department of Veterans Affairs and its Life Insurance Contract, *Public Contract Law Journal*, 41 Pub. Cont. L. J. 777 (Summer 2012). Copy supplied.

The Case for Kurdish Statehood in Iraq, *Case Western Reserve Journal of International Law*, 41 Case W. Res. J. Int'l L. 267 (2009). Copy supplied.

With Michael P. Scharf, Foreword and Dedication, *Case Western Reserve Journal of International Law*, 41 Case W. Res. J. Int'l L. 273 (2009). Copy supplied.

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

None.

- c. Supply four (4) copies of any testimony, official statements or other

communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

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

September 24, 2021: Panelist, *Making an Impact: Panel of Former Journal of International Law Editors*, Case Western Reserve University School of Law, Cleveland, Ohio. Transcript supplied.

August 23, 2017: Speaker, *Suspension and Debarment: What You Need to Know*, 29th Annual National Defense Industrial Association (NDIA) Department of the Navy (DON) Gold Coast Small Business Procurement Event, San Diego, California. Presentation and video supplied.

April 5, 2017: Panelist, *Suspension and Debarment: What You Need to Know*, Department of the Navy (DON) Office of Small Business Programs (OSBP), Small Business Forum, Navy League of the United States Sea-Air Space Exposition, National Harbor, Maryland. Presentation, video, and press coverage supplied.

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

None.

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

I have not held judicial office.

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

i. Of these cases, approximately what percent were:

Jury trials: _____%
bench trials: _____% [total 100%]

ii. Of these cases, approximately what percent were:

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 of 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal**: If you are or have been a judge, identify the basis by which you have assessed

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

I have not held judicial office.

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

15. Public Office, Political Activities and Affiliations:

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

None.

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

I volunteered as a booker for presidential campaign surrogates in the radio division of the Democratic National Committee Headquarters (2004).

I volunteered as a get-out-the-vote caller for the re-election campaign of U.S. Senator Robert C. Byrd (2006).

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;

I have not served as a clerk to a judge.

- 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;

2010
Legal Source
2020 K Street, Northwest, Suite 700
Washington, DC 20006
Attorney

2011
Special Counsel
1920 L Street, Northwest
Suite 550
Washington, DC 20036
Attorney

2011
Acquisition and Logistics Division
Office of the General Counsel
Department of Defense
1600 Defense Pentagon
Washington, DC 20301
Legal Intern

2011 – 2016
Office of the General Counsel
Department of the Navy
Naval Facilities Engineering and Expeditionary Warfare Center (EXWC)
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Port Hueneme, California 93043
Assistant Counsel

2016 – 2020
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Associate Counsel and Division Director (2017 – 2020)
Assistant Counsel (2016 – 2017)

2020 – 2022
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Naval Information Warfare Systems Command (NAVWAR)
1325 10th Street, Southeast
Washington, DC 20374
Deputy Counsel, D.C. Office (2021 – 2022)
Associate Counsel (2020 – 2021)

2022 – present
Office of the General Counsel
Department of the Navy
Naval Litigation Office
720 Kennon Street, Southeast, Room 233
Washington, DC 20374
Senior Trial Attorney

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

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 2010 and 2011, I worked as an attorney for Legal Source and Special Counsel. In these roles, I conducted document review for commercial litigation matters involving large-scale discovery.

Since 2011, I have served as an attorney in the Department of the Navy Office of the General Counsel with a practice focused on government contract law. In this time, I have developed extensive experience in a wide range of government contract matters, including bid protest litigation, litigation of contract claims, False Claims Act litigation, investigations, suspension and debarment, contract awards, contract performance issues, energy contracts, IT infrastructure and service

contracts, and data rights issues. I have been the lead counsel or co-lead counsel on several high-profile matters for the Navy, including debarment actions, bid protests at the Government Accountability Office, contract claims at the Armed Services Board of Contract Appeals, and substantial contract awards. I have also been the lead or co-lead for the Navy on matters where the Department of Justice has intervened on behalf of the government in district courts throughout the United States.

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

Since joining the Department of the Navy Office of the General Counsel in 2011, my only client has been the Department of the Navy. While working at Legal Source and Special Counsel, my clients were large companies.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

From 2022 to present, while serving as Senior Trial Attorney in the Naval Litigation Office of the Department of the Navy Office of the General Counsel, I frequently appear in matters before the Armed Services Board of Contract Appeals (a trial-level forum from which matters are directly appealed to the Court of Appeals for the Federal Circuit). Prior to my current position, I occasionally appeared in proceedings at the Armed Services Board of Contract Appeals and the Government Accountability Office (alternate fora from the Court of Federal Claims for government contract matters) and spent a large percentage of my time providing advice and counsel. In 2020, I supported the Department of Justice (DOJ) in a matter at the Court of Federal Claims. From 2016 to 2020, while serving in the Acquisition Integrity Office of the Department of the Navy Office of the General Counsel, I supported DOJ as lead counsel for the Navy in False Claims Act matters that DOJ handled in district courts throughout the United States, which included preparing recommendations regarding intervention in qui tam litigation under the False Claims Act, settlement decisions, and dismissal decisions.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 20%
- 2. state courts of record: 0%
- 3. other courts: 0%
- 4. administrative agencies: 80%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 100%

2. criminal proceedings: 0%

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

I have tried four cases to final decision at the Armed Services Board of Contract Appeals and the Government Accountability Office. I was the lead attorney for two of the cases and the co-lead attorney for two of the cases. Additionally, I am currently the lead attorney on six matters pending before the Armed Services Board of Contract Appeals.

- i. What percentage of these trials were:

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

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

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

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

- 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. *Appeal of Herren Associates, Inc.*, Armed Services Board of Contract Appeals, No. 62706, March 29, 2022, Judge Michael N. O'Connell, available at <https://www.asbca.mil/Decisions/2022/62706%20Herren%20and%20Associates,%20Inc.%204.22.22%20Redacted%20Decision.pdf>.

I represented the Department of the Navy in this matter in 2021. The litigation involved the appeal of a Department of the Navy Contracting Officer's final decision denying a

claim submitted for payment by Herren Associates, Inc. (“Herren”). In 2004, the Naval Information Warfare Systems Command awarded Herren “an indefinite delivery, indefinite quantity” contract for the provision of engineering, technical, and programmatic support services. Although performance of the contract began in 2009, Herren waited until 2019 to submit a claim arguing that it was owed higher fees and payments for leased facilities. Herren contended, among other things, that the Navy had requested the services of more senior personnel than those offered in Herren’s original proposal, leading to increased labor costs. Along with the lead counsel for the Navy, I worked on discovery and the Navy’s motion for summary judgment. Following discovery, I assisted lead counsel with drafting a motion for summary judgment based on the statute of limitations. Herren argued that, because its claim was under a “cost reimbursement” contract, it was permissible to wait 10 years after performance commenced to submit its claim (under a six-year statute of limitation) based on the contract terms. However, the Board agreed with the Navy’s argument that the contract provided no excuse for Herren’s delay in seeking a higher fee and there was no contract language that provided, as Harren argued, for an increase in the fee if the labor mix changed. Accordingly, the Board granted summary judgment in the Navy’s favor.

Counsel for Government

Libbi J. Finelsen
Department of the Navy
1000 Navy Pentagon, Room 4D652
Washington, DC 20350
(703) 614-1994

Counsel for Appellant, Herren Associates

Eden Brown Gaines
Browns Gaines, LLC
10 G Street, Northeast, Suite 600
Washington, DC 20002
(202) 803-8718

2. *Perspecta Enterprise Solutions, LLC v. United States and Leidos, Inc.*, Court of Federal Claims, No. 20-814, Dec. 17, 2020, available at https://ecf.cofc.uscourts.gov/cgi-bin/show_public_doc?2020cv0814-82-0.

In 2020, I represented the Department of the Navy in the above-captioned matter. This was a bid protest in the United States Court of Federal Claims before Judge Loren A. Smith. It was the second bid protest to the Department of the Navy’s award of the contract, with the GAO denying the first protest in June 2020. Specifically, Perspecta filed a bid protest complaint regarding NAVWAR’s award of a \$7 billion contract to Leidos, Inc. for the supplies and services necessary to operate the Navy’s enterprise-wide information technology networks. Perspecta contended that Leidos gained an unfair competitive advantage, argued that the Navy’s waiver of an organizational conflict of interest was unreasonable, and challenged the agency’s evaluation of offerors’ proposals, including the Navy’s technical evaluations, the fairness of the Navy’s discussions with

offerors, the Navy's cost evaluation, and the resulting award decision. I worked on the cost/price-related arguments and responding to the allegations of improper discussions. I supervised a team of the Navy's cost experts and coordinated with counsel for the intervenor and its team of cost experts. I also led the Navy's document production efforts. Unlike the GAO litigation, which was based primarily on an administrative record that only included the evaluation of Perspecta, this litigation also included the record pertaining to the evaluation of Leidos. As such, I developed additional cost/price arguments defending the reasonableness of the Navy's decision. The court denied the bid protest in December 2020, agreeing with the Navy and Leidos on all issues. Perspecta later merged with Peraton, Inc.

Counsel for Government

Kelly A. Krystyniak
Collins Aerospace (formerly at the U.S. Department of Justice)
Assistant General Counsel, Mission Systems
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Charlotte, NC 28217
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John McHugh
LMI Consulting LLC
Senior Corporate Counsel (formerly with the Navy)
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(703) 917-9800

Libbi J. Finelsen
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Counsel for Intervenor, Leidos

James J. McCullough
Michael J. Anstett
Fried Frank
801 17th Street, Northwest
Washington, DC 20006
(202) 639-7130

Counsel for Protester Perspecta

Daniel R. Forman
Crowell and Moring
1001 Pennsylvania Avenue, Northwest
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(202) 624-2504

3. *Matter of: Perspecta Enterprise Solutions, LLC, B-418533.2; B-418533.3, Comp. Gen.*, June 17, 2020, available at <https://www.gao.gov/assets/b-418533.2.pdf>.

In 2020, I represented the Department of the Navy, Naval Information Warfare Systems Command (“NAVWAR”) in a contract protest (bid protest) before the GAO. The protester, Perspecta Enterprise Solutions, LLC (“Perspecta”), filed a bid protest against a contract awarded to Leidos, Inc. by NAVWAR for the supplies and services necessary to operate the Navy’s enterprise-wide information technology networks. Losing the contract award to Leidos displaced Perspecta, which impacted Perspecta significantly because the contract was worth approximately \$7 billion and represented about 20 percent of Perspecta’s annual revenue. Perspecta contended that Leidos gained an unfair competitive advantage based on its hiring of a former NAVWAR official and that the Navy’s waiver of an organizational conflict of interest was not reasonable. Perspecta also challenged the agency’s evaluation of other offerors’ proposals, including the Navy’s technical evaluations, the fairness of the Navy’s discussions with offerors, the Navy’s cost evaluation, and the resulting award decision. The GAO denied the protest, siding with the Department of the Navy and the intervenor, Leidos. Perspecta later merged with Peraton, Inc. I served as the co-lead attorney of a ten-attorney team and was responsible for the cost/price-related arguments and responding to the allegations of improper discussions. I supervised a team of the Navy’s cost experts and coordinated with counsel for the intervenor and its team of cost experts. The GAO decision was prepared by Sarah T. Zaffina, Alexander O. Levine, and Jennifer D. Westfall-McGrail.

Counsel for the Government

John McHugh (formerly with the Navy)
Senior Corporate Counsel
LMI
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Tysons, VA 22102
(703) 917-9800

Libbi J. Finelsen
Department of the Navy
1000 Navy Pentagon, Room 4D652
Washington, DC 20350
(703) 614-1994

Counsel for Intervenor, Leidos

James J. McCullough
Michael J. Anstett
Fried Frank
801 17th Street, Northwest
Washington, DC 20006
(202) 639-7130

Counsel for Protester, Perspecta
Daniel R. Forman
Crowell and Moring
1001 Pennsylvania Avenue, Northwest
Washington, DC 20004
(202) 624-2504

4. *United States ex rel. Ameliorate Partners, LLP v. ADS Tactical, Inc. et al.*, Case No. 13-cv-1880 (D.D.C.) (Judge Collyer).

I was the Department of the Navy's supervisory attorney for this False Claims Act matter litigated by DOJ against ADS, Inc., and related entities (collectively "ADS"). The Navy was a victim of the alleged fraud. The complaint alleged that ADS knowingly conspired with and caused purported small businesses to submit false claims for payment in connection with fraudulently-obtained small business contracts. The complaint further alleged that ADS, together with several purported small businesses that it controlled, fraudulently induced the government to award certain small business set-aside contracts by misrepresenting that it met certain eligibility requirements. ADS and its affiliates allegedly concealed the companies' affiliations with ADS and knowingly made misrepresentations concerning the size of the businesses and their eligibility as service-disabled or 8(a) qualified businesses. Finally, ADS allegedly engaged in illegal bid rigging schemes that inflated or distorted prices charged to the government under certain contracts. ADS agreed to pay \$16 million and ADS's majority owner and former Chief Executive Officer agreed to pay \$20 million to settle the allegations. As the Navy's supervisory attorney for this matter, I worked on the Navy's settlement position, which was done in coordination with the lead trial attorney at DOJ and in coordination with the appropriate personnel within the Department of the Navy. My representation in this matter was from 2017 to 2019.

Counsel for the Government
Brian Hudak
United States Attorney's Office
District of Columbia
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Washington, DC
(202) 252-2500

Opposing Counsel
Brian Whisler
Baker & McKenzie LLP
815 Connecticut Avenue, Northwest
Washington, DC 20006
(202) 452-7019

5. *United States ex rel. Rudolph v. Inchcape Shipping Services Holdings Limited, et al.*, No. 1:10-cv-01109 (D.D.C.) (Judge Walton).

From 2017 to 2018, I was the lead attorney for the Department of the Navy in this False Claims Act matter litigated by DOJ against Inchcape Shipping Services Holdings Limited. The complaint alleged that Inchcape and some of its subsidiaries (collectively, “Inchcape”) violated the False Claims Act by knowingly overbilling the Navy for ship husbanding services from 2005 to 2014. As a ship husbanding services provider, Inchcape arranged for the provision of goods and services to Navy ships at ports in several regions throughout the world. Inchcape’s services typically included the provision of food and other subsistence items, arrangement of local transportation, waste removal, telephone services, ship-to-shore transportation, and force protection services. The lawsuit alleged that Inchcape knowingly submitted false invoices overstating its services, over-billed, and double-billed for certain goods and services. I supported the lead attorney at the DOJ by providing information about relevant Navy contracts, damages, and about Inchcape’s compliance with an Administrative Agreement (“AA”) requiring the company to implement a more robust ethics and compliance program. As part of the Navy’s internal enforcement of the AA, executed prior to the conclusion of this matter, I made site visits to Inchcape facilities to help track the progress of Inchcape’s compliance with the AA. Inchcape filed a motion to dismiss in April 2016, which was pending when the company agreed in June 2018 to settle the matter for \$20 million. I drafted the Navy’s memorandum establishing its settlement position and coordinated approval of the settlement within the Navy, including obtaining approval from the Secretary of the Navy.

Counsel for Government

Robert Chandler
U.S. Department of Justice
Civil Division
175 N Street, Northwest
Washington, DC 20530
(202) 514-4678

Counsel for Defendant, Inchcape Shipping Services Holdings Limited

Craig A. Holman
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, DC 20001
(202) 942-5722

J. Kirk Ogrosky
Goodwin Procter, LLP
1900 N Street, Northwest
Washington, DC 20036
(202) 346-4379

6. *United States ex rel. Moldex-Metric v. 3M Company*, Case No. 3:16-cv-1533-MBS (D.S.C.) (Judge Coggins).

I was the Department of the Navy's supervisory attorney for this False Claims Act matter litigated by DOJ against 3M Company ("3M"). The Navy was a victim of the alleged fraud. 3M allegedly violated the False Claims Act by selling or causing to be sold defective earplugs to the Department of Defense. Specifically, the United States alleged that 3M, and its predecessor Aeero Technologies, Inc., knew dual-ended Combat Arms Earplugs Version 2 were too short for proper insertion into users' ears and that the earplugs could loosen imperceptibly and therefore did not perform well for certain individuals. The United States further alleged that 3M did not disclose this design defect to the military. 3M agreed to pay \$9.1 million to resolve the allegations. As the Navy's supervisory attorney for this matter, I worked on the Navy's settlement position in coordination with the DOJ trial attorney and in coordination with the appropriate personnel within the Department of the Navy. My representation in this matter was from 2017 to 2018.

Counsel for the Government

Stanley D. Ragsdale
United States Attorney's Office
1441 Main Street, Suite 500
Columbia, SC 29201
(803) 929-3000

Opposing Counsel

David J.F. Gross
1950 University Avenue, Suite 450
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7. *Appeal of Ameresco Select, Inc.*, Armed Services Board of Contract Appeals, Nos. 59638, 60136, 60526, available at <https://www.asbca.mil/Decisions/2017/59638,%2060136,%2060526%20Ameresco%20Select,%20Inc.%209.12.17.pdf> (dismissal of Count II) (Judge Terrence Hartman), <https://www.asbca.mil/Decisions/2022/59638%20et%20al.%20Ameresco%20Select,%20Inc.%207.11.22%20Decision.pdf> (denial of cross-motions for summary judgment) (Judge Michael T. Paul).

This matter involved a delivery order issued under an indefinite delivery/indefinite quantity contract awarded to a predecessor company of appellant, Ameresco Select, Inc. (ASI). The purpose of this contract was an energy savings performance project at Naval Station, Rota, Spain. ASI filed a multi-part complaint alleging that the Navy owed ASI money for construction of a temporary meteorological tower and related 12-month collection of wind data. ASI also alleged it was owed delay-related and design change costs associated with fire alarm and fire sprinkler systems. I supported the lead attorney for the Navy in discovery at the beginning of the litigation, which included identifying and producing documents; identifying and intervening potential witnesses; reviewing and providing comments on the answer; drafting an analysis of key contractual terms

referenced in the complaint; reading, reviewing, and drafting responses to interrogatories. I also worked with the lead trial attorney and the contracting officer to fix a jurisdictional issue regarding the final decision of the contracting officer. Finally, I worked with lead trial attorney and contracting officer to reach a settlement agreement for a portion of ASI's appeal very shortly after the litigation commenced. Following ASI's decision to withdraw a portion of the complaint related to the temporary meteorological tower and data following discovery, and the ASBCA's denial of cross-motions for summary judgment on the delay-related and design change issues, the parties settled the litigation. My representation in this matter was from 2014 to 2016.

Counsel for the Government

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Opposing Counsel

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8. *United States v. Weiland*, No. 14-CV-1434 (E.D. Wis.) (Judge Griesbach).

This was a civil suit filed by the United States under the False Claims Act for alleged fraud against the Navy. The defendant was the former co-owner of a company who made fraudulent representations to the Small Business Administration to certify his company under a program designed to spur development in historically underutilized business zones (HUBZone). Using that certification, the defendant and co-owner fraudulently obtained more than \$1.9 million in defense contracts, including with the Navy. The defendant fraudulently misrepresented that his company was located in a HUBZone, when it was not. The United States filed suit against the defendant in December 2015. As an attorney working on this matter for the Navy, my role was to assist the lead DOJ attorney. I helped build the case against the defendant by finding contracts and other documents in the Navy's possession to show that his company was not located in a HUBZone. I also identified and interviewed witnesses for the United States (Navy employees) who could corroborate documents and emails, and who had physically been to a company facility. After mediation, the United States reached a favorable settlement, and then-Chief Judge Griesbach entered a consent judgment in the United States' favor in February 2017. In addition, the defendant pleaded guilty to a felony offense. My representation in this matter was from April 2015 to April 2016.

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9. *Appeal of Sacred Power Corporation*, Armed Services Board of Contract Appeals, No. 60083, Judge Mark N. Stempler, available at <https://www.asbca.mil/Decisions/2016/60083%20Sacred%20Power%20Corporation%203.1.16.pdf>.

This case arose from Sacred Power Corporation's performance on a Navy contract for the design and installation of a renewable energy fueling station (photovoltaic carports) at Joint Base Pearl Harbor Hickam. The contract was awarded by the Naval Facilities Engineering and Expeditionary Warfare Center's contracting office, where I served as the lead acquisition law attorney at the time of this litigation. The case was an appeal of an April 2015 contracting officer's final decision denying Sacred Power Corporation's March 2015 non-monetary claim that requested termination of a task order for convenience and a modification of appellant's performance rating. I supported the lead trial attorney for the Navy with discovery at the beginning of the litigation, which included identifying and producing documents; identifying and intervening potential witnesses; and coordinating with appropriate Navy personnel regarding the process for reviewing, revising, and changing contractor performance evaluations. I provided advice to Navy personnel on how best to deal with the litigation. I worked with the Navy's lead trial attorney and the Navy's contracting officer on drafting the parameters of the settlement and executing it via a bi-lateral modification to the contract. The case ultimately settled. My representation in this matter was from 2015 to 2016.

Counsel for the Government

Pamela J. Nestell (retired, formerly with the Naval Litigation Office)

Opposing Counsel

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10. *Matter of: GlobalOpal, LLC*, B-408414.7; B-408414.8, Comp. Gen., Mar. 19, 2014, available at <https://www.gao.gov/assets/b-408414.7%2Cb-408414.8.pdf>.

I represented the Department of the Navy as the lead attorney in this bid protest from late 2013 to early 2014, drafting all filings. The protester, GlobalOpal, protested a contract awarded to CJSeto Support Services by the Department of the Navy, Naval Facilities Engineering Command (“NAVFAC”) for enterprise operations support (“EOS”) services. Among the EOS services to be provided were IT infrastructure, system monitoring and reporting, security, remote technical support, operations, and mainframe maintenance. GlobalOpal asserted that the Navy failed to conduct a price realism analysis of the awardee’s proposed price and otherwise misevaluated proposals. Specifically, GlobalOpal argued that the awardee’s proposed labor rates were substantially lower than the rates paid to the incumbent workforce, and that therefore the Navy should have recognized that it would be extraordinarily difficult for CJSeto to recruit and maintain personnel. The Navy countered by stating that GlobalOpal’s complaint—that the agency failed to account for the risk involved in labor rates that are allegedly too low—is a challenge to the agency’s failure to conduct a price realism analysis. Because the procurement was conducted on a fixed-price basis, and because the Request for Proposals did not provide for a price realism analysis, the Navy was precluded from conducting one. The RFP informed offerors that the price analysis would be limited to “whether the price is fair and reasonable.” A price realism evaluation, in contrast, assesses whether an offeror’s low fixed-price reflects a lack of understanding of contract requirements or risk inherent in its approach. The GAO agreed with the Navy’s arguments and denied the protest. The GAO decision was prepared by Kenneth Kilgour and David A. Ashen.

Co-counsel for Government

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Counsel for Protester, GlobalOpal

Steven J. Koprince (retired)

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.)

As an attorney with the Department of the Navy Office of the General Counsel, in addition to my litigation responsibilities, I have spent a significant part of my career providing advice and counsel on government contract matters.

From 2021 to 2022, I served as the Deputy Counsel of the Naval Information Warfare Systems Command (NAVWAR) Washington, DC Office of General Counsel, and was previously Associate Counsel from 2020 to 2021. This office provides legal advice and counsel to the Program Executive Officer for Digital Enterprise Systems (PEO Digital) and the Program Executive Officer for Manpower, Logistics and Business Systems (PEO MLB) on all acquisition law issues including contract awards, contract administration, and contract litigation. Together, these two PEOs have a combined annual budget of approximately \$3 billion and are responsible for delivering IT infrastructure and applications to approximately 800,000 Navy end users, both ashore and afloat. As Deputy Counsel, I served as the Principal Legal Advisor to PEO Digital and to PEO MLB (Acting). I was responsible for supervising four senior acquisition attorneys. I personally served as the lead attorney for more than \$1.6 billion in competitive contract awards (without protest) for an enterprise-wide cloud-based accounting system of record for the Navy. I worked on a wide range of contract performance issues including contract changes, requests for equitable adjustments, and contractor compliance with trade laws. While supporting NAVWAR, I also spent considerable time on data rights issues, including issues prior to contract award and issues that arose during contract performance.

From 2017 to 2020, I served as a Division Director and Associate Counsel in the Department of the Navy's Acquisition Integrity Office (AIO), and I was Assistant Counsel from 2016 to 2017. AIO is responsible for the coordination of all acquisition fraud matters affecting the DON. This includes accepting referrals for administrative action; interfacing with investigative agencies; coordinating remedies with acquisition entities within the DON and with the Department of Justice; implementing Administrative Agreements with contractors; and outreach to the private sector on ethics and compliance issues. At AIO, I supervised five attorneys responsible for advising senior Navy officials including the Secretary on contract fraud matters. I executed hundreds of suspensions and debarments (exclusion from government contracting), drafted administrative agreements, and coordinated administrative action with criminal investigations. I also represented the Navy on False Claims Act matters where DOJ intervened on behalf of the United States, including high-visibility cases resulting in recoveries in excess of \$100 million. I served as the Navy's representative to the Department of Defense Procurement Fraud Working Group and the Interagency Suspension and Debarment Committee. I also served on the Defense Federal Acquisition Regulation Supplement (DFARS) Committee on Suspension, Debarment, and Business Ethics.

In 2018, I worked directly for the General Counsel (GC) of the Department of the Navy (Acting) on a detail in the Pentagon. I was responsible for providing advice and counsel to the GC on discrete, controversial matters for the Secretary of the Navy. This included adjudicating legal disagreements between top legal advisors within various components of the Department and reviewing documents for the Secretary's signature.

From 2011 to 2016, I served as Assistant Counsel to the Naval Facilities Engineering and Expeditionary Warfare Center (EXWC), Port Hueneme, California. EXWC executes approximately \$1 billion annually for specialized engineering, technology development, and life-cycle management of expeditionary equipment to the Navy, Marine Corps, federal agencies, and other Department of Defense-supported commands. In this role, I was the lead acquisition attorney to a large contracting office. I was responsible for providing legal advice and counsel on a wide variety of contracts (systems, services, IT, energy, and construction), including on issues involving the award of contracts and the administration of contracts. I was the legal advisor to dozens of Source Selection Evaluation Boards and advised on dozens of Source Selection Authority Decision Documents. I litigated matters on behalf of EXWC and negotiated settlements of several contract disputes. I renegotiated favorable terms for a revenue-generating energy production contract and I provided legal advice on inter-agency energy contract issues for the Navy. I also served as lead counsel for Navy in a contracting officer's successful decision to deny a very large data rights claim under an IT development contract.

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.

None.

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.

None.

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

None.

22. **Sources of Income:** List sources and amounts of all income received during the calendar

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that 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.

It is possible that a dispute filed in the United States Court of Federal Claims could be related to a matter that I worked on in the Office of the General Counsel of the Department of the Navy. If I am confirmed, and if that situation presents itself, I would apply the standards of 28 U.S.C. § 455 and the Code of Conduct for United States Judges, as well as any other pertinent principles of judicial ethics, to determine whether to recuse myself from that matter. I am unaware of any other individuals, family or otherwise, that are likely to present potential conflicts of interest.

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

If confirmed, I would consult applicable rules, canons, and decisions addressing conflicts of interest, including 28 U.S.C. § 455 and the Code of Conduct for United States Judges, and any other materials addressing conflicts of interest and appearances of conflicts of interest. In any close cases, or if any issue arose in which there was a question, I would consult other judges and any persons designated by the court or judicial organizations to provide advice on such questions as they arise.

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.

Since 2011, I have worked in public service as an attorney in the Office of the General Counsel of the Department of the Navy. During these years, I have been restricted in my ability to engage in the practice of law on behalf of any entity other than the federal government. I have taken time to speak with law students from my alma matter, Case Western University School of Law, about careers in law, both on an individual basis and recently on a career panel at the law school.

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 May 2021, I communicated with the office of Senator Sherrod Brown about my interest in a vacancy on the U.S. Court of Federal Claims. On May 24, 2021, I interviewed with staff members of Senator Brown's office about the position. On October 19, 2021, Senators Brown and Rob Portman sent a letter to President Biden recommending me to fill a vacancy on the Court of Federal Claims. I understand that Senator Bill Cassidy has also recommended me for the position. On February 14, 2023, the White House Counsel's Office began communicating with me about my interest in the position and I interviewed with attorneys from that office on February 17, 2023. Since March 18, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On June 7, 2023, the President announced his intent to nominate me.

- 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.