

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Dean John Sauer

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

Solicitor General of the United States

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.

13321 North Outer Forty Road, Suite 300
St. Louis, Missouri 63017

530 Maryville Centre Drive, Suite 230
St. Louis, Missouri 63141

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

November 13, 1974
St. Louis, Missouri

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

Harvard Law School, J.D. 2004 (attended 2001-2004)
University of Notre Dame, M.A. 2000 (attended 1999-2000)
Oxford University, B.A. 1999 (attended 1997-1999)
Duke University, B.S.E. 1997 (attended 1993-1997)

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,

¹ All answers provided are to the best of my recollection, based on reasonable investigation by me and persons acting on my behalf.

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.

January 2023 - present
James Otis Law Group, LLC
13321 North Outer Forty Road, Suite 300
St. Louis, Missouri 63017
530 Maryville Centre Drive, Suite 230
St. Louis, Missouri 63141
Principal

January 2019 – January 2023
Missouri Attorney General’s Office
Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, Missouri 65102
815 Olive Street, Suite 200
St. Louis, Missouri 63101
Solicitor General

January 2017 – January 2019
Missouri Attorney General’s Office
Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, Missouri 65102
815 Olive Street, Suite 200
St. Louis, Missouri 63101
First Assistant and Solicitor

August 2015 – January 2017
James Otis Law Group, LLC
12977 North Outer Forty Dr., Suite 214
St. Louis, Missouri 63141 (April 2016 – January 2017)
231 S. Bemiston Avenue, Suite 800
St. Louis, Missouri 63105 (Aug. 2015 – April 2016)
Founder and Principal

March 2013 – August 2015
Clark & Sauer, LLC
7733 Forsyth Boulevard, Suite 625
St. Louis, Missouri 63105
Partner

2011 – 2014 (Spring Semesters)
Washington University School of Law
One Brookings Drive
St. Louis, Missouri 63130
Adjunct Professor – Advanced Criminal Trial Advocacy

January 2008 – January 2013
U.S. Attorney's Office for the Eastern District of Missouri
Thomas Eagleton U.S. Courthouse
111 S. 10th Street, 20th Floor
St. Louis, Missouri 63102
Assistant U.S. Attorney

September 2006 – January 2008
Cooper & Kirk, PLLC
1523 New Hampshire Avenue NW
Washington, DC 20036
Associate

July 2005 – July 2006
Supreme Court of the United States
One First Street, NE
Washington, DC 20543
Law Clerk to Justice Antonin Scalia

June 2005 – July 2005
Byran Cave, LLP (now Bryan Cave Leighton Paisner)
One Metropolitan Square
211 N. Broadway, Suite 3600
St. Louis, Missouri 63102
Summer Associate

June 2004 – June 2005
U.S. Court of Appeals for the Fourth Circuit
Lewis F. Powell Jr. Courthouse & Annex
1100 East Main Street, Suite 501
Richmond, VA 23219 (location of court)
8444 Westpark Drive, Suite 520
McLean, VA 22102 (location of chambers)
Law Clerk to Judge J. Michael Luttig (ret.)

May 2004 - June 2004
U.S. Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, DC 20530
Intern

July 2003 – August 2003
Boies, Schiller & Flexner LLP
1401 New York Avenue, NW
Washington, DC 20005
Summer Associate

June 2003 – July 2003
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004
Summer Associate

June 2002 – August 2002
Cooper & Kirk, PLLC
1523 New Hampshire Avenue NW
Washington, DC 20036
Summer Associate

January 2001 – August 2001
Office of Congressman Todd Akin
Cannon House Office Building
27 Independence Avenue SE
Washington, DC 20003
Legislative Assistant

June 2000 – December 2000
University of Notre Dame
Philosophy Department
100 Malloy Hall
Notre Dame, IN 46556
Research Assistant and Teaching Assistant

June 1998 – August 1998
IBM Global Services – St. Louis
325 McDonnell Boulevard
Hazelwood, Missouri 63042
Software Development Intern

June 1997 – August 1997
IBM Austin
11501 Burnet Road
Austin, Texas 78758
High-End Process Development Intern

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 have registered for selective service.

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

Missouri House of Representatives, One Hundred Second General Assembly, Resolution honoring the “steadfast and honorable service” of D. John Sauer as Solicitor General of Missouri (Mo. House Res. No. 727, adopted Feb. 28, 2023)

National Association of Attorneys General
Supreme Court of the United States, Best Brief Award 2018
(awarded for merits brief in *Bucklew v. Precythe*)

Missouri Bar Foundation
David J. Dixon Appellate Advocacy Award, 2013

Harvard Law School, J.D. *magna cum laude*, 2004

Harvard Law Review, Articles Editor, 2003-2004

University of Notre Dame
Presidential Fellowship, 1999-2000

Oxford University
Top First-Class Honours in Theology, 1999

Oxford University
Rhodes Scholar, Missouri and Oriel, 1997

Duke University, B.S.E. *summa cum laude* with honors and distinction in both majors, 1997

Duke University
Varsity Letter, Wrestling, 1996 – 1997

Duke University
Angier B. Duke Scholar, 1993 – 1997

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.

Missouri Bar, Member, 2006 – present
District of Columbia Bar, Member, 2007 – present

10. **Bar and Court Admission:**

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

Missouri Bar, Member, 2006 – present
District of Columbia Bar, Member, 2007 – present
I am not aware of any 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.

Missouri – 2006
District of Columbia – 2007
U.S. Supreme Court – 2013
U.S. Court of Appeals for the Sixth Circuit – 2007
U.S. Court of Appeals for the Eighth Circuit – 2013
U.S. Court of Appeals for the Fourth Circuit – 2014
U.S. Court of Appeals for the Fifth Circuit – 2014
U.S. Court of Appeals for the Seventh Circuit – 2014
U.S. Court of Appeals for the Ninth Circuit – 2014
U.S. Court of Appeals for the Eleventh Circuit – 2014
U.S. Court of Appeals for the D.C. Circuit – 2015
U.S. Court of Appeals for the Tenth Circuit – 2020
U.S. Court of Appeals for the Second Circuit – 2024
U.S. District Court for the Eastern District of Michigan – 2007
U.S. District Court for the Eastern District of Missouri – 2013
U.S. District Court for the Western District of Missouri – 2017
I have also been admitted *pro hac vice* in many courts.
I am not aware of any 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.

To the best of my recollection:

Federalist Society, Member (2006 – present, intermittent)
Teneo, Member (2024 – present)

Incarnate Word Athletic Association (Board Member and Track Rep, 2023 – present)
American Association of Rhodes Scholars, Member (intermittent years since 1997)
Join Hands East St. Louis – Volunteer/Mentor (2008 – 2013)
St. Louis Priory High School, Board of Advisors (2008 – 2012) (est.)
Aim High St. Louis, Board Member (2008 – 2012) (est.)
Alliance Defending Freedom, Grant Review Committee, Member (2015 – 2016)
Missouri Athletic Club – Member (2009, 2014 – present)

- b. 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.

I understand from public reports that the Missouri Athletic Club, which is an athletic and social club located in St. Louis, Missouri, discriminated on the basis of race in membership until the late 1960s, and voted to first admit female members in 1988. To my knowledge, none of the other organizations discriminates or has 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.

To the best of my recollection and through searches of publicly available materials by me and persons acting on my behalf, I and persons acting on my behalf have identified the following materials:

Eric S. Schmitt, *Symposium: Kisor v. Wilkie – A swing and a miss*, SCOTUSBlog (June 27, 2019), <https://www.scotusblog.com/2019/06/symposium-kisor-v-wilkie-a-swing-and-a-miss/>. I assisted with research, drafting, and editing for this symposium article, which was authored by then-Attorney General Eric Schmitt.

Note, *Constitutional Constraints on Interstate Same-Sex Marriage Recognition*, 116 Harv. L. Rev. 2028 (2003). I was the principal drafter of this student Note, with editing and input from other law students.

- 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.

To the best of my recollection and through searches of publicly available materials by persons acting on my behalf, I and persons acting on my behalf have not identified any responsive materials.

- 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.

To the best of my recollection and through searches of publicly available materials by persons acting on my behalf, I and persons acting on my behalf have identified the following materials:

Testimony of D. John Sauer – Arizona House of Representatives Committee on Oversight, Accountability and Big Tech (Oct. 16, 2023). No written statement.

Press Release: <https://www.azleg.gov/press/house/56LEG/1R/231016KOLODIN.pdf>

Link to Video of Hearing: <https://bit.ly/3rJhOXi>

Testimony of D. John Sauer, Hearing Before the United States House of Representatives, Committee on the Judiciary, Select Subcommittee on the Weaponization of the Federal Government (July 20, 2023) (written testimony provided)

Testimony of D. John Sauer, Hearing Before the United States House of Representatives, Committee on the Judiciary, Select Subcommittee on the Weaponization of the Federal Government (March 30, 2023) (written testimony provided)

Testimony of D. John Sauer on North Dakota House Bill 1461, regarding the constitutionality of the “Smarter Balanced Assessment Consortium,” North Dakota House of Representatives (Feb. 2, 2015 Bismarck, North Dakota) – To the best of my recollection, I offered oral testimony only.

Video Excerpts Available Here:

http://dakotabeacon.com/entry/steve_cates_possible_illegality_of_north_dakota_common_core_consortium/

- 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.

To the best of my recollection and through searches of publicly available materials by me and persons acting on my behalf, I and persons acting on my behalf have identified the following responsive materials. Readily available press reports are identified where any were located.

The Federalist Society, 2024 National Lawyer's Convention *Showcase Panel III: Sex, Gender, and the Law* (Washington, DC, Nov. 16, 2024)

Location of talk:

1919 Connecticut Ave. NW

Washington, DC 20009

Video of the panel discussion is available here: <https://fedsoc.org/conferences/2024-national-lawyers-convention?#agenda-item-showcase-panel-iii-sex-gender-and-the-law>

(A listing of all speeches and talks that I have given for the Federalist Society, based on their records, is available here: <https://fedsoc.org/past-events?speaker=d-john-sauer>.)

Coalition Life and Missouri Stands With Women, *Defeat Amendment 3 Statewide Action Webcast Featuring Gov. Mike Parson & Bill O'Reilly*, (St. Louis, MO, Oct. 24, 2024)

I was one of a series of featured speakers on a webcast opposing Missouri's Amendment 3. A video of the entire event is available here (my remarks around 13:30 – 20:18):

<https://www.youtube.com/watch?v=ptQ7BnLyY7c&t=35s>

Constitutional Coalition, *Presidential Immunity Case: A Fireside Chat with D. John Sauer on the Arguments and Supreme Court Decision* (St. Louis, MO, Oct. 24, 2024).

I provided a discussion of the U.S. Supreme Court's decision on Presidential immunity in *Trump v. United States*, with an overview of the litigation, the lower-court decisions, the arguments raised in the Supreme Court, and a review of the Supreme Court's decision. I do not have a prepared text, notes, or outline from the talk.

Location of talk: 1335 S. Lindbergh Blvd, St. Louis, MO 63131

Press Release Here: <https://www.constitutionalcoalition.org/event-details/presidential-immunity-case-a-fireside-chat-with-d-john-sauer-on-the-arguments-and-supreme-court-decision>

Constitutional Coalition

15820 Clayton Road

Ellisville, MO 63011

New Civil Liberties Alliance, *Lunch and Law: What Missouri v. Biden Means for Free Speech* (Washington, DC, July 26, 2023) – Panel discussion for the New Civil Liberties Alliance of the district court's injunction in *Missouri v. Biden*.

Location of talk: Washington, DC.

Video of the panel discussion is available here: <https://nclalegal.org/event/what-missouri-v-biden-means-for-free-speech/>.

The Federalist Society, Kansas City Lawyers Chapter, *Missouri Supreme Court Review* (Kansas City, MO, Sept. 29, 2022).

I gave a talk to a group of lawyers of the Kansas City Chapter of the Federalist Society in Kansas City, Missouri, that discussed recent decisions of the Supreme Court of Missouri that focused on decisions to which the State of Missouri was a party. I do not have a prepared text, notes, or outline from the talk.

Location of talk:

1100 Main Street

Kansas City, Missouri 64105

Press Release Here: <https://fedsoc.org/events/missouri-supreme-court-review>

Alliance Defending Freedom, Summit on Religious Liberty, *Life After Roe: Protecting Children and Serving Women in the States* (Greensboro, Georgia, July 19, 2022).

I joined a panel discussion about the future of pro-life litigation after *Dobbs*, discussing the ongoing cases involving state-level litigation addressing abortion and related issues. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Greensboro, Georgia

Alliance Defending Freedom

15100 N. 90th Street

Scottsdale, AZ 85260

The Federalist Society, St. Louis Lawyers' Chapter, and Federal Bar Association, St. Louis Chapter, *U.S. Supreme Court Roundup with Missouri Solicitor General John Sauer & Co.* (St. Louis, MO, July 13, 2022).

I joined a panel discussion of recent Supreme Court cases from the 2021-22 Term as a continuing legal education (CLE) program. To the best of my recollection, I addressed recent cases such as *Dobbs* and *Bruen* by summarizing their reasoning and commenting on their analysis. The CLE was jointly hosted by the Federal Bar Association of St. Louis and the Federalist Society Chapter of St. Louis. I do not have a prepared text, notes, or outline from the talk.

Location of talk:

405 Washington Ave.

St. Louis, MO 63102

Press Release Here: <https://fedsoc.org/events/scotus-roundup-with-john-sauer-co>

The Federalist Society

1776 I Street, NW, Suite 300

Washington, DC 20006

Federal Bar Association

4250 N. Fairfax Drive, Suite 301

Arlington, VA 22203

The Federalist Society, 2022 Midwestern Regional Conference, *Panel 2 – Better Believe It: Free Exercise and the First Amendment* (Springfield, IL, Apr. 23, 2022)

Video of panel discussion is available here: <https://fedsoc.org/conferences/2022-midwestern-regional-conference?#agenda-item-panel-2-religious-liberty>

Location of talk: Springfield, IL.

212 N. Sixth Street

Springfield, IL 62701

The Federalist Society, Harvard Student Chapter, *Litigating the Vaccine Mandates* (Zoom Webinar, Cambridge, MA, Jan. 25, 2022).

To the best of my recollection, I presented a Zoom webinar for the Harvard Students Chapter of the Federalist Society discussing litigation against vaccine mandates imposed by the Biden Administration, with an emphasis on litigation led by state Offices of Attorney General. I do not have a prepared text, notes, or outline from the talk.

Press Release Here: <https://fedsoc.org/events/litigating-the-vaccine-mandates>

Location of talk: Cambridge, MA (I participated from St. Louis, MO, by Zoom)
The Federalist Society
1776 I Street, NW, Suite 300
Washington, DC 20006

The Federal Bar Association, St. Louis Chapter, *2020-21 Supreme Court Roundup* (St. Louis, MO, June 30, 2021).

To the best of my recollection, I presented a continuing legal education (CLE) presentation about recent Supreme Court cases from the 2020-21 Supreme Court Term. I do not recall which cases were addressed. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO
Federal Bar Association
4250 N. Fairfax Drive, Suite 301
Arlington, VA 22203

Alliance Defending Freedom, Blackstone Legal Fellowship, *Protecting Life Today: Emerging Legal and Policy Efforts* (Landsdowne, Virginia, June 4, 2021).

I provided comments to a group of law students during their summer internships as Blackstone Fellows at the Alliance Defending Freedom on the status of pro-life litigation and policy efforts, with a focus on abortion-related litigation conducted by state Offices of Attorney General. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Landsdowne, Virginia
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260

Rule of Law Defense Fund, *Foreign Sovereign Immunities Act* (St. Louis, MO, June 23, 2020).

I joined a panel discussion by videoconference for senior staff of state Offices of Attorney General regarding the Foreign Sovereign Immunities Act. To the best of my recollection, my remarks focused on FSIA's interpretation and application to the alleged conduct of the People's Republic of China and the Chinese Communist Party regarding the origins of the COVID-19 pandemic. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO (I participated from St. Louis, MO, by videoconference.)
Rule of Law Defense Fund
1747 Pennsylvania Ave, NW, Ste 800
Washington, D.C. 20006

The Federalist Society, St. Louis Lawyers Chapter, and the Federal Bar Association, St. Louis Chapter, *U.S. Supreme Court Roundup: New Decisions and Cases on the Horizon* (St. Louis, MO, Feb. 27, 2020).

I joined a panel discussion of recent and upcoming cases in the U.S. Supreme Court relating to the 2019-2020 Term of the Court. The event was jointly hosted by the St. Louis Lawyers Chapter of the Federalist Society and the St. Louis Chapter of the Federal Bar Association. I do not have a prepared text, notes, or outline from the talk.

Press Release Here: <https://fedsoc.org/events/u-s-supreme-court-roundup-new-decisions-and-cases-on-the-horizon>

Location of talk:

405 Washington Ave.
St. Louis, MO 63102
The Federalist Society
1776 I Street, NW, Suite 300
Washington, DC 20006
Federal Bar Association
4250 N. Fairfax Drive, Suite 301
Arlington, VA 22203

The Federalist Society, Jefferson City Lawyers Chapter, *Reflections on Bucklew and SCOTUS in Review by D. John Sauer* (Jefferson City, MO, Oct. 8, 2019).

I gave a presentation on the Supreme Court's decision in *Bucklew v. Precythe*, discussing the litigation, the Supreme Court's decision, and related issues. I do not have a prepared text, notes, or outline from the talk.

Location of talk:

326 Monroe Street

Jefferson City, MO 65101

Press Release Here: <https://fedsoc.org/events/reflections-on-bucklew-and-scotus-in-review-by-d-john-sauer>

The Federalist Society

1776 I Street, NW, Suite 300

Washington, DC 20006

Alliance Defending Freedom, Senior Staff Retreat, *Supreme Court Round-Up: What's Happened and What's On the Horizon?* (Cancun, Mexico, Sept. 5, 2019) and *Reading In Between the Tea Leaves: The Road Ahead for Pro-Life Litigation* (Cancun, Mexico, Sept. 6, 2019).

I joined two panel discussions at a Senior Staff Retreat for staffers at state Offices of Attorney General in Cancun, Mexico, hosted by the Alliance Defending Freedom in September 2019. In the first panel, I joined a discussion of possible upcoming Supreme Court cases for the upcoming 2019-2020 Term, which to my recollection included a discussion of the Supreme Court's recent decision in *Bucklew v. Precythe*. In the second panel, I joined a discussion of issues relating to abortion-related litigation for state Offices of Attorney General, including anticipating upcoming issues. I do not have a prepared text, notes, or outline from the talk.

Location of talks: Cancun, Mexico

Alliance Defending Freedom

15100 N. 90th Street

Scottsdale, AZ 85260

The Missouri Bar, *United States Supreme Court Highlights* (St. Louis, MO, August 7, 2019).

I joined a webinar discussion providing a continuing legal education (CLE) presentation about major cases in the U.S. Supreme Court's 2018-2019 Term. To the best of my recollection, my remarks included a discussion of the Supreme Court's decision in *Bucklew v. Precythe*. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO (I joined the webinar discussion from St. Louis, MO.)

The Missouri Bar

326 Monroe, P.O. Box 119

Jefferson City, MO 65102-0119

The Missouri Bar, *U.S. Supreme Court Update* (St. Louis, MO, June 7, 2019).

I provided a continuing legal education (CLE) presentation discussing cases in the then-current U.S. Supreme Court term by live audiocast. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO (I joined the audiocast from St. Louis, MO.)

The Missouri Bar

326 Monroe, P.O. Box 119

Jefferson City, MO 65102-0119

The Missouri Bar, *2018 United States Supreme Court Highlights – 2017-2018 Term* (St. Louis, MO, August 14, 2018).

I joined a webinar discussion providing a continuing legal education (CLE) presentation about major cases in the U.S. Supreme Court's 2017-2018 Term. I do not recall which cases were discussed. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO (I joined the webinar from St. Louis, MO.)

The Missouri Bar

326 Monroe, P.O. Box 119

Jefferson City, MO 65102-0119

Missouri Attorney General's Office, *Ethical Issues Facing Government Attorneys* (Jefferson City, MO, Nov. 29, 2018).

I presented an in-person continuing legal education (CLE) presentation for the attorneys in the Missouri Attorney General's Office that discussed common ethical issues that government attorneys may confront in government practice. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Jefferson City, MO

Missouri Attorney General's Office

207 W. High Street, P.O. Box 899

Jefferson City, MO 65102

Missouri Attorney General's Office, *Effective Advocacy I - Positioning Your Case to Win on Appeal* (Jefferson City, MO, Nov. 30, 2018)

I presented a live continuing legal education (CLE) presentation for the attorneys in the Missouri Attorney General's Office that discussed tips for trial-level attorneys to place their cases in position to win on appeal, including preservation of error and similar issues. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Jefferson City, MO

Missouri Attorney General's Office

207 W. High Street, P.O. Box 899

Jefferson City, MO 65102

Supreme Court of Missouri, *Writs, Post-Conviction Relief, and Canons of Construction* (Jefferson City, MO, Oct. 10, 2017).

At the invitation of Judges of the Supreme Court of Missouri, I gave a CLE presentation to law clerks for those Judges that discussed canons of interpretation and special appellate

proceedings such as writs and post-conviction relief, with a focus on Missouri interpretive case law and Missouri appellate procedural rules. I do not have a prepared text, notes, or outline from the talk.

Location of talk: 207 West High Street, Jefferson City, MO 65101
Supreme Court of Missouri
207 West High Street
Jefferson City, MO 65101

Missouri Attorney General's Office, *Ethical Issues in Government Legal Practice - A Practical Guide* (Jefferson City, MO, Oct. 24, 2017).

I presented an in-person continuing legal education (CLE) presentation for the attorneys in the Missouri Attorney General's Office that discussed common ethical issues that government attorneys may confront in government practice. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Jefferson City, MO
Missouri Attorney General's Office
207 W. High Street, P.O. Box 899
Jefferson City, MO 65102

Missouri Attorney General's Office, *Persuasive Legal Writing* (Jefferson City, MO, Oct. 24, 2017).

I presented an in-person continuing legal education (CLE) presentation for the attorneys in the Missouri Attorney General's Office that discussed how to write an effective appellate brief, including suggestions for writing an effective Introduction, Statement of Facts, Summary of Argument, and Argument Section. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Jefferson City, MO
Missouri Attorney General's Office
207 W. High Street, P.O. Box 899
Jefferson City, MO 65102

Missouri Attorney General's Office, *Appellate Practice - Training for AGO Attorneys* (Jefferson City, MO, June 29, 2017).

I presented an in-person continuing legal education (CLE) presentation for the attorneys in the Missouri Attorney General's Office that discussed tips for effective appellate practice, including how to write an effective appellate brief. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Jefferson City, MO
Missouri Attorney General's Office
207 W. High Street, P.O. Box 899
Jefferson City, MO 65102

The Federalist Society, St. Louis Lawyer's Chapter, *Justice Antonin Scalia Memorial Service* (St. Louis, MO, Feb. 27, 2016).

I gave remarks to the St. Louis Lawyer's Chapter of the Federalist Society about the greatness, character, and importance of Justice Antonin Scalia after a memorial service for the Justice at the Cathedral Basilica of St. Louis, 4431 Lindell Blvd., St. Louis, MO 63108. A copy of the

draft of my remarks is provided.

Location of talk: 4431 Lindell Blvd., St. Louis, MO 63108.

The Federalist Society

1776 I Street, NW, Suite 300

Washington, DC 20006

To the best of my recollection, I gave the same or a similar talk about Justice Scalia at St. Louis University School of Law around the same time frame, but I have been unable to locate a record of the date or further information about event. Location of talk:

St. Louis University School of Law

100 N. Tucker Boulevard

St. Louis, Missouri 63101

The Federalist Society, Mississippi Lawyer's Chapter, *Liberty Luncheon: Is Common Core Constitutional?* (Jackson, MS, Mar. 27, 2015).

I gave a presentation to the Mississippi Lawyer's Chapter of the Federalist Society about the constitutionality of the Common Core-aligned multistate "consortia," such as the Smarter Balanced Assessment Consortium, arguing that they violate the U.S. Constitution's Compact Clause. I do not have a prepared text, notes, or outline from the talk.

Location of talk: Jackson, MS

The Federalist Society

1776 I Street, NW, Suite 300

Washington, DC 20006

Readily available press reports:

<https://www.clarionledger.com/story/news/2015/03/27/common-core-consortia-illegal-attorney-says/70547854/>

The Federalist Society, Civil Rights Practice Group Teleforum, *Coming Soon to a School Near You?: Common Core* (St. Louis, MO, Jan. 9, 2015).

I joined a panel discussion provided by teleforum of issues relating to the so-called "Common Core" educational standards. To the best of my recollection, I presented comments on the constitutionality of the Common Core-aligned multistate "consortia," such as the Smarter Balanced Assessment Consortium, arguing that they violate the U.S. Constitution's Compact Clause. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO (I participated in the teleforum from St. Louis, MO.)

The Federalist Society

1776 I Street, NW, Suite 300

Washington, DC 20006

St. Thomas More Society, St. Louis Chapter, *Remarks on Formal and Material Cooperation With Evil and the HHS Mandate* (2013).

I provided comments to lawyers at a meeting of the St. Louis Chapter of the St. Thomas More Society on the issues of formal and material cooperation with evil under Catholic moral theology that were then arising under the so-called "HHS Mandate," which was subject to litigation in *Hobby Lobby* and *Zubik v. Burwell*. I do not have a prepared text, notes, or outline from the talk.

Location of talk: St. Louis, MO

St. Thomas More Society, St. Louis Chapter

9939 Gravois Road
St. Louis, Missouri 63123

- 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.

To the best of my recollection and through searches of publicly available materials by me and persons acting on my behalf, I and persons acting on my behalf have identified the following responsive materials:

NewsTalkSTL, Tim Jones & Chris Arps Show (Nov. 4, 2024), Interview about Missouri's Amendment 3. Audio recording of interview is available here:
<https://omny.fm/shows/newstalk-stl/h1-john-sauer-former-solicitor-general-mo-amendmen>

Marc Cox Morning Show, *Election Day Predictions and Amendments Impact* (Nov. 4, 2024), Interview about Missouri's Amendment 3. Audio recording of interview is available here:
<https://www.audacy.com/podcast/the-marc-cox-morning-show-fad7f/episodes/hour-3-election-day-predictions-and-amendments-impact-475be>

Shannon Parker, *LN Ten Most Interesting: Law*, Ladue News (Jan. 29, 2009). Report of Interview Available Here:
https://www.laduenews.com/business/features/ln-ten-most-interesting-john-sauer/article_6feeac21-3baa-5166-a56b-8d53230e1975.html

- f. If applicable, list all published judicial opinions that you have written, including concurrences and dissents. Supply the citations for all published judicial opinions to the Committee.

Not applicable.

13. Public Office, Political Activities and Affiliations:

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

Law clerk to Judge J. Michael Luttig, U.S. Court of Appeals for the Fourth Circuit, 2004-2005 (appointed by Judge J. Michael Luttig, ret.)

Law clerk to Justice Antonin Scalia, U.S. Supreme Court, 2005-2006 (appointed by Justice Scalia)

Assistant U.S. Attorney, Eastern District of Missouri, 2008-2013 (appointed by U.S. Attorney Catherine Hanaway)

First Assistant and Solicitor, Missouri Attorney General’s Office, 2017-2019 (appointed by then-Missouri Attorney General Joshua Hawley)
Solicitor General of Missouri, 2019-2023 (appointed by then-Missouri Attorney General Eric Schmitt)

I have not been a candidate for elective 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.

During 2014 and 2016, I served as outside counsel for Returning Government to the People and Missouri Roundtable for Life, Missouri campaign committees that sponsored an initiative petition that was adopted by Missouri voters in 2016 as Amendment 2, relating to campaign-finance regulation and reform under Missouri law. I handled ballot-title and related litigation for the committees over those two election cycles. *See, e.g., Missouri Elec. Cooperatives v. Kander*, 497 S.W.3d 905, 907 (Mo. App. W.D. 2016); *Sinquefield v. Jones*, 435 S.W.3d 674 (Mo. App. W.D. 2014). Other than that, I do not recall any responsive memberships or offices held.

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the following judges:

Justice Antonin Scalia, U.S. Supreme Court (July 2005 – July 2006)

Judge J. Michael Luttig, U.S. Court of Appeals for the Fourth Circuit (June 2004 – June 2005)

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

I practiced alone between late January 2023 and mid-March 2023, immediately after leaving the Missouri Attorney General’s Office. My business address was:

13321 North Outer Forty Road, Suite 300

Chesterfield, MO 63017

- 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.

See answer to Question 6, above.

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

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

- v. Whether you have held any judicial office, including positions as an administrative law judge, on any U.S. federal, state, tribal, or local court and if so, please provide the name of the court, the jurisdiction of that court, whether the position was appointed or elected, and the dates of your service.

I have not held any judicial office.

b. Describe:

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

See response to 14(b)(ii) below.

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

The general character of my law practice has changed depending on my job over the years.

From September 2006 through January 2008, I worked as a litigation associate at Cooper & Kirk, PLLC, in Washington, DC. I worked on a variety of commercial and constitutional litigation projects. Representative matters included representing the State of Tennessee in legal challenges to its Medicaid program, representing corporate clients in cases related to the Supreme Court's holding in *United States v. Winstar Corp.*, 518 U.S. 839 (1996), and representing an intervenor-defendant in an equal-protection challenge to Michigan's voter-adopted prohibition against government-mandated racial preferences, in the case that eventually became *Schuetz v. Coalition to Defend Affirmative Action*, 572 U.S. 291 (2014).

From January 2008 through January 2013, I served as an Assistant U.S. Attorney for the Eastern District of Missouri, where I prosecuted violent crimes and white-collar crimes, among other federal crimes. My only client was the United States of America. I prosecuted a wide range of federal criminal matters and handled many criminal appeals on behalf of the Office.

From March 2013 through August 2015, I was an attorney at a small litigation firm, Clark & Sauer, LLC. I was involved in representing clients in a range of matters including commercial litigation, mediation and arbitration, and other disputes. Representative matters included representing an insurance brokerage firm in significant non-compete litigation, representing a major telecommunications company in a series of tax-related disputes with municipalities across Missouri, and representing a major real-estate brokerage firm in an

arbitration alleging fraud in the sale of a commercial real estate property. I was also involved in appellate matters, and I filed a significant number of amicus briefs on a *pro bono* basis.

From August 2015 through January 2017, I was the Founder and Principal of the James Otis Law Group, LLC, a small litigation firm that handled a range of criminal, civil, and constitutional matters, including appeals. Representative matters included representing a brokerage firm for agricultural products in a criminal investigation into alleged adulteration of pet-food products, representing a major car-rental company in federal appeals relating to labor disputes, and representing a Catholic priest who fled religious persecution in China and was later falsely accused of child sex abuse in an action alleging civil rights conspiracy under 42 U.S.C. § 1985.

From January 2017 until January 2019, I served as First Assistant and Solicitor in the Missouri Attorney General's Office, and from January 2019 until January 2023, I served as Solicitor General in the Missouri Attorney General's Office. As First Assistant, I oversaw all the civil and criminal litigation for the Office, including trial-court litigation and appeals. In both roles, I served as the chief appellate officer for the State of Missouri, overseeing all appeals involving the Attorney General's Office and handling both trial-court litigation and appeals in constitutional cases and cases involving the State of Missouri and its interests.

From January 2023 until the present, I have served as the Principal of the James Otis Law Group, LLC, which also briefly did business as James Otis Litigation. In this role, I have handled a range of client matters, including representing President Donald J. Trump in both criminal and civil matters. I have also represented state clients, including the State of Louisiana in a lawsuit brought by Missouri and Louisiana challenging federal officials' involvement in social-media censorship, and the President of the Arizona Senate and Speaker of the Arizona House of Representatives in a defense of Arizona's Save Women's Sports Act, among other matters.

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

The vast majority of my practice has been in litigation, including both trial-court and appellate litigation, as well as pre-litigation investigations, and I estimate that percentage at or near 100 percent. The frequency of my court appearances has varied with my job. During my time at Cooper & Kirk, PLLC, I had infrequent court appearances of my own, but I frequently provided a supportive role to more senior attorneys in their court appearances. During my time as an Assistant U.S. Attorney, I appeared in federal court very frequently, including for initial appearances, suppression hearings, plea colloquies, sentencing hearings, and federal jury trials. I also appeared in the U.S. Court of Appeals for the Eighth Circuit relatively frequently, probably about 2-3 oral arguments per year. During my time at Clark & Sauer, LLC, I had fairly frequent court appearances, including dispositive motion practice in state court in multiple cases, and a significant bench trial before an arbitrator. During my time at the James Otis Law Group, LLC in 2015-2016, I had occasional court appearances and a few appellate arguments. During my time in the Missouri Attorney General's Office, I had very frequent court appearances, appearing often to argue dispositive motions in trial court in key constitutional cases and arguing many cases on appeal in the U.S. Court of Appeals for the

Eighth Circuit, the Supreme Court of Missouri, and other appellate courts. During my time at the James Otis Law Group, LLC, from 2023 to the present, I have had several appellate arguments, including oral argument before the U.S. Supreme Court in *Trump v. United States*, 603 U.S. 593 (2024).

1. Indicate the percentage of your practice in: (responses are estimates)
 1. federal courts: 45%
 2. state courts of record: 45%
 3. other courts: 5%
 4. administrative agencies: 5%

The mix of federal and state court (and other courts) for my various career phases is as follows:

- Cooper & Kirk, PLLC – Mix of federal and state court
- U.S. Attorney’s Office – All federal court
- Clark & Sauer, LLC – Principally state court, but some federal court and also an arbitration proceeding
- James Otis Law Group, LLC (2015-16) – Mix of federal and state court
- Missouri Attorney General’s Office – Mix of federal and state court, with a majority of litigation in state court but a large number of matters in federal court, and a small number of matters before state administrative agencies and in mediation
- James Otis Law Group, LLC (2023-present) – Principally federal-court litigation

Based on this overview, I estimate that my practice has been approximately 45 percent in federal courts, 45 percent in state courts, with a smaller number of matters involving administrative agencies, mediation, and arbitration as well.

11. Indicate the percentage of your practice in:

1. civil proceedings: 60%
2. criminal proceedings: 40%

Here is the overview of the criminal/civil mix for my various legal jobs:

- Cooper & Kirk, PLLC – Almost all civil proceedings
- U.S. Attorney’s Office – All criminal proceedings (counting post-conviction review petitions under 28 U.S.C. § 2255 as criminal proceedings)
- Clark & Sauer, LLC – Mostly civil proceedings but some criminal proceedings
- James Otis Law Group, LLC (2015-16) – Mostly civil proceedings but some criminal proceedings
- Missouri Attorney General’s Office - Mostly civil proceedings but some criminal proceedings
- James Otis Law Group, LLC (2023-present) – A mix of civil and criminal proceedings, including appeals in criminal cases

Based on this overview, I estimate that my practice overall has been approximately 60 percent civil proceedings and 40 percent criminal proceedings.

- 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.

Based on the best of my recollection, I recall serving as lead counsel or co-counsel in the following trials:

- U.S. Attorney’s Office – I was first-chair in six federal jury trials, I was a member of the trial team for another 8-week jury trial in a criminal RICO case, and I second-chaired several other trials (I do not recall the precise number).
- Clark & Sauer, LLC – I was co-counsel in a contested arbitration proceeding that was tried before an arbitrator in a two-week bench trial.
- Missouri Attorney General’s Office – I was lead or significant co-counsel in several bench trials and similar proceedings, including a bench trial before a federal district judge on an APA challenge to a Biden Administration immigration policy, a four-day bench trial before a state administrative law judge in a licensing dispute, a bench trial before a state judge in a case raising an important Second Amendment issue, a bench trial in a case challenging Missouri’s voter ID requirements, a bench trial conducted by deposition testimony in a case challenging Missouri’s notarization requirement for mail-in ballots during COVID-19, and contested preliminary injunction hearings involving challenges to Missouri’s abortion statutes. There may have been other trials as well. I have not included several cases that were tried on stipulated facts in Missouri state court.

Based on this review, I estimate that I have served as lead counsel or significant co-counsel in 14-16 jury and bench trials, plus an undetermined number of additional trials where I served as second chair while in the U.S. Attorney’s Office.

What percentage of these trials were:

1. jury: 50% (estimate)
2. non-jury: 50% (estimate)

- 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 argued two cases before the Supreme Court of the United States: *Trump v. United States*, 603 U.S. 593 (2024), and *Bucklew v. Precythe*, 587 U.S. 119 (2019) (oral argument transcripts provided). I also served as counsel of record for Missouri and second-chaired the oral argument for Missouri in *Biden v. Missouri*, 595 U.S. 87 (2022). I have served as counsel of record or significant co-counsel and filed other merits briefs, amicus briefs, petitions, applications, and other documents before the Supreme Court. Briefs and other pleadings filed in the U.S. Supreme Court in cases in which I served as lead counsel or significant co-counsel are identified below. I have not included multistate amicus briefs authored or led by other States that Missouri joined while I was in the Missouri Attorney General’s Office, unless I served as lead counsel or significant co-counsel.

Merits Briefs:

No. 23-939, *Trump v. United States* (Brief of Petitioner; Reply Brief of Petitioner)

No. 23-411, *Murthy v. Missouri* (Brief of Respondents)

No. 21-954, *Biden v. Texas* (Brief of Respondents; Supplemental Brief of Respondents; Supplemental Reply Brief of Respondents)

No. 17-8151, *Bucklew v. Precythe* (Brief of Respondent)

Amicus Briefs:

No. 24-656, 24-657, *TikTok, Inc. et al. v. Garland* (Brief of Amicus Curiae President Donald J. Trump in support of neither party)

No. 22O155, *Texas v. Pennsylvania* (Brief of Amici Curiae State of Missouri and 16 other States in support of Plaintiffs)

No. 21A658, *Louisiana v. Biden* (Motion for Leave to File Amicus Brief on behalf of State of Missouri and 9 other States in support of Applicants)

No. 20-1434, *Rutledge, et al. v. Little Rock Family Planning Servs., et al.* (Brief of Amici Curiae State of Missouri and 21 other States in support of Petitioners)

No. 20-843, *New York State Rifle & Pistol Ass'n, Inc, et al. v. Bruen, et al.* (Brief of Amici Curiae State of Missouri and 22 other States in support of Petitioners)

No. 20-542, 20-574, *Republican Party of Pa. v. Boockvar, et al.* (Brief of Amici Curiae State of Missouri and 9 other States in support of Petitioners)

No. 19-765, *Faust v. B.K., et al.* (Brief of Amici Curiae State of Missouri and 12 other States in support of Petitioner)

No. 19-487, *Culp, et al. v. Raoul, et al.* (Brief of Amici Curiae State of Missouri and 17 other States in support of Petitioners)

No. 17-1285, *Association des Eleveurs de Canards et d'Oies du Quebec, et al. v. Becerra* (Brief of Amici Curiae State of Missouri and 10 other States in support of Petitioners)

No. 15-1251, *NLRB v. SW General, Inc.* (Brief of Amicus Curiae Morton Rosenberg in support of Respondent)

No. 15-862, *Stormans, Inc., et al. v. Wiesman, et al.* (Brief of Amici Curiae 4,609

Individual Healthcare Professionals in support of Petitioners)

No. 15-274, *Whole Woman's Health v. Hellerstedt* (Brief of Amici Curiae 24 Scholars of Federalism in support of Respondents)

No. 15-105, 14-1418, 14-1453, 14-1505, 15-35, 15-119, 15-191, *Little Sisters of the Poor, et al. v. Burwell, et al.* (Brief of Amici Curiae 50 Catholic Theologians and Ethicists in support of Petitioners)

No. 14-556, 14-562, 14-571, 14-574, *Obergefell v. Hodges* (Brief of Amici Curiae 57 Members of U.S. Congress in support of Respondents)

No. 14-114, *King, et al. v. Burwell, et al.* (Brief of Amici Curiae Missouri Liberty Project, et al. in support of Petitioners)

No. 13-402, *Horne, et al. v. Isaacson, et al.* (Brief of Amici Curiae Jerome LeJeune Foundation USA, et al. in support of Petitioners)

No. 13-354, 13-356, *Burwell, et al. v. Hobby Lobby Stores, Inc., et al.* (Brief for Amici Curiae 67 Catholic Theologians and Ethicists in support of non-government parties)

No. 12-1281, *NLRB v. Noel Canning, et al.* (Brief of Amici Curiae Senate Parliamentary Experts Robert B. Dove and Martin B. Gold in support of Respondent)

No. 12-682, *Schuette v. Coalition To Defend Affirmative Action By Any Means Necessary* (Brief of Amici Curiae American Civil Rights Union, et al. in support of Petitioner)

No. 12-144, *Hollingsworth v. Perry* (Brief of Amici Curiae 37 Scholars of Federalism and Judicial Restraint in support of Petitioners)

Briefing on Petitions for Writ of Certiorari:

No. 24-449, *Petersen v. Doe* (Petition for Writ of Certiorari)

No. 23-939, *Trump v. United States* (Application for a Stay of the Mandate (treated as Petition for Writ of Certiorari); Reply in Support of Application for a Stay)

No. 23-624, *United States v. Trump* (Brief in Opposition to Petition for Writ of Certiorari before Judgment)

No. 21-1463, *Missouri v. Biden* (Petition for Writ of Certiorari; Reply in Support of Petition)

No. 21-954, *Biden v. Texas* (Brief in Opposition to Petition for Writ of Certiorari)

No. 21-3, *Schmitt, et al. v. Reproductive Health Servs. of Planned Parenthood of the St. Louis Region, Inc., et al.* (Petition for Writ of Certiorari)

No. 20-1767, *Sarasota Wine Market, LLC, et al. v. Schmitt, et al.* (Brief in Opposition to Petition for Writ of Certiorari)

No. 20-287, *Johnson v. Precythe* (Brief in Opposition to Petition for Writ of Certiorari; Supplemental Brief in Opposition to Petition)

No. 19-7153, *Johnson v. Missouri* (Brief in Opposition to Petition for Writ of Certiorari)

No. 19-967, *Wood v. Missouri* (Brief in Opposition to Petition for Writ of Certiorari)

No. 19-91, *Buckner v. Allen* (Petition for Writ of Certiorari; Reply in Support of Petition)

No. 18-852, *Precythe v. Johnson* (Petition for Writ of Certiorari; Reply in Support of Petition)

No. 18-285, *Missouri v. Douglass, et al.* (Petition for Writ of Certiorari; Reply in Support of Petition)

No. 17-8599, *Shockley v. Griffith* (Brief in Opposition to Petition for Writ of Certiorari)

No. 17-8151, *Bucklew v. Precythe* (Brief in Opposition to Petition for Writ of Certiorari and in Opposition to Application for Stay of Execution)

No. 17-165, *Willbanks v. Mo. Dep't of Corr.* (Brief in Opposition to Petition for Writ of Certiorari)

No. 16-8158, *Jordan, et al. v. Mo. Dep't of Corr., et al.* (Brief in Opposition to Petition for Writ of Certiorari)

No. 16-7916, *Carter v. Huterson, et al.* (Brief in Opposition to Petition for Writ of Certiorari)

No. 16-7730, *Christeson v. Griffith* (Brief in Opposition to Petition for Writ of Certiorari and in Opposition to Application for Stay of Execution)

No. 16-1438, *Missouri v. Bolden* (Petition for Writ of Certiorari; Reply in

Support of Petition)

No. 16-1308, *Bolden v. Missouri* (Brief in Opposition to Petition for Writ of Certiorari)

No. 16-1015, *Missouri ex rel. Hawley, et al. v. Becerra, et al.* (Petition for Writ of Certiorari; Reply in Support of Petition)

No. 13-671, *NLRB v. Enterprise Leasing Co. Southeast, LLC, et al.* (Brief in Opposition to Petition for Writ of Certiorari) (Despite diligent efforts, I and persons acting on my behalf have not located copies of this brief.)

Miscellaneous Filings:

No. 24A666, *Trump v. New York, et al.* (Application for Stay; Reply Brief)

No. 24-219, *In re Warren Petersen, et al.* (Petition for Writ of Mandamus)

No. 24A218, *In re Warren Petersen, et al.* (Application for a Stay Pending Disposition of Writ of Mandamus)

No. 23A745, *Trump v. United States* (Application for a Stay of the Mandate; Reply in Support of Application)

No. 23-411, *Murthy v. Missouri* (Response in Opposition to Motion to Intervene)

No. 23A243, *Murthy v. Missouri* (Response to Application for a Stay; Response to Applicants' Third Supplemental Memorandum Regarding Application for a Stay)

No. 22O155, *Texas v. Pennsylvania* (Motion of State of Missouri and 5 other States to Intervene)

No. 22O148, *Missouri v. California* (Motion for Leave to File Bill of Complaint; Reply Brief in Support of Motion; Supplemental Brief in Support of Motion)

No. 21A247, 21A244, *Ohio, et al. v. OSHA* (Application for a Stay and Alternative Petition for Writ of Certiorari before Judgment; Reply in Support of Application)

No. 21A240, 21A241, *Biden v. Missouri* (Motion for Divided Argument; Response in Opposition to Application for a Stay)

No. 17A328, *Comprehensive Health of Planned Parenthood Great Plains, et al. v. Hawley* (Response to Application to Vacate Stay of Preliminary Injunction Pending Appeal)

I have not included less significant filings such as waivers of right to respond to petitions for writ of certiorari.

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

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

1. *Trump v. United States*, 603 U.S. 593 (2024); *United States v. Trump*, 91 F.4th 1173 (D.C. Cir. 2024), *rev'd sub nom. Trump v. United States*, 603 U.S. 593 (2024).

Date of Representation: 2023-2024

Party Represented: President Donald J. Trump

Courts and Judges:

- U.S. District Court for the District of Columbia, Hon. Tanya S. Chutkan
- U.S. Court of Appeals for the D.C. Circuit, Judges Childs, Pan, and Henderson
- U.S. Supreme Court (Chief Justice Roberts; Associate Justices Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, Barrett, and Jackson).

Summary: I represented President Donald J. Trump in the criminal prosecution against him in the U.S. District Court for the District of Columbia, with the focus on asserting Presidential immunity from criminal prosecution for official acts as a defense to that criminal prosecution. For Presidential immunity, I researched and drafted the principal legal theories and arguments supporting the claim, worked closely with President Trump's trial counsel in briefing the issue in D.D.C., served as lead counsel in the interlocutory appeal in the D.C. Circuit, and served as counsel of record on appeal in the U.S. Supreme Court. I was the principal drafter of all briefs at the appellate level. The case resulted in a favorable decision from the U.S. Supreme Court recognizing the doctrine of Presidential immunity from criminal prosecution for official acts, and the prosecution of President Trump was dismissed after he was re-elected President in a historic victory on November 5, 2024.

Co-Counsel:

John F. Lauro, Gregory M. Singer, 400 N. Tampa St., 15th Floor, Tampa, FL 33602, (813) 222-8990

Todd Blanche, Emil Bove, 99 Wall St., Suite 4460, New York, NY 10005, (212) 716-1250

William O. Scharf, Michael E. Talent, 13321 N. Outer Forty Rd., Suite 300, St. Louis, MO

63017, (314) 562-0031

Opposing Counsel:

Michael R. Dreeben, Molly Gaston, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Rm. B-206, Washington, DC 20530, (202) 514-2000

2. *United States v. Trump*, 88 F.4th 990 (D.C. Cir. 2023); *United States v. Trump*, 698 F. Supp. 3d 178 (D.D.C.), *aff'd in part, vacated in part*, 87 F.4th 524 (D.C. Cir. 2023), *and aff'd in part, vacated in part*, 88 F.4th 990 (D.C. Cir. 2023).

Date of Representation: 2023-2024

Party Represented: President Donald J. Trump

Courts and Judges:

- U.S. District Court for the District of Columbia, Hon. Tanya S. Chutkan
- U.S. Court of Appeals for the D.C. Circuit, Judges Millett, Pillard, and Garcia

Summary: I represented President Donald J. Trump in challenging the unconstitutional gag order imposed on him by the U.S. District Court for the District of Columbia in the criminal case against him in that court. We challenged the gag order under the First Amendment, emphasizing, among other arguments, that it rested on an unconstitutional audience-reaction or “heckler’s veto” theory and that it disregarded the free-speech rights of over 100 million American voters to hear President Trump’s core political and campaign speech. I worked closely with President Trump’s counsel in opposing the gag order in that court, and I served as lead counsel in the appeal challenging the gag order in the D.C. Circuit. I was the principal drafter of all briefs at the appellate level. The case resulted in a partial affirmance and partial vacatur of the gag order against President Trump, and our petition for en banc review seeking additional relief was denied.

Co-Counsel:

John F. Lauro, Gregory M. Singer, 400 N. Tampa St., 15th Floor, Tampa, FL 33602, (813) 222-8990

Todd Blanche, Emil Bove, 99 Wall St., Suite 4460, New York, NY 10005, (212) 716-1250

William O. Scharf, Michael E. Talent, 13321 N. Outer Forty Rd., Suite 300, St. Louis, MO 63017, (314) 562-0031

Opposing Counsel:

Cecil W. VanDevender, Molly Gaston, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Rm. B-206, Washington, DC 20530, (202) 514-2000

3. *Carroll v. Trump*, No. 24-644 (2d Cir.) (“*Carroll P*”); *Carroll v. Trump*, No. 23-793 (2d Cir.) (“*Carroll IP*”), -- F.4th --, 2024 WL 5241501 (2d Cir. Dec. 30, 2024)

Date of Representation: 2024-present

Party Represented: President Donald J. Trump

Courts and Judges:

- The Hon. Lewis A. Kaplan, U.S. District Court for the Southern District of New York
- U.S. Court of Appeals for the Second Circuit, Judges Chin, Carney, and Pérez.

Summary: I represent President Trump in two appeals in the U.S. Court of Appeals for the Second Circuit challenging judgments against him in two related civil cases brought by E. Jean Carroll. In *Carroll II*, an appeal challenging a \$5 million judgment against President Trump, I joined the case as lead counsel on appeal after the opening and response briefs were filed. I served as the lead counsel for the reply brief, and I presented oral argument in the case in the Second Circuit on September 6, 2024. On December 30, 2024, the Second Circuit issued a per curiam opinion affirming the trial court's judgment. See *Carroll v. Trump*, -- F.4th --, 2024 WL 5241501 (2d Cir. Dec. 30, 2024). On January 13, 2025, we filed a petition for panel rehearing and en banc review of that decision.

In *Carroll I*, I worked closely with President Trump's trial counsel on post-trial motions after the adverse jury verdict of \$83 million, and I serve as lead counsel on appeal. I was the lead counsel and principal drafter of President Trump's opening brief, which was filed on September 20, 2024. We are awaiting the filing of Carroll's response brief on January 27, 2025.

Co-Counsel: Todd Blanche, Emil Bove (*Carroll II*), 99 Wall Street, Suite 4460, New York, NY 10005, (212) 716-1250
Alina Habba, Michael Madaio (*Carroll I*), 112 West 34th Street, 17th & 18th Floors, New York, New York 10120, (908) 869-1188, ahabba@habbalaw.com, mmadaio@habbalaw.com

Opposing Counsel:
Roberta A. Kaplan, 156 W. 56th Street, Suite 207, New York, NY 10019, 212-316-9500, RKaplan@kaplanmartin.com

4. *People ex rel. James v. Donald J. Trump, et al.*, Nos. 2023-04925, 2024-01134, 2024-01135 (N.Y. Sup. Ct. App. Div. 1st Dep't).

Date of Representation: 2024-present

Parties Represented: President Donald J. Trump, Donald J. Trump, Jr., Eric Trump, The Donald J. Trump Revocable Trust, The Trump Organization, Inc., Trump Organization LLC, DJT Holdings LLC, DJT Holdings Managing Member LLC, Trump Endeavor 12 LLC, 401 North Wabash Venture LLC, Trump Old Post Office LLC, 40 Wall Street LLC, and Seven Springs LLC.

Courts and Judges:

- New York Supreme Court, Justice Arthur F. Engoron
- New York Appellate Division, First Department, Justices Friedman, Moulton, Rosado, Renwick, and Higgitt.

Summary: I represent President Trump, some of his family members, and certain family business entities on appeal from an adverse judgment in a civil enforcement action brought by New York Attorney General Letitia James alleging that the Defendants violated New York Executive Law § 63(12) by supposedly inflating the estimated values of real-estate holdings in personal financial statements submitted to insurers and lending institutions in the process of obtaining loans and insurance policies. I worked closely with President Trump's trial counsel in preparing the reply brief seeking relief from bond requirements pending appeal, and I have consulted with them regarding legal issues relating to the case. I served as lead counsel and principal drafter (though many others made significant contributions) of the opening brief and

reply brief, and I presented oral argument before a five-judge panel of the New York Supreme Court, Appellate Division – First Department on September 26, 2024. As of this writing, the Appellate Division has not yet rendered a decision in the case.

Co-Counsel:

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Opposing Counsel:

Judith N. Vale, 28 Liberty Street, New York, NY 10005, (212) 416-6073

5. *Murthy v. Missouri*, 603 U.S. 43 (2024); *Missouri v. Biden*, 83 F.4th 350 (5th Cir.), cert. granted sub nom. *Murthy v. Missouri*, 144 S. Ct. 7 (2023), and rev'd and remanded sub nom. *Murthy v. Missouri*, 603 U.S. 43 (2024); *Missouri v. Biden*, 680 F. Supp. 3d 630 (W.D. La.), aff'd in part, rev'd in part, 83 F.4th 350 (5th Cir. 2023), cert. granted sub nom. *Murthy v. Missouri*, 144 S. Ct. 7 (2023), and rev'd and remanded sub nom. *Murthy v. Missouri*, 603 U.S. 43 (2024).

Date of Representation: 2022-present

Parties Represented: State of Missouri (2022-2023), State of Louisiana (2023-present)

Courts and Judges:

- The Hon. Terry A. Doughty, U.S. District Court for the Western District of Louisiana
- U.S. Court of Appeals for the Fifth Circuit, Judges Clement, Elrod, and Willett.
- U.S. Supreme Court (Chief Justice Roberts; Associate Justices Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, Barrett, and Jackson).

Summary: I represented the State of Missouri (2022-2023) and now represent the State of Louisiana (2023-present) in a First Amendment challenge, brought by those two States as plaintiffs along with private parties, against federal officials for pressuring, inducing, coercing, conspiring, and significantly encouraging social-media platforms to censor the core political speech of States and ordinary American citizens on social media on matters such as election integrity and the COVID-19 pandemic. I served as lead counsel on the case and oversaw all litigation from the drafting of the complaint through the merits briefing in the U.S. Supreme Court. I briefed the preliminary injunction and discovery motions in the trial court, handled discovery-related litigation, took five of the six court-authorized depositions of federal officials, argued the preliminary-injunction motion in the trial court, served as the lead counsel and principal drafter of our briefing on appeal in the U.S. Court of Appeals for the Fifth Circuit, argued the preliminary-injunction appeal in the Fifth Circuit, was the lead drafter of our stay-motion briefing in the U.S. Supreme Court, and was one of the principal drafters of the merits briefing in the U.S. Supreme Court. The preliminary-injunction litigation resulted in a decision by the Supreme Court that the plaintiffs failed to produce sufficient evidence to demonstrate standing at the preliminary-injunction stage, and the case is now on remand to the

Western District of Louisiana for further proceedings on the merits.

Co-Counsel:

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Opposing Counsel:

Elizabeth B. Prelogar (Sup. Ct.), Daniel Tenny (5th Cir.), Joshua E. Gardner (trial court), U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC 20530, (202) 305-8849

6. *Biden v. Missouri*, 595 U.S. 87 (2022); *Missouri v. Biden*, 571 F. Supp. 3d 1079 (E.D. Mo. 2021), *vacated and remanded*, No. 21-3725, 2022 WL 1093036 (8th Cir. Apr. 11, 2022).

Date of Representation: 2021-22

Party Represented: State of Missouri

Courts and Judges:

- The Hon. Matthew T. Schelp, U.S. District Court for the Eastern District of Missouri
- U.S. Court of Appeals for the Eighth Circuit, Judges Loken, Benton, and Kelly.
- U.S. Supreme Court (Chief Justice Roberts; Associate Justices Thomas, Breyer, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, and Barrett).

Summary: I served as lead counsel for the State of Missouri and a coalition of other States in a challenge to the Centers for Medicare and Medicaid Services' (CMS) federal vaccine mandate for healthcare workers, which required workers in healthcare fields to receive COVID-19 vaccines. The States contended that CMS lacked statutory authority to enact the regulation imposing the vaccine mandate under the major-questions doctrine and other interpretive principles, and that the adoption of the mandate violated the Administrative Procedure Act. I supervised the litigation and served as the lead counsel in the district court and on appeal in the U.S. Court of Appeals for the Eighth Circuit. I served as counsel of record for Missouri in the U.S. Supreme Court, and I second-chaired oral argument on behalf of the State of Missouri after the Supreme Court took the unusual step of granting oral argument on the stay motions. The U.S. Supreme Court granted a stay of the lower-court injunctions blocking the mandate on January 13, 2022. *Biden*, 595 U.S. 87. The lower courts then upheld the validity of the mandate on remand, citing the Supreme Court's decision on the stay motions, and the Supreme Court denied our petition for certiorari to review those merits decisions.

Co-Counsel:

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Opposing Counsel:

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7. *Biden v. Texas and Missouri*, 597 U.S. 785 (2022); *Texas and Missouri v. Biden*, 20 F.4th 928 (5th Cir. 2021), *as revised* (Dec. 21, 2021), *rev'd and remanded*, 597 U.S. 785 (2022); *Texas and Missouri v. Biden*, No. 2:21-CV-067-Z, 2021 WL 5399844, at *2 (N.D. Tex. Nov. 18, 2021).

Date of Representation: 2021-22

Party Represented: State of Missouri

Courts and Judges:

- The Hon. Matthew A. Kacsmaryk, U.S. District Court for the Northern District of Texas
- U.S. Court of Appeals for the Fifth Circuit, Judges Barksdale, Engelhardt, and Oldham
- U.S. Supreme Court (Chief Justice Roberts; Associate Justices Thomas, Breyer, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, and Barrett)

Summary: I served as lead counsel for Missouri in a joint challenge brought by Missouri and Texas against the Biden Administration's decision to terminate the Migrant Protection Protocols instituted by President Trump, also known as the "Remain in Mexico" policy. The States challenged the termination of the policy as arbitrary and capricious under the APA and also brought a statutory challenge. The district court held that the termination was arbitrary and capricious and permanently enjoined the termination decision, and both the Fifth Circuit and Supreme Court denied the government's stay motions. The government made a third attempt to terminate the policy, which was later upheld under the APA, and the U.S. Supreme Court ultimately decided against the States' statutory arguments. I served as lead counsel for Missouri as our team originated the legal theories of the case, drafted the complaint and preliminary injunction motion, coordinated with Texas counsel in filing and litigating the case in the district court, and served as co-counsel at the bench trial before the district court. On appeal, I served as lead counsel for Missouri and shared significant drafting responsibilities with our co-counsel in the Texas Attorney General's Office for briefing in the Fifth Circuit and for petition-stage and merits-stage briefing in the U.S. Supreme Court.

Co-Counsel:

Eric S. Schmitt, Jesus A. Osete, 207 W. High St., P.O. Box 899, Jefferson City, MO 65102, (573) 751-8870

Ken Paxton, Brent Webster, Judd E. Stone II, Lanora C. Pettit, Benjamin D. Wilson, P.O. Box 12548, Austin, TX 78711, (512) 463-2100

Opposing Counsel

Elizabeth B. Prelogar, Brian C. Ward, U.S. Department of Justice, 950 Pennsylvania Ave. NW, Washington, DC 20530, (202) 305-8849

8. *Missouri ex rel. Bailey v. People's Republic of China*, 90 F.4th 930 (8th Cir. 2024); *Missouri ex rel. Schmitt v. People's Republic of China*, 610 F. Supp. 3d 1174 (E.D. Mo. 2022), *aff'd in part, rev'd in part and remanded sub nom. Missouri ex rel. Bailey v. People's Republic of China*, 90 F.4th 930 (8th Cir. 2024); *Missouri ex rel. Schmitt v. People's Republic of China*, No. 1:20-CV-0099-SNLJ, 2021 WL 1889857 (E.D. Mo. May 11, 2021).

Date of Representation: 2020-2023

Party Represented: State of Missouri ex rel. Attorney General Eric S. Schmitt

Courts and Judges:

- The Hon. Stephen N. Limbaugh, Jr., U.S. District Court for the Eastern District of Missouri
- U.S. Court of Appeals for the Eighth Circuit, Circuit Judges Smith, Stras, and Kobes.

Summary: This case involved a challenge by the State of Missouri and its then-Attorney General, Eric S. Schmitt, against the People's Republic of China, the Communist Party of China, other Chinese government agencies, and non-governmental defendants such as the Wuhan Institute of Virology, alleging misconduct that caused and exacerbated the outbreak of the COVID-19 pandemic. The Complaint alleged that the defendants' misconduct fell within certain exceptions within the Foreign Sovereign Immunities Act (FSIA), and that certain defendants were not cloaked in foreign sovereign immunity in any event (such as the Wuhan Institute of Virology). I served as lead counsel for Missouri in the case in its origination, filing, and litigation through briefing in the Eighth Circuit. I supervised the drafting of the complaint, and I conducted original research and drafted our legal theories on FSIA immunity. I researched and successfully effected service of process on all nine Chinese defendants, including both through diplomatic channels and through court-authorized alternative methods of service. I served as the principal drafter of all briefs in the district court and on appeal in the U.S. Court of Appeals for the Eighth Circuit (the case was argued by my successor after I left the office). The district court dismissed the complaint under the FSIA, but the Eighth Circuit reversed in part, finding that certain claims fell within FSIA's commercial-activity exception, and remanded for further proceedings on the merits.

Co-Counsel: Justin Smith, 207 W. High St., P.O. Box 899, Jefferson City, MO 65102, (573) 751-8870

Opposing Counsel: (Defendants defaulted and no opposing counsel appeared)

9. *Missouri State Conference of NAACP v. State*, 607 S.W.3d 728 (Mo. 2020); *Missouri State Conference of NAACP v. State*, 601 S.W.3d 241 (Mo. 2020); *Missouri State Conference of NAACP v. State*, No. 20AC-CC00169-01.

Date of Representation: 2020

Party Represented: State of Missouri

Courts and Judges:

- Circuit Court of Cole County, Missouri, The Hon. Jon Beetem, Circuit Judge
- Supreme Court of Missouri (Chief Justice Draper; Judges Stith, Russell, Breckenridge, Fischer, Wilson, and Powell)

Summary: This case involved Missouri's defense of a state statute authorizing universal mail-in voting during the COVID-19 pandemic while imposing a notarization requirement on the voter signatures for such mail-in ballots. Plaintiffs challenged the notarization requirement as an undue burden on the fundamental right to vote during the COVID-19 pandemic. I served as lead counsel in defending the case in the trial court and in two appeals to the Supreme Court of Missouri. I served as principal drafter of motions and pleadings in the trial court, and I served as lead counsel in the bench trial in state court on the validity of the notarization requirement (tried by video deposition during the COVID-19 pandemic), including handling the examinations of key expert witnesses. I also served as lead counsel and principal drafter of our briefs on appeal, and I argued both appeals in the Supreme Court of Missouri. The case resulted in a decision by the Supreme Court of Missouri upholding the notarization requirement on the merits.

Co-Counsel:

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Opposing Counsel:

Anthony E. Rothert, 906 Olive Street, Suite 1130, St. Louis, MO 63101, (314) 652-3114

10. *Bucklew v. Precythe*, 587 U.S. 119 (2019); *Bucklew v. Precythe*, 883 F.3d 1087 (8th Cir. 2018), *aff'd*, 587 U.S. 119 (2019).

Date of Representation: 2018-19

Party Represented: Director Anne Precythe, Missouri Department of Corrections, in her official capacity

Courts and Judges:

- U.S. Court of Appeals for the Eighth Circuit, Judges Wollman, Loken, and Colloton.
- U.S. Supreme Court (Chief Justice Roberts; Associate Justices Thomas, Ginsburg, Breyer, Alito, Sotomayor, Kagan, Gorsuch, and Kavanaugh).

Summary: This case involved an as-applied challenge to Missouri's one-drug protocol for lethal injection brought by a death-penalty inmate with a unique medical condition who contended that his condition, combined with that one-drug protocol, presented an unconstitutional risk of suffering during his execution. Missouri defended the case on various grounds, including that the medical evidence did not support the inmate's predictions of unconstitutional suffering under the Eighth Amendment. After the district court ruled in favor of the State, I supervised the appeal in the Eighth Circuit and served as lead counsel in defending the emergency stay motions in the U.S. Supreme Court. After the Supreme Court granted a stay of execution and granted certiorari in the case, I served as counsel of record for the State and was the principal drafter of our merits brief in the Supreme Court. I also argued the case in the Supreme Court on behalf of the State. The case resulted in a decision by the Supreme Court rejecting the as-applied challenge.

Co-Counsel:

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Opposing Counsel:

Robert N. Hochman, One South Dearborn Street, Chicago, IL 60603, (312) 853-2936

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

I have not performed any lobbying activities. Additional significant legal activities that I have pursued include, but are not limited to, the following matters:

Liddell v. Special Sch. Dist., 65 F.4th 969 (8th Cir. 2023) – I represented the State of Missouri in federal district court and on appeal in the Eighth Circuit in a case challenging Missouri’s sharing of tax revenues with public charter schools on an equal per-pupil basis with public schools in the City of St. Louis. The challenge was based on the interpretation of a years-old desegregation agreement regarding the City of St. Louis Public Schools. The case resulted in a favorable decision for the State from the Eighth Circuit.

Cope v. Parson, 570 S.W.3d 579 (Mo. banc 2019) – I served as lead counsel in the trial court and on appeal, and I obtained a favorable judgment from the Supreme Court of Missouri upholding the validity of Governor Parson’s appointment of Lieutenant Governor (now Missouri Governor) Mike Kehoe. The decision rejected a challenge arguing that the Missouri Constitution did not authorize the Missouri Governor to fill a vacancy in the Office of Lieutenant Governor by appointment.

Sauer v. Nixon, 474 S.W.3d 624 (Mo. App. W.D. 2015) – I obtained a state trial-court judgment holding that the Smarter Balanced Assessment Consortium, a multi-state consortium designed to produce educational standards aligned with “Common Core,” violated the Compact Clause of the U.S. Constitution, art. I, § 10, cl. 3. The trial court ordered the State not to expend any taxpayer funds as membership dues to the Consortium. The State’s appeal was dismissed as moot after the state legislature de-funded the Consortium, consistent with the trial court’s judgment.

Jiang v. Porter, 156 F. Supp. 3d 996 (E.D. Mo. 2015); *Jiang v. Porter*, No. 4:15-CV-1008 (CEJ), 2016 WL 4430188 (E.D. Mo. Aug. 22, 2016) – I represented a Chinese national and ordained Catholic priest who fled religious persecution in China and was later falsely accused of child sex abuse in the United States in an action alleging a civil rights conspiracy under 42 U.S.C. § 1985. Certain defendants repeatedly violated discovery orders by refusing to produce unredacted documents, and we obtained a discovery-sanction order against them ruling that

elements of our liability case against them would be deemed proven. After I left private practice, the case resulted in a favorable settlement in which the plaintiff's name was cleared, and his arrest records were later expunged.

United States v. Henley, 766 F.3d 893 (8th Cir. 2014) – I served on the trial team for a 35-day jury trial of eight members of the “Wheels of Soul” motorcycle gang, who were charged with racketeering conspiracy with predicate acts including murder, attempted murder, robbery, and other violent crimes. I handled many witnesses, including fact and expert witnesses, and I addressed legal issues that arose during trial. The case resulted in guilty verdicts for seven defendants on most charges, which were affirmed on appeal.

United States v. Petrovic, 701 F.3d 849 (8th Cir. 2012) – I served as lead counsel for the investigation, charging, and jury trial of an estranged husband who humiliated and terrorized his estranged wife in a significant interstate-stalking and revenge-porn case. The case included a successful defense of the federal cyberstalking statute against facial and as-applied First Amendment challenges on appeal in the U.S. Court of Appeals for the Eighth Circuit.

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

Advanced Criminal Trial Advocacy (team-taught with another attorney)
Washington University School of Law
2011-2014 (Spring semesters)

This was a practical course for 3Ls on how to handle a federal criminal jury trial that I team-taught at Washington University School of Law in St. Louis, Missouri. Each weekly session covered one significant courtroom trial skill, as applied during a federal criminal jury trial, such as voir dire, opening statement, direct examination, cross examination, closing argument, etc. The course aimed to develop these skills from both the prosecution and defense perspectives. The course concluded with a practical mini-trial performed by the students before a panel of mock jurors. I inherited the course materials, which are provided, from previous teachers of the course.

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

None.

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

I do not have plans, commitments, or agreements to pursue outside employment during my service if I am confirmed.

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

See OGE-278, submitted separately.

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

See attached Statement of Net Worth.

22. **Potential Conflicts of Interest:**

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

I am not aware of any factors that are likely to present potential conflicts-of-interest when I first assume the position to which I have been nominated. If confirmed, in the event of a potential conflict of interest, I would consult with the Department of Justice's ethics office.

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

I am not aware of any factors that are likely to present potential conflicts-of-interest when I first assume the position to which I have been nominated. If confirmed, in the event of a potential conflict of interest, I would consult with the Department of Justice's ethics office.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have maintained a strong commitment to *pro bono* work throughout my career when I was outside government service. Depending on the year and the commitments involved, the

time I expended on *pro bono* work varied, but it often comprised multiple hundreds of hours per year. Significant examples of *pro bono* work include the *Jiang v. Porter* litigation discussed above, which I undertook on a *pro bono* basis, and which required hundreds of hours of my personal work time, including extensive discovery, motions practice, and other litigation, the overwhelming majority of which was never compensated. Similarly, I have drafted and filed many amicus briefs for *pro bono* clients, both in the U.S. Supreme Court and in other appellate courts. Most of the amicus briefs that I filed in the U.S. Supreme Court while in private practice, listed above, were done on a *pro bono* basis. These include the series of amicus briefs that I filed on behalf of Catholic theologians and ethicists in the cases that led to the Supreme Court's decisions in *Hobby Lobby* and *Zubik*. This project began with a *pro bono* amicus brief on behalf of a single concerned Catholic philosopher in a religious-liberty challenge to the HHS mandate in a federal Court of Appeals. The project rapidly gathered support in Catholic academic circles, leading dozens of Catholic theologians and philosophers to join later iterations of the brief. Because I filed these amicus briefs in most or all federal Courts of Appeals where similar challenges were pending, I estimate that this project also involved hundreds of hours of *pro bono* work in both drafting the briefs and coordinating with dozens of amici.

These examples reflect my belief that *pro bono* work is both essential and very rewarding, and that it can be deeply impactful. For example, the litigation in *Jiang v. Porter* involved many months of sustained effort that led to the vindication of a falsely accused individual who had made heroic personal sacrifices for his religious faith. The *pro bono* amicus brief of Catholic theologians and ethicists that I filed in *Zubik v. Burwell* was featured on SCOTUSblog as potentially a significant factor in the case. See Lyle Denniston, *Did Catholic Theologians Influence the Zubik Order?*, SCOTUSblog (Apr. 8, 2016), <https://www.scotusblog.com/2016/04/did-catholic-theologians-influence-the-zubik-order/>.

While in government service, I did not represent non-government clients.