

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Frank Murphy

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

United States District Judge for the Eastern District of Pennsylvania

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.

Baker & Hostetler LLP
1735 Market Street
Suite 3300
Philadelphia, Pennsylvania 19103

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

1977; Philadelphia, Pennsylvania.

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.

2004 – 2007, Harvard Law School; J.D. (*cum laude*), 2007

1999 – 2004, California Institute of Technology; M.S., 2002; Ph.D., 2005

1995 – 1999, Cornell University; B.S. (*summa cum laude*), 1999

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.

2009 – present; 2007 – 2008; Summer 2005
Baker & Hostetler LLP (formerly Woodcock Washburn LLP)

1735 Market Street
Suite 3300
Philadelphia, Pennsylvania 19103
Partner (2014 – present)
Associate (2009 – 2013; 2007 – 2008)
Summer Associate (Summer 2005)

2014; 2016
Rutgers Law School
217 North 5th Street
Camden, New Jersey 08102
Adjunct Professor

2008 – 2009
United States Court of Appeals for the Federal Circuit
717 Madison Place, Northwest
Washington, DC 20005
Law Clerk to Hon. Kimberly A. Moore

Summer 2006
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, Massachusetts 02109
Summer Associate

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

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

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

Legal 500 United States, Recommended in Intellectual Property: Patents: Litigation (Full Coverage) (2022)

Super Lawyers of Pennsylvania (2021 – 2022)

Super Lawyers of Pennsylvania, “Rising Star” (2014 – 2017)

The Legal Intelligencer’s Lawyers on the Fast Track (2016)

First Place, Food & Drug Law Institute H. Thomas Austern Short Paper Writing Awards Competition (2008)

Harvard Journal of Law & Technology, Editor-in-Chief (2006 – 2007)

National Science Foundation Graduate Research Fellowship (1999)

Cornell University College of Engineering Degree Marshal (1999)

Cornell University Merrill Presidential Scholar (1999)

Tau Beta Pi Honorary Society (1999)

Sigma Xi Honorary Society (1999)

Procter & Gamble Technical Excellence Award (1998)

Cornell University Chemical Engineering Donald F. Othmer Award (1997)

Cornell College of Engineering John McMullen Fellowship (1995 – 1999)

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 Intellectual Property Law Association, Member (2007 – 2008, 2014 – 2015)

Ben Franklin American Inn of Court, Member (2007 – 2009)

Federal Circuit Bar Association

Member (2009 – present)

Bench & Bar Planning Committee, Member (2018; 2020 – present)

Federal Bar Association – Eastern District of Pennsylvania Chapter

Member (2017 – present)

Board Member (2019 – present)

Government Relations Liaison (2019 – present)

Philadelphia Intellectual Property Law Association

Member (2007 – 2008; 2009 – present)

Amicus Committee, Co-Chair (2010 – 2013)

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.

Pennsylvania, 2007

There have been no lapses in membership.

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

United States Supreme Court, 2014

United States Court of Appeals for the Third Circuit, 2017

United States Court of Appeals for the Federal Circuit, 2009

United States District Court for the Eastern District of Michigan, 2017

United States District Court for the Eastern District of Pennsylvania, 2007

United States District Court for the Middle District of Pennsylvania, 2013

United States District Court for the Western District of Pennsylvania, 2022

United States Court of Appeals for Veterans Claims, 2018

United States Patent and Trademark Office, 2003

There have been no lapses in membership. I have also been admitted *pro hac vice* in a number of federal district courts.

11. **Memberships:**

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

American Association for the Advancement Science (1998 – 2009)

American Chemical Society (1999 – 2004)

American Institute of Chemical Engineering (1998 – 2004)

Foundation for Learning in Tredyffrin/Easttown (2013 – 2021)

Advisory Board Member (2013 – 2021)

Harvard Law School Alumni Association of Greater Philadelphia (2007 – 2009)

National Rifle Association (2009 – present)

The Union League of Philadelphia (2009 – present)

Tredyffrin/Easttown School District Strategic Planning Committee (2013 – present)

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

To the best of my knowledge, none of the organizations listed in response to question 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin, with one exception of which I am aware:

My understanding is that the Union League of Philadelphia was not open to women until 1986.

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.

Federal Circuit's COVID-19 Response Brings Public Telephonic Oral Arguments and Patent Cases Decided on the Briefs, BakerHostetler IP Intelligence Blog, Apr. 13, 2020. Copy supplied.

With Michael H. McGinley, *High Court Leaning on View of Solicitor General More Often in Patent Cases*, The Legal Intelligencer, May 17, 2019. Copy supplied.

With Kimberly A. Moore and Timothy R. Holbrook, *Patent Litigation & Strategy*, 5th Ed. (West, 2017). Copy supplied.

TC Heartland and the New Old Venue Rule, Law360, Jan. 30, 2017. Copy supplied.

With Kimberly A. Moore and Timothy R. Holbrook, *Patent Litigation & Strategy*, 4th Ed. (West, 2014). Copy supplied.

Mandatory Labeling of Food Made from Clones Animals: Grappling with Moral Objections to the Production of Safe Products, 63 Food Drug L. J. 1, 131-50

(2008). Copy supplied.

United States Patent No. 6,811,977, Rapid, Quantitative Method for the Mass Spectrometric Analysis of Nucleic Acids for Gene Expression and Genotyping (Nov. 2, 2004). 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.

March 31, 2022: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

February 23, 2022: Speaker, One Year of Patent Law in 60 Minutes, BakerHostetler CLE Webinar. Recording supplied.

September 30, 2021: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

August 12, 2020: Speaker, How Administrative Law Became the Hottest Topic in Patent Disputes at the Federal Circuit, BakerHosts Podcast Series, August 12, 2020. Audio available at <https://www.bakerlaw.com/podcasts/how-administrative-law-became-the-hottest-topic-in-patent-disputes-at-the-federal-circuit>.

July 28, 2020: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

June 15 – 18, 2020 (specific date unknown): Moderator, Administrative Law in the Circuit Community, Federal Circuit Bar Association Bench and Bar, Washington, DC. Presentation supplied.

May 11, 2020: Speaker: Patent Law Year-in-Review, KNOWIT 2020 – Intellectual Property in a Digital World. Presentation supplied.

April 16, 2019: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

March 5, 2019: Speaker, Post-Grant Proceedings – A Factor to Consider in Product/Patent Acquisitions, BakerHostetler Life Sciences Winter CLE, Princeton, New Jersey. Presentation supplied.

January 30, 2019: Host, A Panel Discussion with Judges Goldberg, Kearney, and Burke about the Experiences of Eastern District of Pennsylvania Judges Who Took on Delaware Patent Cases, Federal Bar Association and Philadelphia Intellectual Property Law Association, Philadelphia, Pennsylvania. Notes supplied.

April 2018 (specific date unknown): Moderator, Fireside Chat with Honorable Kimberly A. Moore, United States Chamber of Commerce, Washington, DC. I interviewed Judge Moore in a question-and-answer format about a variety of issues of practice and law of concern to the United States Court of Appeals for the Federal Circuit. The United States Chamber of Commerce's address is 1615 H Street, Northwest, Washington, DC 20062.

April 24, 2018: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

June 21 – 24, 2017 (specific date unknown): Moderator, Extraterritoriality in Patent Law, Federal Circuit Bar Association Bench and Bar, Coeur d'Alene, Idaho. Notes supplied.

April 26, 2017: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

March 30, 2017: Speaker, Introduction to Patent Litigation, Rutgers Law School, Camden, New Jersey. Presentation supplied.

April 26, 2016: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

April 2016 (specific date unknown): Speaker, Strategies for Appeals from Patent Office Trials, Manufacturers Alliance for Productivity and Innovation Meeting, Chicago, Illinois. Presentation supplied.

April 28, 2015: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

April 2, 2015: Speaker, Strategies and Perspectives Based on New Developments in Patent Law, Atlanta Licensing Executives Society Meeting, Atlanta, Georgia. Presentation Supplied.

May 15, 2014: Speaker, Three Hurdles to Software Patentability and Validity, American Intellectual Property Law Association, Philadelphia, Pennsylvania. Presentation supplied.

April 8, 2014: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

March 7, 2014: Speaker, Recent Decisions of Interest: Patent Law, Federal Circuit Bar Association Corporate Counsel Committee, Washington, District of Columbia.

April 24, 2013: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

November 13, 2012: Speaker, Hot Topics and Cases to Watch, BIO IP Counsels Committee Conference, Charleston, South Carolina. Presentation supplied.

June 27, 2012: Speaker, Patentable Subject Matter, Association of Corporate Patent Counsel, Beaver Creek, Colorado. Presentation supplied.

March 30, 2012: Speaker, Patent Law Update, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. Presentation supplied.

March 21, 2012: Speaker, Federal Circuit Year-in-Review, Washington State Patent Lawyers Association, Seattle, Washington. Presentation supplied.

May 19, 2011: Speaker, Patent Law Update, Philadelphia Intellectual Property Law Association, Philadelphia, Pennsylvania. Presentation supplied.

March 2011 (specific date unknown): Moderator, False Marking Panel Discussion, Pennsylvania Bar Institute IP Institute, Philadelphia, Pennsylvania. I moderated a panel discussion about legal developments in false patent marking. I have no notes, transcript, or recording. The Pennsylvania Bar Institute's address is 5080 Ritter Road, Mechanicsburg, Pennsylvania 17055.

March 2011 (specific date unknown): Speaker, False Patent Marking, Legal Intelligencer In-House Counsel Seminar, Philadelphia, Pennsylvania. I gave a talk about legal developments in false patent marking. I have no notes, transcript, or recording. The Legal Intelligencer's address is 1617 John F. Kennedy Boulevard, Number 1750, Philadelphia, Pennsylvania 19103.

- 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.

Ryan Davis, *'Place of Business' to Be New Patent Venue Battleground*, Law360, May 26, 2017. Copy supplied.

Erin Coe, *The Battle for Patent Law – Federal Circuit Looks to Hold the Line as Supreme Court Eyes IP*, Law360, July 9, 2016. Copy supplied.

Erin Coe, *5 Tips for Building a Bulletproof Patent Damages Case*, Law360, Mar. 4, 2016. Copy supplied.

Erin Coe, *5 Times NOT To File an AIA Petition*, Law360, Nov. 17, 2015. Copy supplied.

PTAB Misconduct Rule Won't Deter Hedge Fund Attacks, Law360, Sept. 1, 2015. Copy supplied.

Lawyers Weigh in on High Court's Software Patent Ruling, Law360, June 19, 2014. Copy supplied.

Mark Gerlach, *High Court Maintains that Software Patents Cannot Protect Abstract Ideas*, Law Technology News, June 19, 2014. Copy supplied.

Julia Revzin, *Lawyers Weigh in on High Court's Induced Infringement Ruling*, Law360, June 2, 2014. Copy supplied.

Julia Revzin, *Lawyers Weigh in on High Court's Patent Indefiniteness Ruling*, Law360, June 2, 2014. Copy supplied.

Gina Passarella, *Will Pair of U.S. Supreme Court Rulings Stem Patent Trolls?*, The Legal Intelligencer, May 2, 2014. Copy Supplied.

Julia Revzin, *Lawyers Weigh in on High Court's Patent Rulings*, Law360, Apr. 29, 2014. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including

positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held any judicial office.

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

i. Of these 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 any 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.

From May 2018 to May 2022, I was an Easttown Township Republican Committee Committeeperson for Precinct 195.

I have not had any unsuccessful candidacies for elected office or unsuccessful nominations for appointed office.

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

responsibilities.

From May 2018 to May 2022, I was the secretary of the Easttown Township Republican Committee.

I was the chairperson of The Kate Murphy Committee in 2019, which was a political committee to raise funds for my wife's campaign for School Board Director in the Tredyffrin-Easttown School District in 2019.

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

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

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

From 2008 to 2009, I was a clerk for the Honorable Kimberly A. Moore, Circuit Judge for the United States Court of Appeals for the Federal Circuit.

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

I have never 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;

2009 – present; 2007 – 2008
Baker & Hostetler LLP (formerly Woodcock Washburn LLP)
1735 Market Street
Suite 3300
Philadelphia, Pennsylvania 19103
Partner (2014 – present)
Associate (2009 – 2013; 2007 – 2008)

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.

From 2004 to 2007, I participated in the Harvard Mediation Program through Harvard Law School. As part of the program, I took regular trips to courts in Boston to mediate small-claims and landlord-tenant disputes. I served as a non-evaluative mediator in those disputes, providing a mediation function without giving any legal advice or making any

substantive evaluation of the disputes. The goal of the sessions was to help the parties reach a settlement before their hearing. I do not have any records of the matters, which were all of a relatively minor nature.

b. Describe:

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

After graduating from law school, I started as an associate at Woodcock Washburn LLP in Philadelphia in September 2007. I began work with the understanding that I would resign in August 2008 to begin a clerkship for Circuit Judge Kimberly A. Moore, which I had accepted during law school. After clerking, I returned to Woodcock Washburn LLP in August 2009. In late 2013, I was named a partner, and around the same time, the firm announced a merger between Woodcock Washburn LLP and Baker & Hostetler LLP. As of the date of the merger, January 1, 2014, I became a partner of Baker & Hostetler LLP, as I still am today.

My practice focuses on intellectual property litigation, especially patent litigation, in federal district courts around the country, from inception through trial and appeal. I represent both plaintiffs and defendants in fairly equal proportion. I have also been involved in other types of commercial litigation, such as breach of contract and other business disputes, product defect litigation, and the like. I also regularly represent clients in disputed matters at the United States Patent and Trademark Office and the International Trade Commission. Further, I am often called upon to provide intellectual property-related advice outside of litigation, in connection with research and development, business transactions, and other strategic concerns.

The character of my practice has not changed significantly over the years, except that the level of responsibility has increased.

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

Throughout my legal career, my typical clients have been corporations, universities, and other institutions in the manufacturing, chemical, pharmaceutical, electronics, and software sectors. My corporate clients range in size from brand-new startup companies and family-owned companies to publicly traded international companies. I also occasionally represent individuals before the U.S. Patent Office in patent prosecution matters. I have also represented individuals in pro bono matters involving civil rights and veterans benefits.

- 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.

Over my career, the vast majority of my practice has involved disputes of some kind – litigation in federal courts, International Trade Commission investigations, contested proceedings at the United States Patent Office, or arbitrations and mediations. Most of these proceedings have involved appearances of one kind or another. For example, in patent litigation in federal district court, I have regularly appeared in court for status conferences, motion hearings, *Markman* hearings, and trials.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 80% |
| 2. state courts of record: | 2% |
| 3. other courts: | 8% |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

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

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

I have been involved as counsel in approximately 50 to 60 cases in federal district courts, 20 appeals in federal circuit courts, 25 contested cases at the United States Patent and Trademark Office, two International Trade Commission investigations, and several mediations/arbitrations. Three of the district court cases proceeded through a jury trial, and the others ended either on dispositive motions or by settlement. I was first chair in one of the three trials. The appeals in most cases proceeded through oral argument and decision. Most of the United States Patent and Trademark Office cases were resolved by administrative judges or a central unit of patent examiners. One of the International Trade Commission investigations was tried in an evidentiary hearing before an administrative judge. My cases typically involve large teams of lawyers. Over the years, my responsibility has increased so that I now typically lead our team's effort in a case.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 30% |
| 2. non-jury: | 70% |

- 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.

On several occasions, I have been asked to consult on petitions, merits briefs, and amicus briefs in Supreme Court intellectual property cases. I appeared as co-counsel for one amicus brief: *Samsung Electronics v. Apple Inc.* (Brief of Roger Cleveland Golf Co., as *amicus curiae* in support of respondent). Copy supplied.

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. *Ball Metal Beverage Container Corp. v. Crown Packaging Tech., Inc.*, No. 3:12-cv-33 (S.D. Oh.); *Ball Metal Beverage Container Corp. v. Crown Packaging Tech., Inc.*, No. 2020-1212 (Fed. Cir.)

In February 2012, further to a related action that began in 2005 in the same Court (*Crown Packaging Technology, Inc. v. Ball Metal Beverage Container Corp.*, No. 05-cv-281), Ball Metal Beverage Container Corp. (“Ball”) filed a declaratory judgment action against our client Crown Packaging Technology, Inc. (“Crown”), seeking judgment of noninfringement and invalidity of two patents owned by Crown. The case relates to certain light-weight can ends and methods of seaming those can ends onto can bodies. I played a lead role on our team representing Crown and eventually became lead counsel. Over the years, this has involved numerous depositions, extensive fact and expert discovery, drafting and arguing motions, and the like. For example, on October 22, 2013, I argued at the *Markman* hearing relating to claim construction of Crown’s patents. The court decided the *Markman* issues in an order in late 2015, allowing the case to proceed further. 2015 WL 9459726 (Dec. 28, 2015). After extensive expert discovery and pretrial preparations including numerous motions that I had a lead role in preparing and arguing, the district judge entered summary judgment against Crown. I was then lead counsel in the appeal from that judgment, briefing and arguing the appeal and obtaining a reversal and remand. No. 2020-1212, 2020 WL 7828776 (Fed. Cir. Dec. 31, 2020). The case is still pending, most recently subject to additional limited discovery. 2021 WL 3772086 (Aug. 25, 2021).

Presiding Judge: United States District Judge Walter Rice

Dates of representation: 2010 – present

Co-counsel

Dale M. Heist (retired)
Formerly Baker & Hostetler LLP

James H. Greer
Bieser, Greer & Landis
6 North Main Street, Suite 400
Dayton, OH 45402
(937) 223-3277

Opposing Counsel

John David Luken
Dinsmore
255 East 5th Street, Suite 1900
Cincinnati, OH 45202
(513) 977-8323

Rachael Leigh Rodman
Ulmer & Berne LLP (formerly Dinsmore)
65 East State Street, Suite 1100
Columbus, OH 43215
(614) 229-0038

2. *Crown Packaging Technology, Inc. & CarnaudMetalbox Engineering Ltd. v. Belvac Production Machinery, Inc.*, No. 6:18-cv-070 (W.D. Va.)

Our clients Crown Packaging Technology, Inc. and CarnaudMetalbox Engineering Ltd. (“CMB”) sued Belvac Production Machinery, Inc. (“Belvac”) for patent infringement in 2018, and Belvac asserted counterclaims for infringement of a patent of its own. I lead Baker’s team in the case, which involves patents on certain machinery for making aluminum beverage cans. I led the briefing and presented argument for the *Markman* hearing in the case, resulting in a favorable ruling. Belvac filed a petition for *inter partes review* at the Patent Office seeking to have one of CMB’s patents revoked, but we defeated the petition. Belvac eventually withdrew its counterclaim. I had the lead role in all aspects of fact and expert discovery. I also had the lead role in preparing and arguing briefs and oppositions for seven summary judgment motions and three *Daubert* motions. I was first chair in the two-week trial in this matter in June and July 2022. The case is still pending.

Presiding Judge: United States District Judge Norman Moon

Dates of representation: 2018 – present

Co-counsel

Glenn W. Pulley
Gentry Locke
801 Main Street, 11th floor
Lynchburg, VA 24504
(434) 455-9945

Daniel Goettle
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1735 Market Street, Suite 3300
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(215) 564-8974

Opposing Counsel

Brian C. Riopelle
David Finkelson
George Davis
McGuireWoods
Gateway Plaza
800 East Canal Street
Richmond, VA 23219
(804) 775-1084

3. *Trading Technologies International, Inc. v. IBG LLC and Interactive Brokers LLC*, No. 10-cv-715 (N.D. Ill.)

Our client, Trading Technologies International, Inc. (“TT”) sued the defendants (“IB”) for infringing a number of patents relating to software for commodities trading. My involvement began during preparation for trial. I was part of the team that represented TT in a four-week jury trial in August 2021. I was responsible for developing and advancing various legal and evidentiary issues before and during trial. I argued the jury instructions during several multi-hour sessions before and during trial. I identified, prepared, and argued numerous evidentiary motions before and during trial. I cross-examined IB’s vice-chairman and legal officer. I assisted in preparation of witnesses for direct testimony and of other cross-examination outlines. I also prepared and provided issues and arguments for judgment as a matter of law. The jury ultimately found in our client’s favor on infringement and validity.

Presiding Judge: United States District Judge Virginia M. Kendall

Dates of representation: 2021 – present

Co-counsel

Leif R. Sigmond Jr.
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Opposing Counsel

Michael S. Sommer
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1301 Avenue of the Americas, 40th Floor
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(212) 497-7728

Matthew R. Reed
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650 Page Mill Road
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4. *Global Touch Solutions, LLC v. Microsoft Corp.*, No. 2:15-cv-00017-MSD (E.D. Va.); No. 3:15-cv-2750-JD (N.D. Cal.); Patent Trial & Appeal Board IPR2015-1147; IPR2015-1148; IPR2015-1149; IPR2015-1150; IPR2015-1151; IPR2016-158; IPR2015-1023; & IPR2015-1928

Global Touch Solutions, LLC (“Global Touch”) sued our client Microsoft Corp. (“Microsoft”) in August 2014, in the Eastern District of Virginia, alleging that Microsoft infringed almost 100 patent claims across 8 patents owned by Global Touch. Global Touch’s allegations concerned touch screens, displays, and other user interface aspects of Microsoft’s Surface line of tablet computers as well as certain smart phones and tablet product lines from the Microsoft-acquired Nokia business. I led our team’s efforts in this case. We moved the Virginia court to transfer the case to the Northern District of California, a process made more complicated by the presence of Apple and three other defendants in related cases. In spite of the complication presented by having five defendants with different business locations, the Virginia court was persuaded to transfer all five defendants together, finding that Global Touch had only tenuous ties to Virginia, and crediting the defendants’ showings that California would be a more appropriate place to litigate the cases. 109 F. Supp. 3d 882 (2015). In the meantime, we prepared petitions for *inter partes* review proceedings at the United States Patent and Trademark Office, which, if granted, would give Microsoft the opportunity to prove that Global Touch’s patent claims were invalid. The Patent Trial and Appeal Board (PTAB) granted our

petitions, instituting year-long validity trials on all eight patents. We then successfully moved the California district court for a stay of the litigation pending the outcome of the Patent Office proceedings. I led our team's efforts in the *inter partes* reviews, culminating in three "trials" (akin to district court hearings) that I argued. The PTAB ruled in Microsoft's favor in all three, invalidating every claim asserted by Global Touch against Microsoft in district court, calling the cases a "textbook case of obviousness." See Final Decisions in IPR2015-1147,48,49,50,51, IPR2016-158, IPR2015-1023, & IPR2015-1928. The district court case was subsequently dismissed in a complete victory for our client.

Presiding Judges: United States District Judge Mark Davis, United States District Judge James Donato, Administrative Patent Judges Justin Busch, Lynne E. Pettigrew, and Beth Z. Shaw

Dates of representation: 2015 – 2017

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5. *Comcast Cable Comm. LLC v. Sprint Comm. Co.*, No. 2:12-cv-859-JD (E.D. Pa.)

Our client Comcast sued Sprint for patent infringement in 2012, and Sprint asserted counterclaims for infringement of certain patents of its own. Relevant to my involvement, the case concerned certain Sprint text and media messaging technology that Comcast alleged was covered by Comcast's patent. Among other defenses, Sprint alleged that Comcast's patent claims were not directed to eligible subject matter, and, in this regard, Sprint moved for summary judgment of invalidity of Comcast's patent in May 2016. This defense, which is an area of my expertise, has become popular in patent litigation following a series of Supreme Court cases decided in the past several years, and has been responsible for terminating hundreds of patent litigations around the country. I led our team's efforts to rebut this defense, including presentation of oral argument before Judge DuBois at a multi-day summary judgment hearing in summer 2016. The court ruled in Comcast's favor on this issue, holding that the claims were patent eligible in view of either part of the Supreme Court's two-part test. 2016 U.S. Dist. LEXIS 113726 (Aug. 24, 2016). These patent claims were tried to a jury in early 2017, which found that Sprint was liable for infringing Comcast's patent. I assisted with various legal issues that arose during the trial.

Presiding Judge: United States District Judge Jan DuBois

Dates of representation: 2015 – 2017

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6. *GCP Applied Technologies Inc. v. AVM Industries, Inc.*, No. 19-cv-7475-MWF (C.D. Cal.)

In 2019, our client, GCP Applied Technologies Inc. (“GCP”) filed a complaint against AVM Industries, Inc. (“AVM”) alleging that AVM infringed GCP’s patent relating to certain waterproofing membranes, and seeking injunctive relief and damages. I became involved in the case in 2020 to assist with all aspects of strategy, claim construction, and to lead the damages side of the case. I led our efforts on fact and expert discovery for damages issues, and prepared and argued various motions in the case, including summary judgment motions. The case is still pending and awaiting a trial date.

Presiding Judge: United States District Judge Michael W. Fitzgerald

Dates of representation: 2020 – present

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7. *Paone v. Microsoft*, No. 07-CV-2973 (E.D.N.Y.)

Paone filed a complaint against our client Microsoft in July 2007, alleging that Microsoft was infringing his patent relating to certain encryption methodologies, and seeking nine-figure damages. The allegations concerned Microsoft hard disk encryption software called BitLocker, and an industry-standard wireless encryption technology called TKIP that Paone alleged Microsoft was inducing the use of. We litigated the case for more than six years, although I did not join the team until a stay pending reexamination at the USPTO was lifted in 2010. I played a central writing, coordination, and deposition role

in the major phases of the case that followed: claim construction, liability and damages expert discovery, dispositive motions, and pre-trial activity including an evidentiary *Daubert* hearing, as well as drafting jury instructions and motions-in-limine. As a result of our efforts, we obtained dismissals of a number of patent claims, Paone's theories of literal and direct infringement, and Paone's accusations against BitLocker. We also drastically limited Microsoft's exposure by constraining Paone's damages expert and marshalling our own evidence in response. Following these developments, the case settled shortly before trial. The *Paone* case led to a number of published decisions, including: 771 F. Supp. 2d 224 (E.D.N.Y. 2011), *Paone v. Microsoft Corp.*, 881 F. Supp. 2d 386 (E.D.N.Y. 2012), 2013 U.S. Dist. LEXIS 59613 (E.D.N.Y. 2013), and 2013 U.S. Dist. LEXIS 112705 (E.D.N.Y. 2013).

Presiding Judge: United States District Judge Arthur Spatt (deceased)

Dates of representation: 2009 – 2013

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8. *In re Certain Handheld Electronic Computing Devices, Related Software, and Components Thereof*, Inv. No. 337-TA-769 (United States International Trade Commission)

We filed a complaint with the International Trade Commission on behalf of Microsoft on March 21, 2011, under section 337 of the Tariff Act of 1930, as amended. The complaint named Barnes & Noble, Hon Hai, Foxconn, and Inventec as respondents, and alleged that the importation of three different Barnes & Noble Nook devices infringed certain claims

of five patents owned by Microsoft. The ITC instituted an investigation, which proceeds generally similarly to a patent infringement action in district court, albeit on a much shorter schedule. I led our team's efforts with regard to one of the five patents, which included discovery, claim construction, expert reports, direct expert testimony, defense against Barnes & Noble's attack on the patent, preparation for evidentiary hearing, and pre-hearing and post-hearing briefing. The patent for which I was responsible survived the pertinent pre-hearing obstacles and was tried to the ALJ. After the hearing, but before a final decision, Microsoft and Barnes & Noble settled their dispute in a well-publicized agreement.

Presiding Judge: Administrative Law Judge Theodore R. Essex

Dates of representation: 2009 – 2013

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9. *Cordis Corp. v. Lee*, No. 1:12-cv-75-AJT (E.D. Va.); *Abbott Labs. v. Cordis Corp.*, No. 1:11-mc-00042-CMH (E.D. Va.); *Abbott Labs. v. Cordis*, No. 12-1244 (Fed. Cir.); *Cordis Corp. v. Kappos*, No. 12-1039 (Fed. Cir.); *Cordis Corp. v. Lee*, No. 15-

1371 (Fed. Cir.); *Cordis Corp. v. Abbott Labs.*, No. 15-1445 (Fed. Cir.); *In re: Ethicon, Inc.*, No. 15-1696 (Fed. Cir.)

Cordis was involved in a lawsuit against Abbott Labs and Boston Scientific, regarding Cordis's allegations that Abbott Labs and Boston Scientific were infringing Cordis's patents on drug-eluting coated coronary stents. Our team represented Cordis in several *inter partes* reexaminations at the USPTO brought by Abbott Labs and Boston Scientific, and seeking to invalidate Cordis's patents. Further to our efforts to defend the validity of Cordis's patents at the USPTO, we served subpoenas for documents and testimony on Abbott Labs and Boston Scientific, and simultaneously sought express authorization to serve subpoenas to obtain evidence that we contended was highly relevant to the question of the patents' validity. Abbott Labs and Boston Scientific opposed our requests (filing a motion to quash (No. 1:11-mc-42)), and the USPTO denied them on the basis that it lacked authority to afford subpoenas. We opposed the motion to quash, and in January 2012, we initiated an action against the USPTO under the Administrative Procedure Act, alleging that the USPTO acted improperly by failing to recognize its authority and allow the subpoenas (No. 1:12-cv-75). Judge Hilton granted the motion to quash, and we appealed (No. 12-1244). On appeal, the Federal Circuit rejected the government's and Abbott's theories of limited USPTO power, interpreting Title 35 and ruling that the USPTO has the power to authorize subpoenas in cases meeting certain criteria. *Abbott Labs. v. Cordis Corp.*, 710 F.3d 1318 (Fed. Cir. 2013). In view of this ruling, the government agreed to remand the APA action (No. 1:12-c-75) back to the USPTO for the agency to reconsider authorizing the subpoenas. Eventually, the Director of the USPTO again denied the subpoenas, on different grounds, and the Patent Trial and Appeal Board ruled against Cordis on the merits of the *inter partes* reexaminations. Cordis appealed all of these rulings (Nos. 15-1371, 15-1445, & 15-1696). During the appeals, Cordis settled the underlying patent litigation with Abbott Labs. and Boston Scientific, and the government took over defense of the remaining PTAB ruling. The Federal Circuit affirmed the PTAB's invalidation of the remaining patent. *In re Ethicon, Inc.*, 844 F.3d 1344 (Fed. Cir. 2017). I was the primary briefwriter in these related actions and appeals.

Presiding Judge: United States District Judge Anthony Trenga

Dates of representation: 2011 – 2017 (approximately)

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10. *Vroom Inc. v Sidekick Technology, LLC*, No. 2:21-cv-06737-WJM-JSA (D.N.J.)

Sidekick Technology is the owner of 12 patents relating to systems, methods, and apparatuses for providing automobile market information and performing or facilitating automobile transactions. After receiving a cease-and-desist letter from Sidekick Technology, our client Vroom filed an action seeking declaratory judgment of no infringement of the 12 patents. I led Baker's team on behalf of Vroom in this matter and was the primary writer of our pleadings and briefing. Sidekick Technology counterclaimed on all 12 patents, asserting infringement. On behalf of Vroom, we

answered and asserted affirmative defenses, including that all 405 claims of the 12 patents were directed to ineligible subject matter under 35 U.S.C. § 101. We then filed a motion for judgment on the pleadings, arguing that all the patent claims were invalid for that reason. On June 28, 2022, the Court ruled in our favor, holding all 12 patents to be invalid under § 101 and dismissing the counterclaims with prejudice.

Presiding Judge: United States District Judge William J. Martini

Dates of representation: 2021 – 2022

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

Litigation matters like those described above in response to Question 17 have constituted the bulk of my practice over the years. For the most part, such litigation relates to intellectual property, but I often get involved in other types of commercial litigation, especially when there are technical or scientific issues such as product defects. One additional aspect of my practice is appeals from final decisions of district courts or of the Patent Trial & Appeal Board to the U.S. Court of Appeals for the Federal Circuit. I have been counsel on approximately 20 appeals to the Federal Circuit, several of which are described above. On most of these appeals, I designed the appeal strategy and had primary brief-writing responsibility. I also presented oral argument for two of the appeals.

Another aspect of my practice is before the United States Patent and Trademark Office, and, in association with agents overseas, practice before other patent agencies around the world. I supervise the drafting and/or prosecution of hundreds of patent applications for my clients. My practice before the United States Patent and Trademark Office also includes more involved and contested proceedings, such as *inter partes* reviews, interferences, *ex parte* reexaminations, reissues, and *inter partes* reexaminations. These proceedings have characteristics ranging from more prosecution-like (e.g., reissues) to more litigation-like (e.g., *inter partes* reviews). I typically take a lead role in these matters.

Yet another aspect of my practice is providing my clients with informal or formal opinions of counsel with regard to patent properties of interest. These opinions may provide not only risk mitigation for business operations, but also a basis for taking actions in good faith, which can be a defense to certain claims in litigation. I typically take a lead role in these matters.

Finally, my practice also includes strategic consulting to help my clients leverage their intellectual property to gain a competitive advantage. This type of work takes various forms, e.g.: evaluating the strength of client or competitor-owned intellectual property; conducting due diligence for transactions; analyzing client or competitor products or methodologies to determine potential risks or liabilities; designing patent acquisition and patent enforcement strategies; and so on. I typically take a lead role in these matters.

I have been involved with lobbying activities for the Federal Bar Association, as part of its “Capitol Hill Day” program. As part of this effort, I met with legislators to discuss the legislative priorities of the Federal Bar Association.

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.

Since 2014, I have been an adjunct professor at Rutgers School of Law (formerly Rutgers School of Law—Camden). I taught Patent Litigation & Strategy in 2014 and 2016, using the casebook of the same name of which I am co-author. The course description is as follows:

This course builds on the basics of patent law covered in Patent Law I (e.g., legal requirements for patentability, written description, enablement, novelty, nonobviousness, utility, and statutory subject matter), which is a prerequisite. It examines litigation aspects of patent practice, including the practical strategy issues driving litigation tactics. Litigation is considered from the pre-complaint stage through discovery, claim construction, and trial. The textbook will be Moore, Holbrook, & Murphy’s Patent Litigation and Strategy, 4th ed. In addition to a final examination, there will be occasional practice-oriented writing and speaking assignments.

Copies of each syllabus supplied.

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.

As required by my firm, I have made contributions to a capital account. If I were to resign as a partner, I understand that those funds would be reimbursed to me.

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

I have no such plans, commitments, or agreements.

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.

Conflicts of interest could arise in cases involving my law firm, Baker & Hostetler LLP, my clients, or parties in which I have a financial interest through my investment portfolio. I would address such issues in accordance with the applicable law and guidelines, such as 28 U.S.C. § 455 and the Code of Conduct for United States Judges. If helpful, I would consult with appropriate sources of authority, such as the Judicial Conference of the United States.

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

I would address any such issues in accordance with the applicable law and guidelines, such as 28 U.S.C. § 455 and the Code of Conduct for United States Judges. If helpful, I would consult with appropriate sources of authority, such as the Judicial Conference of the United States. I would recuse myself as appropriate, and I would also take advantage of any of the Court's resources, such as providing the clerk's office with a list of known potential conflicts of interest.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I am a volunteer for the Eastern District of Pennsylvania's Prisoner Civil Rights Program. In 2019, I volunteered to represent a pro se plaintiff, Mr. Fennell. Through a series of agreements relating to Mr. Fennell's pending case and other related pending cases filed by Mr. Fennell, I filed a new complaint on behalf of Mr. Fennell, then denoted *Fennell v. Horvath*, No. 5:19-cv-4183-MAK. Mr. Fennell's complaint alleged that 14 individual employees of Northampton County Prison had violated his civil rights and retaliated against him. With the assistance of several other lawyers at my firm, I guided the case through discovery and summary judgment, successfully defeating defendants' summary judgment motion with respect to some of Mr. Fennell's significant claims. We then prepared the case for trial, including pretrial motions, jury charges, and the like. The case settled shortly before trial. This matter required approximately 200 hours.

Since 2019, I have represented a group of voting rights organizations and individuals in a pro bono engagement. I represent a group of petitioners including the National Election Defense Coalition, Citizens for Better Elections, and a number of individuals against the Secretary of the Commonwealth of Pennsylvania (674 MD 2019, Filed Dec. 12, 2019). The petition, which is addressed to the Pennsylvania Commonwealth Court's original jurisdiction, alleges that an "all-in-one" ballot marking device known as the ExpressVote XL should not have been certified by the Secretary of the Commonwealth of Pennsylvania for use in elections, because it violates several provisions of the Pennsylvania Election Code. The petitioners in the case seek an order to the Secretary to decertify the ExpressVote XL. Along with other lawyers on the team from my firm and from Free Speech for People, I assisted with the composition and editing of the pleadings, and on January 23, 2020, I successfully argued in opposition to the Commonwealth's preliminary objection that several Counties were indispensable parties. On October 18, 2021, the Commonwealth Court overruled a number of the Secretary's preliminary objections, allowing the case to continue. See *Nat. Elec. Defense Coalition v. Boockvar*, 266 A.3d 76 (Comm. Ct. 2021). The case is currently pending, with no schedule yet set for discovery or trial. This matter has required approximately 150 hours to date.

I am also a volunteer for the Veterans Consortium Pro Bono Program. In this capacity, I am available to provide free representation for veterans who have lost a claim before the Board of Veterans Appeals (BVA), which typically involves an appeal to the United States Court of Appeals for Veterans Claims, and further appeals or representation as appropriate. In one case, *Reason v. Shinseki*, I represented a veteran who was trying to obtain benefits in connection with his disability. After analysis of the record, legal research, and discussions with the veteran, I submitted arguments that the BVA erred by refusing to recognize or consider important new evidence in the veteran's file. Following the written exchange and a telephonic pre-appeal conference with a court staff member, the BVA attorney agreed to a joint remand order to afford the veteran an opportunity to establish his entitlement to benefits. Perhaps more importantly, the remand order had the effect of reopening the veteran's record so that he could obtain additional medical evidence. Following the remand, I assisted the veteran in finding counsel to represent him before the BVA in his re-opened claim. This matter required approximately 50 hours. In another case, *Carey v. Wilkie*, I represented a veteran who had been denied entitlement to an appropriate rating for certain service-related conditions. Again, following analysis to identify legal errors, written exchanges, telephonic negotiation, and the like, I secured a remand order that had the effect of reopening the veteran's record so that he could obtain and submit additional evidence and argument. This matter required approximately 30 hours.

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.

On March 20, 2017, I submitted an application for the position of United States District Judge for the Eastern District of Pennsylvania to Senator Casey and Senator Toomey. I interviewed with the Senators' joint selection committee in May 2017. On April 16, 2018, I interviewed with Senator Toomey and his team. On May 9, 2018, I interviewed with Senator Casey and his team. On January 24, 2021, I reapplied to Senator Casey and Senator Toomey for the same position. On August 4, 2021, I interviewed with Senator Casey and his team. On February 14, 2022, I interviewed with attorneys from the White House Counsel's Office. Since February 15, 2022, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 12, 2022, 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.