

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Michael Stefan Nachmanoff

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

United States District Judge for the Eastern District of Virginia

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

Office

Albert V. Bryan United States Courthouse
401 Courthouse Square, Chambers 400
Alexandria, Virginia 22314

Residence

Arlington, Virginia

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

1968; Washington, District of Columbia

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.

1992 – 1995, University of Virginia School of Law; J.D., 1995

1987 – 1991, Wesleyan University; B.A., 1991

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.

Employment:

2015 – present

United States District Court for the Eastern District of Virginia
401 Courthouse Square, Chambers 400
Alexandria, Virginia 22314
United States Magistrate Judge

2002 – 2015

Office of the Federal Public Defender for the Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, Virginia 22314
Federal Public Defender (2007 – 2015)
Acting Federal Public Defender (2005 – 2007)
First Assistant Federal Public Defender (2002 – 2005)

1996 – 2002

Cohen, Gettings & Dunham, P.C.
2200 Wilson Boulevard, Suite 800
Arlington, Virginia 22201
Partner (2000 – 2002)
Associate (1996 – 2000)

1995 – 1996

United States District Court for the Eastern District of Virginia
401 Courthouse Square, Chambers 700
Alexandria, Virginia 22314
Judicial Law Clerk to the Honorable Leonie M. Brinkema

1994 – 1995

Albemarle County Commonwealth's Attorney's Office
410 East High Street
Charlottesville, Virginia 22902
Third-Year Practitioner/Clinical Program (uncompensated; academic credit)

1994

Akin Gump Strauss Hauer & Feld LLP
Robert S. Strauss Tower, 2001 K Street, Northwest
Washington, District of Columbia 20006
Summer Associate

1993

United States Attorney's Office for the Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, Virginia 22314
Summer Law Clerk (uncompensated)

1991 – 1992
Office of International Affairs, Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, District of Columbia 20530
Paralegal Specialist

Other Affiliations (uncompensated):

2006 – 2016
Historical Society for the United States District Court for the Eastern District of Virginia
200 North Main Street
Suffolk, Virginia 23434
Board of Directors

2009 – 2012
Federal Bar Association, Criminal Law Section
1220 North Fillmore Street, Suite 444
Arlington, Virginia 22201
Secretary (approximately 2011 – 2012)

1996 – 2007
Federal Bar Association, Northern Virginia Chapter
Attention: Robert Vieth, President
8270 Greensboro Drive, Suite 700
Tysons, Virginia 22102
Board of Directors
 Immediate Past President (2006 – 2007)
 President (2005 – 2006)
 President-Elect (2004 – 2005)
 Vice President (2003 – 2004)
 Secretary (2002 – 2003)
 Treasurer (2001 – 2002)
 Chairman, Court Committee (2000 – 2001)

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 the 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.

Articles Review Board, Virginia Law Review (1994 – 1995)

Editorial Board, Virginia Law Review (1993 – 1994)

Departmental Honors, History and Latin American Studies, Wesleyan University (1991)

Phi Beta Kappa, Wesleyan University (1991)

Student Fellow, Center for the Humanities, Wesleyan University (1991)

Davenport Scholarship, Wesleyan University (1990)

Ford Foundation Scholarship (1990)

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.

Defender Services Advisory Group

Representative for the Fourth, Eleventh, and District of Columbia Circuits
(2013 – 2015)

Edward Bennett Williams Inn of Court, Barrister (2015 – present)

Federal Bar Association, Criminal Law Section (2009 – 2012)

Secretary (approximately 2011 – 2012)

Federal Bar Association, Northern Virginia Chapter (1996 – present)

Immediate Past President (2006 – 2007)

President (2005 – 2006)

President-Elect (2004 – 2005)

Vice President (2003 – 2004)

Secretary (2002 – 2003)

Treasurer (2001 – 2002)

Chairman, Court Committee (2000 – 2001)

Board of Directors (1996 – 2000)

Federal Defender Organization

Legislative Expert Panel, Chair (2008 – 2015)

U.S. Sentencing Guidelines Committee (2010 – 2015)

Federal Magistrate Judges Association (2015 – present)

Fourth Circuit CJA Appellate Panel Committee (2008 – 2014)

Fourth Circuit Judicial Conference (1998 – present)

George Mason American Inn of Court, Barrister (approximately 1997 – 2001)

Historical Society for the United States District Court for the Eastern District of Virginia
Board of Directors (2006 – 2016)

United States District Court for the Eastern District of Virginia
Criminal Justice Act Committee, Alexandria Division (2013 – 2015; 2019 – present)
Ad Hoc Committee on Cooperators (2020)
Ad Hoc Committee on Probation Search and Seizure Manual (2020)
Building Security Committee, Alexandria Division (2010 – 2015)

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.

Virginia, 1995

There have been no lapses in membership. I have been an inactive member of the Virginia bar (judicial status) since my appointment to the bench in 2015.

- 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, 2007
United States Court of Appeals for the Fourth Circuit, 1996
United States Court of Appeals for the District of Columbia Circuit, 2008
United States District Court, Eastern District of Virginia, 1996

There have been no lapses in membership.

11. **Memberships:**

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

American Amateur Karate Federation, Member (2010 – 2016)

Arlington Girls Softball Association, Assistant Coach (2005 – 2010)

Arlington Youth Volleyball, Assistant Coach (2012 – 2018)

Co-Ed Recreational Softball League, Bender Jewish Community Center of Greater Washington (approximately 2012 – 2016)

International Shotokan Karate Association of Northern Virginia, Member (1996 – 2001)

Shotokan Fudokan Karate-Do of Northern Virginia, Member, Fourth Degree Black Belt (2002 – 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 11a currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements:**

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

I have searched my files, databases, and the internet for responsive publications. It is possible that I may have omitted one or more writings inadvertently.

Sequestration Threatens to Eviscerate Federal Public Defenders, THE HILL, July 23, 2013. Copy supplied.

TRAC Data on Fed. Sentencing: Fact Sheet: TRAC Analysis of Variations in Sentencing Misses the Mark, 25 FED. SENT. R. 18 (Oct. 2012). Copy supplied.

WITH THOMAS W. HILLIER, II & STEPHEN R. SADY, GAO REPORT REVEALS MULTIPLE WAYS TO END THE WASTE OF MILLIONS ON UNNECESSARY OVER- INCARCERATION (Apr. 4, 2012). Copy supplied.

With Amy Baron-Evans, *Booker Five Years Out: Mandatory Minimum Sentences and Department of Justice Charging Policies Continue to Distort Federal Sentencing Process*, 22 FED. SENT. R. 96 (Dec. 2009). Copy supplied.

News from the President, THE ROCKET DOCKET NEWS (Northern Va. Chapter of the Fed. Bar Ass'n), Sept. 2006, at 1. Copy supplied.

News from the President, THE ROCKET DOCKET NEWS (Northern Va. Chapter of the Fed. Bar Ass'n), June 2006, at 1. Copy supplied.

News from the President, THE ROCKET DOCKET NEWS (Northern Va. Chapter of the Fed. Bar Ass'n), Feb. 2006, at 1. Copy supplied.

News from the President, THE ROCKET DOCKET NEWS (Northern Va. Chapter of the Fed. Bar Ass'n), Nov. 2005, at 1. Copy supplied.

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

I served on the Board of Directors of the Historical Society for the United States District Court for the Eastern District of Virginia from 2006 to 2016. During that time, the Historical Society commissioned a book: JOHN O. PETERS, FROM MARSHALL TO MOUSSAOUI: FEDERAL JUSTICE IN THE EASTERN DISTRICT OF VIRGINIA (2013). The book provides a comprehensive history of the United States District Court for the Eastern District of Virginia, including major cases and distinguished jurists, from its inception to the present. Hardcopy and press coverage supplied.

I also assisted in the preparation of the following:

Amy Baron-Evans, Jennifer Coffin, and Paul J. Hofer, *TRAC's Report Claiming 'Surprising Judge-to-Judge Variation' Fails to Compare Similar Cases, Relies on Poor Quality Data, Uses an Unreliable Method of Identifying Case Type, Uses Incorrect Methods of Reporting Sentence Length, and Contains Numerous Errors*, 25 FED. SENT. R. 20 (Oct. 2012). Copy supplied.

- 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.

Comment Letter to Advisory Comm. on Evidence Rules, Comm. on Rules of Prac. & Proc., Admin. Office of the U.S. Courts (Jan. 3, 2013). Copy supplied.

Comment Letter to Comm. on Rules of Prac. & Proc. of the Judicial Conf. of the United States (Feb. 15, 2012). Copy supplied.

Testimony:

Sequestering Justice: How the Budget Crisis is Undermining Our Courts Before the Subcomm. on Bankruptcy & the Courts of the Sen. Comm. on the Judiciary, 113th Cong. 10 (2013) (testimony given as Federal Public Defender for the Eastern District of Virginia, on behalf of the Federal Public and Community Defenders). Testimony and transcript supplied. Video available at <https://www.youtube.com/watch?v=pwGtpNGAKGA>.

Public Hearing Before the U.S. Sent'g Comm'n Regarding Federal Sentencing Options after Booker – February 16, 2012 (testimony given as Federal Public Defender for the Eastern District of Virginia). Testimony and transcript supplied.

Public Hearing Before the U.S. Sent'g Comm'n Regarding Retroactivity of Amendment 2, Pertaining to Federal Drug Offenses – June 1, 2011 (testimony given as Federal Public Defender for the Eastern District of Virginia). Testimony and transcript supplied.

Public Hearing Before the U.S. Sent'g Comm'n Regarding Statutory Mandatory Minimum Penalties in Federal Sentencing – May 27, 2010 (testimony given as Federal Public Defender for the Eastern District of Virginia). Testimony and transcript supplied.

Public Hearing Before the U.S. Sent'g Comm'n Regarding Federal Sentencing Policy – July 9, 2009 (testimony given as Federal Public Defender for the Eastern District of Virginia). Testimony and transcript supplied.

Hearing Before the Advisory Committee on the Federal Rules of Criminal Procedure Regarding Proposed Amendments – April 6, 2009 (testimony given as the Federal Public Defender for the Eastern District of Virginia). On January 9, 2009, Thomas W. Hillier, the Federal Public Defender for the Western District of Washington, drafted and submitted public comments on behalf of the Federal Public and Community Defenders, which formed the basis of his and my testimony before the Advisory Committee. Mr. Hillier's public comment letter and my testimony notes supplied. The Advisory Committee's Minutes (April 6-7, 2009) and subsequent Report (May 11, 2009) referencing my testimony also supplied.

Cracked Justice – Addressing the Unfairness in Cocaine Sentencing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary, 110th Cong. 2 (2008), (testimony given as Federal Public Defender for the Eastern District of Virginia, on behalf of the Federal Public and Community Defenders), *reprinted in* 20 FED. SENT. R. 257 (2008). Testimony and transcript supplied. Video available at <https://www.c-span.org/video/?204184-1/federal-cocaine-sentencing-laws>.

Amicus Briefs:

I conducted a database search for any amicus briefs on which my name appears as an amicus party, and the results are below. I did not write or participate in the drafting of these briefs, which were submitted on behalf of the majority, if not all, of the federal public defenders and community defenders in the country.

Brief for the National Association of Criminal Defense Lawyers, et al. as Amici Curiae Supporting Petitioner, *Tablada v. Thomas*, 560 U.S. 964 (2010) (No. 08-11034, 09-5201), 2009 U.S. S. Ct. Briefs LEXIS 3509.

Brief for the National Association of Criminal Defense Lawyers, et al. as Amici Curiae Supporting Petitioner, *Magwood v. Culliver*, 558 U.S. 1108 (2010) (No. 09-158), 2010 U.S. S. Ct. Briefs LEXIS 19.

Brief for the National Association of Criminal Defense Lawyers, et al. as Amici Curiae Supporting Petitioner, *Barber v. Thomas*, 560 U.S. 474 (2010) (No. 09-5201), 2010 U.S. S. Ct. Briefs LEXIS 47.

Brief for the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae Supporting Petitioner, *Dillon v. United States*, 560 U.S. 817 (2010) (No. 09-6338), 2010 U.S. S. Ct. Briefs LEXIS 83.

Brief for the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae Supporting Petitioner, *Pepper v. United States*, 562 U.S. 476 (2011) (No. 09-6822), 2010 U.S. S. Ct. Briefs LEXIS 1523.

Brief for the Federal Public and Community Defenders and the National Association of Federal Defenders as Amici Curiae Supporting Petitioners, *Claiborne v. United States*, 548 U.S. 1016 (2006) (No. 06-5618, 06-5754), 2006 U.S. S. Ct. Briefs LEXIS 1347.

In addition to the statements listed above, I have attended and/or provided comments at numerous nonpublic or closed-door meetings at the Administrative

Office of the U.S. Courts as a representative of the federal public defender community.

- 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.

I have searched my personal files, calendar, and the internet in an effort to identify all events responsive to this question. I may have omitted one or more events inadvertently.

June 16, 2021: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

May 12, 2021: Panel Speaker, "Timely Topics the Magistrate Judges Think You Should Know," Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This annual CLE panel features all magistrate judges in the Alexandria Division discussing practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 7, 2021: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

March 11, 2021: Panel Speaker, "United States Magistrate Judges," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. I used substantially the same notes that were provided for the CLE on April 15, 2016.

December 17, 2020: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

September 30, 2020: Speaker, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Every year since becoming a magistrate judge and alongside my fellow judges in the Alexandria Division, I have attended this annual event to introduce my law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

July 29, 2020: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

February 20, 2020: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

February 19, 2020: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

January 24, 2020: Panel Speaker, "United States Magistrate Judges," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. I used substantially the same notes that were provided for the CLE on April 15, 2016.

November 21, 2019: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

September 23, 2019: Speaker, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Every year since becoming a magistrate judge and alongside my fellow judges in the Alexandria Division, I have attended this annual event to introduce my law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

August 15, 2019: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used

substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

July 25, 2019: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

July 10, 2019: Panel Speaker, "How to Land a Clerkship: Practical Advice from Judges," American Constitution Society, Washington, DC Lawyer Chapter, Washington, District of Columbia. The panel addressed strategies that law students and new lawyers can pursue to land a clerkship. I have no notes, transcript, or recording. The address for the American Constitution Society is 1899 L Street, Northwest, Suite 200, Washington, District of Columbia 20036.

June 4, 2019: Panel Speaker, "Timely Topics the Magistrate Judges Think You Should Know," Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This annual CLE panel features all magistrate judges in the Alexandria Division discussing practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

May 2, 2019: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

April 25, 2019: Take Our Children to Work Day, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I presided over the mock trial portion of this day-long event. Mock trial script supplied.

March 28, 2019: Panel Speaker, "The Role of the U.S. Sentencing Guidelines 14 Years After *Booker* and the First Step Act," Sentencing Law and Procedures 2019 Update (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This panel of criminal law experts discussed the U.S. Sentencing Guidelines, the First Step Act, and best practices for sentencing hearings in the EDVA. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

March 21, 2019: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

February 21, 2019: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

December 6, 2018: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

December 3, 2018: Guest Speaker, "Criminal Justice Ethics" (CRIM 306-003), James Gillis, Adjunct Professor, George Mason University, Fairfax, Virginia. The presentation was a discussion with students regarding careers in law as well as ethical challenges faced by defense lawyers and judges. I have no notes, transcript, or recording. The address for George Mason University is 4400 University Drive, Fairfax, Virginia 22030.

September 24, 2018: Speaker, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Every year since becoming a magistrate judge and alongside my fellow judges in the Alexandria Division, I have attended this annual event to introduce my law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

June 15, 2018: Panel Moderator, "Rallies, Riots and Remonstrations: What Does the First Amendment Protect, and What Limits Are There for Citizens, Local Governments, and Law Enforcement?" (CLE), Virginia State Bar 80th Annual Meeting, Virginia Beach, Virginia (co-sponsored by VSB Diversity Conference; Hispanic Bar Association of Virginia; Old Dominion Bar Association; Northern Virginia Black Attorneys Association; Access to Legal Justice Committee; Virginia Equality Bar Association; the Federal Bar Association, Northern Virginia Chapter; and the Local Government Attorneys of Virginia). I moderated a panel on the scope and contours of the First Amendment against the backdrop of the Charlottesville rally. I have no notes, transcript, or recording. The address for the Virginia State Bar is 1111 East Main Street #700, Richmond, Virginia 23219.

May 30, 2018: Panel Speaker, "Timely Topics the Magistrate Judges Think You Should Know," Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This annual CLE panel features all magistrate judges in the Alexandria Division discussing practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 27, 2018: Panel Speaker, "United States Magistrate Judges," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. I used substantially the same notes that were provided for the CLE on April 15, 2016.

April 5, 2018: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

February 28, 2018: Guest Speaker, "Service Above Self," Rotary Club of Washington, District of Columbia. Notes supplied.

February 22, 2018: Moderator, "Clerkship Panel," Federal Bar Association, Northern Virginia Chapter, Arlington, Virginia (co-sponsored by the Young Lawyers' Committee of FBA-NOVA and the Office of Career and Academic Services, George Mason University's Antonin Scalia Law School). The panel discussed strategies that law students and new lawyers can use to land a clerkship. I have no notes, transcript, or recording, but press coverage supplied. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

February 1, 2018: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

December 4, 2017: Guest Speaker, "Criminal Justice Ethics" (CRIM 306-003), James Gillis, Adjunct Professor, George Mason University, Fairfax, Virginia. The presentation was a discussion with students regarding careers in law as well as ethical challenges faced by defense lawyers and judges. I have no notes, transcript, or recording. The address for George Mason University is 4400 University Drive, Fairfax, Virginia 22030.

September 26, 2017: Speaker, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Every year since becoming a magistrate judge and alongside my fellow judges in the Alexandria Division, I have attended this annual event to introduce my law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

September 15, 2017: Panel Speaker, "Sentencing: A View from the Bench," Annual White Collar Seminar (CLE), National Association of Criminal Defense Lawyers, Washington, District of Columbia. This panel involved federal judges

from around the country discussing sentencing policy and practices. I have no notes, transcript, or recording. The address for the National Association of Criminal Defense Lawyers is 1660 L Street, Northwest, #12, Washington, District of Columbia 20005.

August 23, 2017: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

August 3, 2017: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

June 15, 2017: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

May 23, 2017: Panel Speaker, "Timely Topics the Magistrate Judges Think You Should Know," Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This annual CLE panel features all magistrate judges in the Alexandria Division discussing practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 27, 2017: Take Our Children to Work Day, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I presided over the mock trial portion of this day-long event. Mock trial script supplied.

April 21, 2017: Panel Speaker, "United States Magistrate Judges," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. I used substantially the same notes that were provided for the CLE on April 15, 2016.

April 20, 2017: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

April 7, 2017: Tenth Anniversary Keynote Speaker, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. Notes supplied.

November 3, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

October 20, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

September 28, 2016: Speaker, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Every year since becoming a magistrate judge and alongside my fellow judges in the Alexandria Division, I have attended this annual event to introduce my law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

September 1, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

June 2, 2016: Panel Speaker, "Timely Topics the Magistrate Judges Think You Should Know," Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This annual CLE panel features all magistrate judges in the Alexandria Division discussing practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

June 2, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

May 20, 2016: Speaker, Investiture of Jeremy Kamens, United States District Court for the Eastern District of Virginia, Norfolk, Virginia. Notes supplied.

May 5, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

April 28, 2016: Take Our Children to Work Day, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I presided over the mock trial portion of this day-long event. Mock trial script supplied.

April 15, 2016: Panel Speaker, "United States Magistrate Judges," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Notes and CLE outline supplied.

April 7, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

April 6, 2016: Guest Speaker, "Criminal Justice Ethics" (CRIM 306-003), James Gillis, Adjunct Professor, George Mason University, Fairfax, Virginia. The presentation was a discussion with students regarding careers in law as well as ethical challenges faced by defense lawyers and judges. I have no notes, transcript, or recording. The address for George Mason University is 4400 University Drive, Fairfax, Virginia 22030.

March 3, 2016: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

November 12, 2015: Guest Speaker, "Criminal Justice Ethics" (CRIM 306-003), James Gillis, Adjunct Professor, George Mason University, Fairfax, Virginia. The presentation was a discussion with students regarding careers in law as well as ethical challenges faced by defense lawyers and judges. I have no notes, transcript, or recording. The address for George Mason University is 4400 University Drive, Fairfax, Virginia 22030.

October 23, 2015: Panel Speaker, "Calibrating the Scales of Criminal Justice: View from the Bench," Eighth Annual Fall Institute (CLE), American Bar Association, Criminal Justice Section, Washington, District of Columbia. Recording available at <https://www.youtube.com/watch?v=oa1Pk2sOT50>.

October 1, 2015: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

September 29, 2015: Speaker, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. Every year since becoming a magistrate judge and alongside my fellow judges in the Alexandria Division, I have attended this

annual event to introduce my law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

July 16, 2015: Speaker, Investiture of Manuel A. Capsalis, Fairfax General District Court, Fairfax, Virginia. Notes supplied.

July 16, 2015: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

June 18, 2015: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. I used substantially the same notes that were provided for the naturalization ceremony on June 4, 2015.

June 4, 2015: Presiding Judge, Naturalization Ceremonies, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. Notes supplied.

May 28, 2015: Panel Speaker, "Timely Topics the Magistrate Judges Think You Should Know," Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This annual CLE panel features all magistrate judges in the Alexandria Division discussing practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 28, 2015: Welcoming Remarks, "The Criminal Justice Act: A Symposium to Celebrate 50 Years," co-sponsored by the Federal Judicial Center, Defender Services Office, American Constitution Society, and Heritage Foundation, Washington, District of Columbia. Recording available at https://www.youtube.com/watch?v=VMNvvkDa_ik.

March 20, 2015: Speaker, Investiture of Hon. Michael S. Nachmanoff, United States District Court for the Eastern District of Virginia, Alexandria, Virginia. Transcript supplied.

January 19, 2015: Panel Speaker, "Discussion on Sentencing and Race," Celebrating the Life and Legacy of Dr. Martin Luther King, Jr., Washington & Lee University, Lexington, Virginia. Recording available at <https://www.youtube.com/watch?v=mahZqK5me3U>.

November 17, 2014: Guest Speaker, "Prosecuting Terrorism & National Security Cases" (Law 419), Dennis Fitzpatrick, Adjunct Professor, George Mason

University's Antonin Scalia Law School. My remarks addressed the defense perspective on representing defendants in terrorism and national security cases. I have no notes, transcript, or recording. The address for George Mason University's Antonin Scalia Law School is 3301 Fairfax Drive, Arlington, Virginia 22201.

November 13, 2014: Co-Facilitator for Sentencing Breakout Group IV and Panel Speaker for Roundtable Sentencing Strategies Discussion, Orientation Seminar for Assistant Federal Defenders, Federal Judicial Center, Santa Fe, New Mexico. This breakout discussion focused on sentencing strategies and the analysis of the United States Sentencing Guidelines. I have no notes, transcript or recording. The address of the Federal Judicial Center is Thurgood Marshall Federal Judiciary Building, One Columbus Circle, Northeast, Washington, District of Columbia 20002.

October 24, 2014: Guest Speaker, Annual Continuing Legal Education Program, Northern Virginia Black Attorneys Association, McLean, Virginia. I gave a presentation on federal court practice tips for state court practitioners. I have no notes, transcript, or recording. The address for the Northern Virginia Black Attorneys Association is 10660 Page Avenue, #4452, Fairfax, Virginia 22030.

September 12, 2014: Speaker, Portrait Unveiling of the Hon. James R. Spencer, United States District Court for the Eastern District of Virginia, Richmond, Virginia. Notes supplied.

July 25, 2014: Panel Speaker, "Responding to Terrorism Charges in Federal Court," Annual Criminal Justice Act Panel and Federal Defender Conference, Offices of the Federal Public Defender for the Middle and Western Districts of North Carolina, Greensboro, North Carolina. PowerPoint supplied.

June 12, 2014: Panel Speaker, "The Right to Counsel in The Federal Courts and Courts Martial: A Comparative Program," Federal Bar Association (co-sponsored by the District of Columbia, Capitol Hill, and Pentagon Chapters of the FBA and the Criminal Law and Veterans and Military Law Sections of the FBA), U.S. District Court for the District of Columbia, Washington, District of Columbia. This panel explored the development of the right to counsel in the military courts and the civilian federal courts. I have no notes, transcript, or recording, but press coverage supplied. The address of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

May 29, 2014: Panel Speaker, "BOP Update," National Seminar for Federal Defenders, Federal Judicial Center, Cleveland, Ohio. This panel was on the current state of Bureau of Prisons practices and policies relating to recent developments in sentencing law. I have no notes, transcripts, or recordings. The address for the Federal Judicial Center is Thurgood Marshall Federal Judiciary

Building, One Columbus Circle, Northeast, Washington, District of Columbia 20002.

April 25, 2014: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 10 – 11, 2014: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

March 27, 2014: Panel Speaker, "Obtaining and Admitting Electronic Evidence in Federal Courts: An Interactive Discussion with Trial-Like Demonstrations" (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This panel discussion addressed methods by which electronic evidence may be obtained and issues relating to the admission or exclusion of such evidence in federal court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

March 20, 2014: Guest Speaker, "National Security Law" (Law 475-01), Hon. David Novak, Adjunct Professor, William & Mary University Law School, Williamsburg, Virginia. The presentation was on the right to counsel and the defense perspective on terrorism and national security cases. I have no notes, transcript, or recording. The address for William & Mary University Law School is 613 South Henry Street, Williamsburg, Virginia 23185.

February 11, 2014: Panel Speaker, Comparative Systems Subcommittee Meeting, Response Systems to Adult Sexual Assault Crimes Panel, Arlington, Virginia. I participated in a panel on how federal courts deal with sexual assault, which was part of a congressionally-mandated 12-month independent review and assessment of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses in the military. I have no notes, transcript or recording. The address for the Response Systems to Adult Sexual Assault Crimes Panel is One Liberty Center, 875 North Randolph Street, Arlington, Virginia 22203.

January 13, 2014: Guest Speaker, “Your Money” Series on Federal Programs, C-SPAN’s Washington Journal, Washington, District of Columbia. Recording available at <https://www.c-span.org/video/?317159-5/washington-journal-federal-public-defender-program>.

April 18-19, 2013: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

March 21, 2013: Panel Speaker, “Voices from the Field: Solutions from Current and Former Indigent Defense Providers,” Considering *Gideon* at 50: The History and Future of Indigent Defense, American Constitution Society, Washington, District of Columbia. Recording available at <https://www.youtube.com/watch?v=mnolu28oN1k>.

May 31, 2012: Panel Speaker, “Nuts, Bolts, and Strategy of Defending National Security Cases,” National Seminar for Federal Defenders, Federal Judicial Center, Atlanta, Georgia. This panel presentation and brainstorming session focused on the legal and logistical issues in handling a national security case. I have no notes, transcript or recording. The address of the Federal Judicial Center is Thurgood Marshall Federal Judiciary Building, One Columbus Circle, Northeast, Washington, District of Columbia 20002.

April 27, 2012: Panel Speaker, “Office of the Federal Public Defender,” Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording, but press coverage supplied. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 19 – 20, 2012: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

March 8, 2012: Guest Speaker, "Terrorism and International Federal Trials: The Prosecution of Peripheral Players and the Marginalization of Article III Courts," Federal Law at the French Quarter, Texas Criminal Defense Lawyers Association, New Orleans, Louisiana. Notes and PowerPoint supplied.

January 19, 2012: Speaker, Norfolk & Portsmouth Bar Association, Norfolk, Virginia. I addressed members of the bar association in an effort to encourage law firms to participate in the Federal Public Defender's pro bono program. I have no notes, transcript, or recording. The address of the Norfolk & Portsmouth Bar Association is City of Norfolk Courthouse, Second Floor, 150 Saint Paul's Boulevard, Norfolk, Virginia 23510.

January 17, 2012: Panel Speaker, "A Day in the Life of a Federal Public Defender and CJA Attorney," Knowledge Exchange, Administrative Office of the United States Courts, Washington, District of Columbia. Notes supplied.

October 20, 2011: Panel Speaker, "Federal Criminal Practice: Discovery Issues," Annual Criminal Justice Act Panel and Federal Defender Conference, Office of the Federal Public Defender for the District of South Carolina, Charleston, South Carolina. Notes supplied.

April 25, 2011: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 14 – 15, 2011: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

February 16, 2011: Panel Speaker, "Hot Topics in Criminal Sentencing: Government and Defense Perspective." Judicial Workshop, Fourth Circuit Judicial Conference, Charleston, South Carolina. PowerPoint supplied.

November 16, 2010: Co-Facilitator for Evidence Breakout Group V, Orientation Seminar for Assistant Federal Defenders, Federal Judicial Center, Santa Fe, New Mexico. This breakout discussion focused on questions of admissibility of

evidence. I have no notes, transcript or recording. The address of the Federal Judicial Center is Thurgood Marshall Federal Judiciary Building, One Columbus Circle, Northeast, Washington, District of Columbia 20002.

April 30, 2010: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording, but press coverage supplied. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 15 – 16, 2010: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

April 1, 2010: Speaker, "Inside the Beltway: Update on DOJ Initiatives, Congress, and the United States Sentencing Commission," Annual Criminal Justice Act Panel and Federal Defender Conference, Offices of the Federal Public Defender for the Middle and Western Districts of North Carolina, Asheville, North Carolina. Notes and PowerPoint supplied.

November 17, 2009: Co-Facilitator for Evidence Breakout Group III, Orientation Seminar for Assistant Federal Defenders, Federal Judicial Center, Santa Fe, New Mexico. I do not recall the specific topic of discussion. Our job was to facilitate interaction among the participants in the group. I have no notes, transcript or recording. The address of the Federal Judicial Center is Thurgood Marshall Federal Judiciary Building, One Columbus Circle, Northeast, Washington, District of Columbia 20002.

April 24, 2009: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording, but press coverage supplied. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 16 – 17, 2009: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

January 7, 2009: Moderator, “Criminal Law for the Civil Practitioner” (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. The panel discussion was geared to assisting civil practitioners in the basics of EDVA criminal practice. I have no notes, transcript, or recording, but press coverage supplied. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

September 25, 2008: Moderator, “Robes in the Schools” Program (Mt. Vernon High School), Biennial Conference, Just the Beginning Foundation and the Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. This event involved judges and lawyers speaking to high school, college, and law students in the Washington metropolitan area about careers in the law. I have no notes, transcript, or recording, but press coverage supplied. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

June 20, 2008: Invocation Speaker, Investiture of Manuel A. Capsalis, Virginia State Bar, Virginia Beach, Virginia. I gave a brief invocation before the investiture of Manuel A. Capsalis as President of the Virginia State Bar. I have no notes, transcript, or recording. The address of the Virginia State Bar is 1111 East Main Street, #700, Richmond, Virginia 23219.

June 19, 2008: Luncheon Keynote Speaker, Fifth Annual Criminal Law Conference, Federal Bar Association, Criminal Law Section, New York, New York. Notes and press coverage supplied.

May 15, 2008: Speaker, Federal Bar Association, El Paso Chapter, El Paso, Texas. This presentation was on the Supreme Court’s recent decision in *Kimbrough v. United States* and its impact on sentencing in the federal courts. I have no notes, transcript, or recording. The address of the Federal Bar Association, El Paso Chapter, is 700 East San Antonio Avenue, Suite D-401, El Paso, Texas 79901 (Attention: Nicole Bombara).

May 13, 2008: Speaker, Federal Bar Association, Hampton Roads Chapter, Norfolk, Virginia. Notes supplied.

April 25, 2008: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 10 – 11, 2008: Welcome Remarks, Annual Frank Dunham Federal Criminal Defense Conference (CLE), Office of the Federal Public Defender for the Eastern District of Virginia, Charlottesville, Virginia. I founded, organized, and attended this conference annually, at which I gave welcoming remarks and briefly introduced speakers. I have no notes, transcript, or recording. The address of the Office of the Federal Public Defender for the Eastern District of Virginia is 1650 King Street, Suite 500, Alexandria, Virginia 22314.

March 21, 2008: Speaker, Annual Criminal Justice Act Panel and Federal Defender Conference, Offices of the Federal Public Defender for the Middle and Western Districts of North Carolina, Asheville, North Carolina. This presentation was on the Supreme Court's recent decision in *Kimbrough v. United States* and its impact on sentencing in the federal courts. I have no notes, transcript, or recording. The address for the Office of the Federal Public Defender for the Middle District of North Carolina is 301 North Elm Street, #410, Greensboro, North Carolina 27401. The address for the Office of the Federal Public Defender for the Western District of North Carolina is 129 West Trade Street, Suite 300, Charlotte, North Carolina 28202.

March 13, 2008: Speaker, Federal Bar Association, Northern District of Ohio Chapter, Cleveland, Ohio. This presentation was on the legacy of Frank Dunham and the high-profile cases involving national security handled by the Office of the Federal Public Defender for the Eastern District of Virginia. I have no notes, transcript, or recording. The address of the Federal Bar Association, Northern District of Ohio Chapter, is P.O. Box 14760, Cleveland, Ohio 44114.

March 30, 2007: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

September 26, 2006: Welcoming Remarks, Annual Torrey Armstrong Memorial Lecture & Federal Law Clerk Introduction, Federal Bar Association, Northern Virginia Chapter, George Washington Masonic Temple, Alexandria, Virginia. As the chapter president, I gave welcoming remarks at this annual event to introduce EDVA law clerks to the federal bar. I have no notes, recording, or transcript. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

June 22, 2006: Welcoming Remarks, Annual Meeting, Federal Bar Association, Northern Virginia Chapter, Army/Navy Country Club, Arlington, Virginia. As the Chapter President, I gave welcoming remarks before this annual meeting and CLE, featuring remarks by Chuck Rosenberg, U.S. Attorney for the Eastern District of Virginia, and a panel discussion on "Hot Topics In False Claims Act And Qui Tam Litigation." I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

May 17, 2006: Welcoming Remarks, Annual Bench-Bar Dialogue (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Chapter President, I gave welcoming remarks before this annual CLE panel on practical practice tips unique to this Court. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 7, 2006: Welcoming Remarks and Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Acting Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. Additionally, I made welcoming remarks in my capacity as president of the chapter that year. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

March 1, 2006: Welcoming Remarks, "Judicial Perspectives on *Daubert* in DC and Virginia Federal Courts" (CLE), Federal Bar Association, Northern Virginia Chapter, Army/Navy Country Club, Arlington, Virginia. As the Chapter President, I gave welcoming remarks before this CLE event. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

October 11, 2005: Welcoming Remarks, Recent Changes to Bankruptcy Code, featuring Judge Stephen S. Mitchell of the United States Bankruptcy Court (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the chapter president, I gave welcoming remarks before this CLE event. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

April 8, 2005: Panel Speaker, "Office of the Federal Public Defender," Annual Introduction to the Federal Courthouse (CLE), Federal Bar Association, Northern Virginia Chapter, Alexandria, Virginia. As the Acting Federal Public Defender, I served on the panel of speakers for this annual event, providing an introduction to the work of the Office of the Federal Public Defender to attorneys newly admitted to the Eastern District of Virginia. I have no notes, transcript, or recording. The address for the Federal Bar Association, Northern Virginia Chapter, is 8270 Greensboro Drive, Suite 700, Tysons, Virginia 22102 (Attention: Robert Vieth, President).

February 28, 2004: Panel Speaker, "Criminal Law: Sentencing Guidelines," Fifth Annual Conference on Public Service and the Law at the University of Virginia School of Law, Charlottesville, Virginia. I have no notes, transcript, or recording. The address of the University of Virginia School of Law is 580 Massie Road, Charlottesville, Virginia 22903.

- 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.

I have searched databases and the internet for responsive publications. It is possible that I may have omitted one or more publications inadvertently.

Ellen D. Marcus, *A Brief Introduction to Magistrate Judge Michael S. Nachmanoff*, THE ROCKET DOCKET NEWS (Northern Va. Chapter of the Fed. Bar Ass'n), Mar. 2015. Copy supplied.

Clemency Petition Criteria Set by Deputy Attorney General, MURFREESBORO VISION, May 8, 2014. Copy supplied.

Clemency Project 2014 Praises Justice Department for Breathing New Life into Clemency Process, TARGETED NEWS SERV., Apr. 23, 2014. Copy supplied.

Gerald T. Zerkin Presented with Carrico Professionalism Award, STATES NEWS SERV., Feb. 18, 2014. Copy supplied.

Matthew Barakat, *Judge in Gay Marriage Case Has Diverse Resume*, ASSOCIATED PRESS, Feb. 6, 2014. Copy supplied (reprinted in multiple outlets).

Federal Public Defender Program (C-SPAN Jan. 13, 2014), <https://www.c-span.org/video/?317159-5/washington-journal-federal-public-defender-program>.

VANESSA M. GEZARI, *THE TENDER SOLDIER: A TRUE STORY OF WAR AND SACRIFICE* 143-46, 154-58, 160, 225, 298n, 300n-302n (2013). Hardcopy supplied.

Frank Green, *Drug Dealers Get Much Stiffer Sentences by Rejecting Plea Deals*, THE NEWS VIRGINIAN, Dec. 16, 2013. Copy supplied (reprinted in multiple outlets).

Erik Eckholm, *Prosecutors Draw Fire for Sentences Called Harsh*, N.Y. TIMES, Dec. 6, 2013. Copy supplied.

Zoe Tillman, *Shutdown Over, But Judges Wary; Federal Judiciary Worried about Funding Levels*, NAT'L L.J., Oct. 21, 2013. Copy supplied.

Government Shutdown Deals Huge Blow to Criminal Justice System, HUFFINGTON POST, Oct. 16, 2013. Copy supplied.

Peter Vieth, *Federal Courts to Remain Open through Thursday, At Least*, VIRGINIA LAWYERS WEEKLY, Oct. 15, 2013. Copy supplied.

Frank Green, *Federal Courts in Va. Might Feel Pinch Soon*, RICHMOND TIMES DISPATCH, Oct. 10, 2013. Copy supplied.

Matthew T. Mangino, *MY VIEW; The Safety Double Whammy*, EVENING TRIB., Oct. 3, 2013. Copy supplied (reprinted in multiple outlets).

Matthew T. Mangino, *Mangino: DOJ Comes to Aid of Public Defenders*, CHILLICOTHE TIMES-BULLETIN, Oct. 2, 2013. Copy supplied.

Peter Vieth, *Federal Criminal Lawyers in Va. Remain on the Job, For Now*, VIRGINIA LAWYERS WEEKLY, Oct. 1, 2013. Copy supplied.

Correction, VIRGINIAN-PILOT, Oct. 1, 2013. Copy supplied.

Tim McGlone, *Ordeal in the Courts*, VIRGINIAN-PILOT, Sept. 30, 2013. Copy supplied.

Frank Green, *Budget Cuts to Federal Public Defenders Bring Extra Costs*, RICHMOND TIMES DISPATCH, Sept. 3, 2013. Copy supplied.

Ron Nixon, *Public Defenders Are Tightening Belts Because of Steep Federal Budget Cuts*, N.Y. TIMES, Aug. 24, 2013. Copy supplied.

Aaron Applegate, *"We Cannot Simply Prosecute or Incarcerate our Way to Becoming a Safer Nation,"* VIRGINIAN-PILOT, Aug. 16, 2013. Copy supplied.

U.S. Jury Sentences Somali Pirates to Life, 9NEWS, Aug. 3, 2013. Copy supplied (reprinted in multiple outlets).

Alyssa Weis, *Underfunded Justice*, VERA INST., Aug. 2, 2013. Copy supplied.

So, About Your Right to an Attorney . . ., THE N.Y. TIMES BLOGS (July 25, 2013). Copy supplied.

Denise M. Champagne, *Judiciary Sequestration Concerns Heard*, DAILY RECORD OF ROCHESTER, July 25, 2013. Copy supplied.

Sequestration's Biggest Victim: The Public Defender System, HUFFINGTON POST, July 22, 2013. Copy supplied.

Federal Defender Wants Out of Terrorism Case Due to Budget Cuts, NPR, June 12, 2013. Copy supplied.

Michelle R. Smith & Jesse J. Holland, *Budget Cuts Cause Delays, Concern in Federal Court*, ASSOCIATED PRESS, Apr. 25, 2013. Copy supplied (reprinted in multiple outlets).

Michelle R. Smith, *Lawyers Defend Boston Bomb Suspect Amid Furloughs*, ASSOCIATED PRESS, Apr. 24, 2013. Copy supplied.

Stacy M. Brown, *Sequester Hits Federal Court System Hard*, WASHINGTON INFORMER, Apr. 11, 2013. Copy supplied.

Carrie Johnson, *Some Public Defenders Warn: 'We Have Nothing Left To Cut,'* NPR, Apr. 10, 2013. Copy of article and transcript of radio interview supplied.

Ann E. Marimow and Keith L. Alexander, *Sequester's Furloughs Worry Federal Judges, Public Defenders*, WASH. POST, Apr. 3, 2013. Copy supplied.

Michelle R. Smith, *Federal Defenders Face Deep Cuts, Delays in Cases*, ASSOCIATED PRESS, Mar. 24, 2013. Copy supplied (reprinted in multiple outlets).

Andrew Cohen, *How the Sequester Threatens the U.S. Legal System*, ATLANTIC: WEB EDITION, Mar. 11, 2013. Copy supplied.

Joe Palazzolo, *WSJ BLOG/Law: Virginia Man Sentenced for Spying for Syrian Government*, DOW JONES NEWS SERV., July 20, 2012. Copy supplied (reprinted in multiple outlets).

Matthew Barakat, *Syrian Agent Working in U.S. Gets 18 Months*, ASSOCIATED PRESS, July 20, 2012. Copy supplied (reprinted in multiple outlets).

Bond Nixed in Quantico Terrorism Trial, STAFFORD COUNTY SUN, Apr. 4, 2012. Copy supplied.

Jason Trahan, *Wide Gaps in Drug Sentences*, DALLAS MORNING NEWS, Mar. 10, 2012. Copy supplied.

Situation Room: Iraq's Shady Relationships; Crack Cocaine Sentences Eased, CNN (Nov. 5, 2011). Transcript supplied.

Feedback On Teen Sex, Updates on Crack, NPR, Nov. 4, 2011. Transcript supplied.

An Injustice is Addressed; On Crack Cocaine Sentencing, S.F. CHRON., Nov. 3, 2011. Copy supplied.

'Occupy Oakland' Leads City Strike; Herman Cain Gets Testy with Reporters, CNN (Nov. 2, 2011). Transcript supplied.

Jessica Gresko & John O'Connor, *Inmates Freed After Crack Penalties are Eased*, ASSOCIATED PRESS, Nov. 2, 2011. Copy supplied (reprinted in multiple outlets).

John Schwartz, *Drug Terms Reduced, Freeing Prisoners*, N.Y. TIMES, Nov. 2, 2011. Copy supplied.

To The Point, *Crack Sentencing Reforms Take Effect*, KCRW (Nov. 2, 2011). Recording available at <https://www.kcrw.com/news/shows/to-the-point/anonymous-and-the-real-world-implications-of-hacktivism/crack-sentencing-reforms-take-effect>.

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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.

In March 2015, I was appointed to serve as a United States Magistrate Judge in the Alexandria Division of the United States District Court for the Eastern District of Virginia. I was selected by the district judges of the Alexandria Division to serve an eight-year renewable term.

The district court has jurisdiction over civil matters raising federal questions, civil matters with diversity of citizenship, and federal criminal matters. As a magistrate judge, my jurisdiction is governed by 28 U.S.C. § 636. I preside over civil lawsuits by consent of the parties, decide civil discovery disputes and non-dispositive motions referred to me by district judges, and conduct settlement negotiations. I conduct initial appearances and bail hearings in felony criminal cases and oversee criminal cases in full when they involve petty offenses and misdemeanor charges. I review applications for search and arrest warrants.

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

In the past six years, I have presided over at least 18 criminal bench trials in misdemeanor or petty offense cases. (It is difficult to estimate the total number because many of the petty offenses pre-dated the CM/ECF system and cannot be accessed to provide a comprehensive record.)

- i. Of these cases, approximately what percent were:

| | |
|---------------|------|
| jury trials: | 0% |
| bench trials: | 100% |

- ii. Of these cases, approximately what percent were:

| | |
|-----------------------|------|
| civil proceedings: | 0% |
| criminal proceedings: | 100% |

- b. Provide citations for all opinions you have written, including concurrences and dissents.

See attached list of opinions.

- 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).

1. *Catchings et al. v. Wilson et al.*, No. 1:21-cv-00428-TSE (D. Md.)

Plaintiffs, federal pretrial detainees held in a state-run detention facility in Baltimore, filed this class action lawsuit alleging constitutional violations based on the conditions of their confinement and exposure to COVID-19. After a severe outbreak of COVID-19 among inmates and staff at the detention facility, plaintiffs alleged that the conditions at the facility, specifically protocols for testing, quarantining, vaccinating, and cleaning, were insufficient and that injunctive relief was required to address the health and safety of the inmates. The case was originally filed in the United States District Court for the District of Maryland, but it was transferred following the recusal of the District Judges in Maryland. This matter was reassigned to Judge Ellis, who referred all matters related to discovery and settlement to me. After a ten-hour settlement conference and follow-up discussions, the parties successfully reached agreement as to terms to ensure the safety and health of detainees.

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2. *In re Dominion Dental Servs. USA, Inc. Data Breach Litig.*, 429 F. Supp. 3d 190 (E.D. Va. 2019)

Plaintiffs brought this class action lawsuit against Dominion Dental Services and other providers of dental and vision benefits following the disclosure of a data breach of customers' personal information over a period spanning nine years. Judge Brinkema referred all discovery matters to me. Plaintiffs filed a motion to compel production of the cybersecurity report produced in response to the data breach. Defendants opposed the motion, arguing that the report was protected by the work product doctrine. I ordered the production of the report. Plaintiffs also brought a motion to compel complete answers to interrogatories, which I granted in part and denied in part. Judge Brinkema granted in part the defendants' motion to dismiss for lack of standing and rejected the class action claims of the plaintiffs. Plaintiffs filed an interlocutory appeal before the Fourth Circuit Court of Appeals. The parties subsequently submitted a joint motion for preliminary approval of class action settlement, which Judge Brinkema granted. The hearing on final approval of the settlement remains pending before Judge Brinkema.

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3. *United States v. Yerman*, No. 1:19-mj-108-MSN (Dkt. No. 15) (E.D. Va. June 4, 2019). Opinion supplied.

Mr. Yerman was charged in a two-count criminal information with carrying a concealed weapon, in violation of assimilated state law (18 U.S.C. § 13, assimilating Va. Code § 18.2-308(i)), and unlawful possession of a firearm in a federal facility, in violation of 18 U.S.C. § 930(a). Mr. Yerman approached the United States Marine Corps Base Quantico with a firearm in his vehicle and was stopped at the gate under a large canvas awning that covered the sidewalk and roadway. Defendant filed a motion to dismiss, arguing that he possessed a valid permit to possess a concealed firearm and that the statute prohibiting possession in a federal facility required the government to prove Mr. Yerman entered a “building or part thereof.” The government opposed the motion and maintained that the awning covering the roadway constituted a part of the “building” housing the guard station. I granted the motion to dismiss as to both counts. The government did not appeal.

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4. *Doe v. Fairfax Cty. Sch. Bd.*, No. 1:18-cv-614-LO-MSN (Dkt. No. 178) (E.D. Va. June 28, 2019). Opinion supplied.

Plaintiff, a former high school student, brought this action under Title IX against the Fairfax County School Board alleging deliberate indifference following her claim of sexual assault by a fellow student during a school band trip. Plaintiff alleged that the school failed to investigate her claims or follow its own procedures, and then threatened her with discipline while permitting the alleged perpetrator to remain in school. Judge O'Grady referred the case to me for all discovery matters, and I resolved numerous discovery disputes, including a motion to compel an independent mental examination, a motion to compel production of text messages, and several motions to quash. I granted sanctions against the defendant for spoliation of evidence, including witness statements, interview notes, and text messages. The case ultimately went to trial before Judge O'Grady, and the jury found in favor of the defendant. The case remains pending in the Fourth Circuit Court of Appeals.

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5. *Noce v. Clarke*, No. 1:18-cv-513-TSE-MSN (Dkt. No. 14) (E.D. Va. Oct. 30, 2018). Report and recommendation supplied.

Petitioner was convicted of nine counts of incest in state court following a trial and sentenced to a term of imprisonment of twenty years. He filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 seeking collaterally to attack his conviction based on ineffective assistance of counsel, arguing his counsel failed to challenge the admissibility of the victim's "recovered" memories. Respondent filed a motion to dismiss, and Judge Ellis referred the matter to me. Finding that the Supreme Court of Virginia's rejection of petitioner's claim based on the standard articulated in *Strickland v. Washington*, 466 U.S. 668 (1984), was reasonable, I entered a report and recommendation recommending dismissal of the lawsuit with prejudice, which was adopted by Judge Ellis. Petitioner appealed to the Fourth Circuit Court of Appeals, which dismissed the appeal.

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6. *Plastipak Packaging, Inc. v. Niagara Bottling, LLC*, No. 1:17-cv-1463-AJT-MSN (E.D. Va.)

Plaintiff Plastipak Packaging, Inc. brought this patent infringement action against defendant Niagara Bottling, LLC, alleging defendant opened a manufacturing facility in the Eastern District of Virginia that produced plastic water bottles which infringed plaintiff's design. Judge Trenga referred the case to me for all discovery matters and settlement. The parties engaged in protracted non-dispositive discovery practice, and I resolved numerous motions, including multiple motions to compel, to strike expert testimony, and for issuance of letters rogatory. I presided over lengthy settlement negotiations which lasted several weeks, and the case ultimately settled prior to the resolution of summary judgment.

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7. *United States v. Frank*, No. 1:17-cr-114-LMB-MSN (Dkt. No. 76) (E.D. Va. Mar. 4, 2020). Report and recommendation supplied.

Defendant embezzled more than \$19.4 million from his employer over a ten-year period. He entered a plea of guilty to one count of wire fraud, in violation of 18 U.S.C. § 1341, and was sentenced to 78 months of imprisonment and ordered to pay \$19,440,331 in restitution. The government filed an application for a writ of garnishment seeking to garnish his 401(k) retirement accounts in partial satisfaction of his restitution obligations. Defendant opposed the application on the grounds that the account was inalienable. Judge Brinkema referred the matter to me. I recommended granting the application and, in footnote 11, noted with approval the government's offer to allow defendant to retain ten percent of the funds to pay any tax penalties associated with the early liquidation of the account. Upon review, Judge Brinkema adopted my findings and recommendations and, noting that the government had confirmed its offer to allow defendant to retain ten percent of the funds, granted permission to do so. The matter is currently pending before the Fourth Circuit Court of Appeals.

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8. *FireClean, LLC v. Tuohy*, No. 1:16-cv-294-JCC-MSN (Dkt. No. 34) (E.D. Va. June 14, 2016). Opinion supplied.

Plaintiff FireClean, LLC was a Virginia limited liability company that manufactured gun oil. Defendants were two bloggers who published the results of tests finding that the chemical composition of the gun oil was indistinguishable from cooking oil. Plaintiff brought claims of defamation against defendants. Defendant filed motions to dismiss for lack of personal jurisdiction and for failure to state claims upon which relief can be granted. Plaintiff sought leave to conduct limited jurisdictional discovery. After hearing oral argument, I denied leave to conduct jurisdictional discovery. Plaintiff timely objected to my decision, which was affirmed by Judge Cacheris. The case was dismissed for lack of personal jurisdiction. Plaintiff did not appeal.

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9. *Blowers v. Lerner, Esq., et al.*, No. 1:15-cv-889-GBL-MSN (Dkt. No. 97)
(E.D. Va. Mar. 14, 2016). Report and recommendation supplied.

Plaintiff brought this action against a law firm that had sued him in a state court collection action for failure to pay a credit card debt. Plaintiff alleged violation of the Fair Debt Collection Practices Act. During discovery, defense counsel learned that plaintiff's counsel failed to convey an offer of settlement to his client. The case was ultimately dismissed after plaintiff became aware of his counsel's failure to communicate and terminated his services. Defendants then pursued sanctions against plaintiff's counsel for vexatiously multiplying the litigation pursuant to 28 U.S.C. § 1927. The motion was referred to me, and I recommended granting sanctions. Judge Lee adopted my recommendation, which was later affirmed by the Fourth Circuit Court of Appeals.

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10. *United States v. Agustin-Cabrera*, No. 1:15-mj-573-MSN (Dkt. No. 37) (E.D. Va. May 7, 2020). Opinion supplied.

Petitioner sought a writ of coram nobis to overturn a conviction for possession of marijuana in violation of 18 U.S.C. § 844. The defendant entered a plea to one count of possession of marijuana. He was sentenced to probation before judgment pursuant to 18 U.S.C. § 3607, which was subsequently converted to a conviction. He was later placed in removal proceedings. The Alexandria Commonwealth's Attorney's Office filed an application on petitioner's behalf seeking withholding of removal based upon his status as a victim of violent crime; however, the marijuana conviction posed an impediment to obtaining relief from deportation. The defendant filed a writ seeking to vacate his conviction based on defense counsel's failure to advise him of the immigration consequences of his conviction. Following oral argument, I granted the writ of coram nobis and vacated his conviction. The government did not appeal.

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- 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.

1. *In re Dominion Dental Servs. USA, Inc. Data Breach Litig.*, 429 F. Supp. 3d 190 (E.D. Va. 2019), No. 1:19-cv-1050-LMB-MSN (Dkt. No. 113) (E.D. Va. Dec. 19, 2019). Opinion supplied.

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2. *Chertoff Capital, L.L.C. v. Braes Capital, LLC et al.*, No. 1:19-cv-631-TSE-MSN (Dkt. No. 38) (E.D. Va. Oct. 31, 2019). Opinion supplied.

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1717 Main Street, Suite 3200
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Philip John Harvey

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717 King Street, Suite 200
Alexandria, VA 22314
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3. *United States v. Yerman*, No. 1:19-mj-108-MSN (Dkt. No. 15) (E.D. Va. June 4, 2019). Opinion previously supplied in response to Q13c.

Government Counsel:

Garland W. Rowland
Captain, U.S. Marine Corps; Special Assistant United States Attorney
LSSS/E Building 59E
MCB Camp Lejeune, NC
(910) 450-5240

Defendant's Counsel:

Cadence Mertz, Assistant Federal Public Defender
Office of the Federal Public Defender (Alexandria)
1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0800

4. *Doe v. Fairfax Cty. Sch. Bd.*, No. 1:18-cv-614-LO-MSN (Dkt. No. 178) (E.D. Va. June 28, 2019). Opinion previously supplied in response to Q13c.

Plaintiff's Counsel:

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1800 Diagonal Road, Suite 600
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Defendant's Counsel:

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Stuart Alan Raphael
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5. *Noce v. Clarke*, Case No. 1:18-cv-513-TSE-MSN (Dkt. No. 14) (E.D. Va. Oct. 30, 2018). Opinion previously supplied in response to Q13c.

Petitioner's Counsel:

Jonathan Paul Sheldon
Sheldon & Flood, P.L.C.
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(703) 691-8410

Respondent's Counsel:

Rosemary Bourne
Office of the Attorney General
202 North Ninth Street
Richmond, VA 23219
(804) 786-2071

6. *Martian v. Berryhill*, No. 1:18-cv-12-LMB-MSN (Dkt. No. 21) (E.D. Va. Aug. 30, 2018)

Plaintiff: *Pro Se*

Defendant's Counsel:

R. Trent McCotter, Former Deputy Associate Attorney General
(formerly Assistant United States Attorney, Eastern District of Virginia)
Current employment or contact information unknown

7. *United States v. Frank*, No. 1:17-cr-114-LMB-MSN (Dkt. Nos. 76, 83) (E.D. Va. 2020). Opinion previously supplied in response to Q13c.

Government Counsel:

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Karen Ledbetter Taylor
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Defendant's Counsel:

Cadence Mertz, Assistant Federal Public Defender
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1650 King Street, Suite 500
Alexandria, VA 22314
(703) 600-0800

8. *FireClean LLC v. Tuohy*, No. 1:16-cv-294-JCC-MSN (Dkt. No. 34) (E.D. Va. June 14, 2016). Opinion previously supplied in response to Q13c.

Plaintiff's Counsel:

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Stacy Rose Harris
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Defendants' Counsel:

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(703) 273-8898

9. *Blowers v. Lerner, Esq., et al.*, No. 1:15-cv-889-GBL-MSN (Dkt. No. 97)
(E.D. Va. Mar. 14, 2016). Opinion previously supplied in response to Q13c.

Plaintiff's Counsel:

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Defendants' Counsel:

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Pesner Altmiller Melnick & DeMers PLC
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(512) 476-9103

10. *United States v. Agustin-Cabrera*, No. 1:15-mj-573-MSN (Dkt. No. 37) (E.D.
Va. May 7, 2020). Opinion previously supplied in response to Q13c.

Government Counsel:

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Alexandria, VA 22314
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Defendant's Counsel:

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Alexandria, VA 22314
(703) 600-0800

- e. Provide a list of all cases in which certiorari was requested or granted.

None of my cases have resulted in a petition for writ of certiorari.

- 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.

Tyrone B. v. Saul, No. 1:19-cv-1367-LMB-MSN (Dkt. No. 23) (E.D. Va. Nov. 30, 2020), *rev'd*, 1:19-cv-1367-LMB-MSN (Dkt. No. 24) (E.D. Va. Feb. 16, 2021): After his application for Disability Insurance Benefits was denied by the Social Security Administration, plaintiff appealed. The Commissioner moved to remand for further administrative proceedings and directed the ALJ to consider additional information from the Veterans Administration. The ALJ found no disability a second time after plaintiff failed to appear at his hearing. Plaintiff raised several issues on appeal, including whether the Acting Commissioner of the Social Security Administration was an unlawful acting official at the time the ALJ denied his claim. I recommended granting summary judgment in favor of the defendant on procedural grounds, based upon plaintiff's failure to appear at his second hearing before the ALJ. I also found that the Acting Commissioner's authority was proper. Judge Brinkema rejected the report and recommendation and found *sua sponte* that the ALJ's review on remand had not followed the instructions of the Appeals Council. Judge Brinkema remanded the case to the ALJ for further review. Copy supplied.

Bunk, et al. v. Birkart Globistics, et al., No. 1:02-cv-1168-AJT-MSN (Dkt. No. 1395) (E.D. Va. Jan. 8, 2016), *rev'd*, 1:02-cv-1168-AJT-MSN (Dkt. No. 1479) (E.D. Va. Aug. 22, 2017): This matter involved the government's effort to enforce a \$24 million judgment under the False Claims Act. The Court issued a Writ of Continuing Non-Wage Garnishment over a foreign corporation in an effort to collect that judgment. One of the defendants sought to quash the writ on the grounds it was not properly served. I found that the writ was properly served under the Federal Rules of Civil Procedure. Judge Trenga sustained the defendant's objection and found that personal jurisdiction could not be established. Accordingly, he quashed the writ. The United States appealed Judge

Trenga's decision. The appeal was voluntarily dismissed after full satisfaction of the judgment was made. Copy supplied.

ExxonMobil Oil Corp. v. Black Stone Petroleum Inc., No. 1:16-cv-148-TSE-MSN (Dkt. No. 15) (E.D. Va. Aug. 10, 2016), *rev'd in part*, 221 F. Supp. 3d 755 (E.D. Va. 2016): This matter involved a contract dispute over a roadside service station in New Jersey. Exxon sued Black Stone Petroleum and FDD Realty for re-branding its service station and violating its contract. I recommended entry of default judgment against Black Stone but recommended dismissal of FDD Realty, finding that plaintiff was not an intended beneficiary of the contract between Black Stone and FDD Realty. I also recommended denial of pre- and post-judgment interest. Copy supplied. Judge Ellis affirmed in part and reversed in part, concluding that Exxon was a third-party beneficiary of the contract and that post-judgment interest should be awarded. Judge Ellis adopted the recommendation with respect to denial of pre-judgment interest.

Sectek, Inc. v. Diamond, No. 1:15-cv-1631-AJT-MSN (Dkt. No. 97) (E.D. Va. July 12, 2016), *rev'd*, No. 1:15-cv-1631-GBL-MSN, 2016 U.S. Dist. LEXIS 140098 (E.D. Va. Oct. 6, 2016): This case involved a dispute over the execution of a Stock Purchase Agreement. During pretrial proceedings, the parties filed cross-motions as to the application of the claw-back provisions regarding inadvertent disclosure of documents protected by the attorney-client privilege. I denied both motions and directed the parties to bring any dispute regarding specific disputed documents to the Court's attention immediately following depositions. Copy supplied. Diamond appealed and Judge Lee reversed, finding that that the privilege had been waived because Sectek failed to produce its privilege log in a timely manner, failed to meet its burden to establish the privilege, and failed to promptly rectify the inadvertent disclosure. Following trial of the matter, the parties settled all claims, vacating the final judgment and dismissing the appeal.

In the following cases, my recommendation was modified in part:

Douglas v. Sentel Corp., No. 1:18-cv-1534-TSE-MSN, 2020 U.S. Dist. LEXIS 149928 (E.D. Va. Mar. 11, 2020), *adopted in part*, No. 1:18-cv-1534-TSE-MSN, 2020 U.S. Dist. LEXIS 89421 (E.D. Va. May 21, 2020): In this motion for default judgment, plaintiff sought damages under Title VII of the Civil Rights Act for failure to accommodate his religion, creation of a hostile work environment, and retaliation, and also advanced state law claims of tortious interference with business expectancy, defamation, and conspiracy. I granted the motion in part and denied in part, finding that plaintiff had established violations under Title VII and one instance of defamation but had not established the remaining claims. I recommended damages in the form of lost wages (\$282,814 plus an additional \$98,985 to offset tax payments) and compensatory damages (\$50,000), but no future pay or punitive damages, and also recommended granting the request for attorneys' fees and costs. On review, Judge Ellis adopted my findings of fact and

the report and recommendation, except that he did not award the \$98,985 for income tax disparity and he added an additional \$1,000 in punitive damages. In all other respects, Judge Ellis agreed with my findings and recommendations.

United States v. Frank, Case No. 1:17-cr-114-LMB-MSN (Dkt. No. 76) (E.D. Va. Mar. 4, 2020), *adopted in part*, No. 1:17-cr-114-LMB-MSN (Dkt. No. 83) (E.D. Va. May 11, 2020): The government filed an application for a writ of garnishment seeking to garnish defendant's 401(k) retirement accounts in partial satisfaction of his restitution obligations. Defendant opposed the application on the grounds that the account was inalienable. Judge Brinkema referred the matter to me, and I recommended granting the application but, in footnote 11, noted with approval the government's offer to allow defendant to retain ten percent of the funds to pay any tax penalties associated with the early liquidation of the account. Copy previously supplied in response to Q13c. Upon review, Judge Brinkema adopted my findings and recommendations and, noting that the government had confirmed its offer to allow defendant to retain ten percent of the funds, granted permission to do so. Copy supplied.

Doe v. Fairfax Cty. Sch. Bd., Case No. 1:18-cv-614-LO-MSN (Dkt. No. 178) (E.D. Va. June 28, 2019), *adopted in part*, No. 1:18-cv-614-LO-MSN (Dkt. No. 253) (E.D. Va. July 23, 2019): Plaintiff, a former high school student, brought this action under Title IX against the Fairfax County School Board alleging deliberate indifference following her claim of sexual assault by a fellow student during a school band trip. I granted sanctions against the defendant for spoliation of evidence, including witness statements, interview notes, and text messages. Copy previously supplied in response to Q13c. Defendant appealed, and Judge O'Grady granted the objection in part and denied in part. He found no clear error or any analysis contrary to law and agreed that there was a duty to preserve the documents, the documents existed, and the documents were relevant. Judge O'Grady further agreed sanctions were warranted but withheld ruling on the appropriate form of jury instruction until after evidence on the loss or destruction of documents was presented at trial. Copy supplied.

Aslani v. Curry, No. 1:16-cv-01398-LMB-MSN (Dkt. No. 18) (E.D. Va. Dec. 15, 2016), *adopted in part*, No. 1:16-cv-01398-LMB-MSN (Dkt. No. 35) (E.D. Va. Jan. 25, 2017): This matter came before me on both a motion for default judgment and a motion to set aside default, following improper service on the defendant. Plaintiff sought damages under Title IX of the Civil Rights Act, claiming violation of Title IX, retaliation, defamation per se, false light, and intentional infliction of emotional distress. I recommended dismissal of the case under 28 U.S.C. § 636(b)(1)(B) based on a lack of personal jurisdiction. The defendant had no ties to the state of Virginia, was a resident of Illinois, and the alleged violation took place in Illinois. Copy supplied. On review, Judge Brinkema adopted my findings that service was not proper and that the Eastern District of Virginia was not the proper venue. However, instead of dismissing the case, she transferred it to the Northern District of Illinois, Eastern Division. Copy supplied.

- 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.

I have only one published opinion (*In re Dominion Dental Servs. USA, Inc. Data Breach Litig.*, 429 F. Supp. 3d 190 (E.D. Va. 2019)). All other opinions issued are unpublished.

Unless sealed, all of my unpublished opinions, as well as orders regarding non-dispositive matters, are uploaded to and available in the Eastern District of Virginia's CM/ECF (PACER) database under the docket page for the case. Most are also available on Westlaw, LexisNexis, and Bloomberg Law.

- 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.

Noce v. Clarke, No. 1:18-cv-00513-TSE-MSN, 2018 WL 7017992 (E.D. Va. Oct. 30, 2018).

FireClean LLC v. Tuohy, No. 1:16-cv-294-JCC-MSN, 2016 U.S. Dist. LEXIS 109620 (E.D. Va. June 14, 2016).

- 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.

I have not sat by designation on any federal court of appeals.

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:

- 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.

In accordance with 28 U.S.C. § 455(a)–(b), I ensure that no conflict of interest exists before I preside over any matter. When I took the bench as a magistrate judge, I addressed potential conflicts-of-interest with the Office of the Federal Public Defender. Before presiding over any criminal matter, my staff and I screen to identify any potential conflicts of interest, including cases involving former clients. If such a conflict is identified, I do not preside over the matter and advise the senior magistrate judge about the conflict, who reassigns the case to another magistrate judge in the Alexandria Division. These recusals occur without written order.

No party or litigant has requested that I recuse myself from a case, nor have I recused myself sua sponte except as described above regarding former clients.

15. **Public Office, Political Activities and Affiliations:**

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

I was appointed by the Honorable William W. Wilkins, Chief Judge of the United States Court of Appeals for the Fourth Circuit, to serve as Acting Federal Public Defender for the Eastern District of Virginia on November 30, 2005. I was formally selected and appointed by Chief Judge Wilkins to serve a four-year term as the Federal Public Defender for the Eastern District of Virginia on February 19, 2007. I was subsequently reappointed by the Honorable William B. Traxler Jr., Chief Judge of the United States Court of Appeals for the Fourth Circuit, on February 19, 2011 and February 19, 2015. I left the position of Federal Public Defender at the beginning of my third term to assume my duties as magistrate judge.

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

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

None.

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;

1995 – 1996

Judicial Law Clerk to the Honorable Leonie M. Brinkema

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

I have not practiced law alone.

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

1996 – 2002

Cohen, Gettings & Dunham, P.C.
2200 Wilson Boulevard, Suite 800
Arlington, Virginia 22201
Partner (2000 – 2002)
Associate (1996 – 2000)

2002 – 2015

Office of the Federal Public Defender for the Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, Virginia, 22314
Federal Public Defender (2007 – 2015)
Acting Federal Public Defender (2005 – 2007)
First Assistant Federal Public Defender (2002 – 2005)

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.

Prior to becoming a magistrate judge, I did not serve as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From 1996 to 2002, I worked in private practice at Cohen, Gettings & Dunham, P.C. My tenure in private practice focused primarily on litigation in the United States District Court for the Eastern District of Virginia and consisted of complex civil litigation, white collar federal criminal defense, Criminal Justice Act (CJA) appointments, and state court criminal cases. I also prosecuted misdemeanor offenses for the Town of Herndon.

From 2002 to 2015, I worked in the Office of the Federal Public Defender for the Eastern District of Virginia. As First Assistant Federal Public Defender from 2002 to 2005, I represented hundreds of clients in preliminary hearings, competency hearings, detention hearings, plea hearings, sentencing hearings, pretrial motions, bench and jury trials, probation violations, supervised release hearings, and appeals. These cases involved a wide range of federal offenses. I also had numerous supervisory responsibilities. As Acting Federal Public Defender (2005 to 2007) and Federal Public Defender (2007 to 2015), I continued to represent clients while managing offices in Alexandria, Richmond, and Norfolk. In addition to the representation of clients in district court, I also argued before the United States Court of Appeals for the Fourth Circuit and the United States Supreme Court. Additionally, I oversaw the filing of hundreds of resentencing motions pursuant to the retroactive application of the drug guidelines.

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

As an associate and later partner at Cohen, Gettings & Dunham, P.C., I represented a wide variety of individuals and corporations in civil and criminal matters. As a member of the CJA panel for the United States District Court for the Eastern District of Virginia, I represented indigent defendants who had been charged with misdemeanor and felony offenses. In addition, I represented the Town of Herndon and prosecuted misdemeanor cases.

At the Office of the Federal Public Defender, from approximately 2002 to 2015, I represented people charged with federal crimes, many of whom were people of color and those most vulnerable and marginalized in society. After assuming leadership of the office, I focused my practice on representing clients with serious mental health issues and cases involving classified information, national security, and international issues.

- 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.

As an attorney, I exclusively litigated. I appeared in federal and state courts frequently while working at Cohen, Gettings & Dunham, P.C., from September 1996 to February 2002, both as an associate and as a partner. As a Federal Public Defender, I practiced criminal law in federal court. I appeared in district court on a weekly basis, and I have also argued a number of appeals before the Fourth Circuit Court of Appeals and one case in the United States Supreme Court.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 10% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

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

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.

Before becoming a magistrate judge, I tried ten cases to verdict (two as sole counsel, three as chief counsel, and five as associate counsel).

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 90% |
| 2. non-jury: | 10% |

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 argued *Kimbrough v. United States*, 552 U.S. 85 (2007) (No. 06-6330) (Petition for Writ of Certiorari, 2006 WL 4571655 (2006); Brief of Appellant-Petitioner, 2007 WL 2220198 (2007); Reply Brief of Petitioner, 2007 WL 2803386 (2007); Transcript of Oral Argument, 2007 WL 2847117 (2007)).

Additionally, I assisted in the preparation and briefing of *Alleyne v. United States*, 570 U.S. 99 (2013) (No. 11-9335) (Petition for Writ of Certiorari, 2012 U.S. S. Ct. Briefs LEXIS 4992 (2012); Reply Brief to Government's Brief in Opposition to Certiorari, 2012 U.S. S. Ct. Briefs LEXIS 4994 (2012); Brief of Appellant-Petitioner, 2012 U.S. S. Ct. Briefs LEXIS 4955 (2012); Reply Brief of Appellant-Petitioner, 2012 U.S. S. Ct. Briefs LEXIS 64 (2013)).

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. *United States v. Brehm*, 1:11-cr-11-AJT (E.D. Va.)

Mr. Brehm, a South African citizen, was charged with assault with a dangerous weapon and assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 113(a)(3) and (a)(6), following an altercation with a British national on a NATO base in Kandahar, Afghanistan. I served as lead counsel and worked on all aspects of the defense investigation, pretrial motions practice, conditional plea, and appeal. Mr. Brehm entered a plea of guilty to one count of assault resulting in serious bodily injury. Judge Trenga sentenced him to 42 months of imprisonment.

I briefed and argued the appeal before the United States Court of Appeals for the Fourth Circuit (*United States v. Brehm*, 691 F.3d 547 (4th Cir. 2012)), in which Mr. Brehm challenged the constitutionality of the Military Extraterritorial Jurisdiction Act on the grounds that two foreign nationals engaged in illegal conduct on a multinational military base did not have a sufficient nexus to the United States to be subject to jurisdiction in federal court. The Fourth Circuit rejected the jurisdictional challenge and affirmed the conviction.

Dates of Representation: 2010 to 2012

Litigated before the United States District Court for the Eastern District of Virginia (Hon. Anthony J. Trenga).

Litigated appeal before the U.S. Court of Appeals for the Fourth Circuit (Chief Judge William Traxler, Judge Robert King, and Judge Alyson Duncan; Judge King authored the majority opinion).

Co-Counsel:

Whitney E.C. Minter
First Assistant Federal Public Defender

Office of the Federal Public Defender for the Eastern District of Virginia
1650 King Street, Suite 500
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(703) 600-0800

Jeffrey C. Corey
Parsons Behle & Latimer
(formerly Assistant Federal Public Defender for the Eastern District of Virginia)
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
(801) 532-1234

Opposing Counsel:

Ronald Walutes
Assistant United States Attorney
Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, VA 22314
(703) 299-3700

2. *United States v. Mohamadi*, 1:09-cr-179-LO (E.D. Va.)

This case involved Hobbs Act robbery, firearms offenses, solicitation to commit murder for hire, murder for hire, and witness tampering, in violation of 18 U.S.C. §§ 1952, 924(c), 373, 1958, and 1512. I served as lead counsel and was involved in the defense investigation, motions practice, and jury trial of this matter. Mr. Mohamadi had been prosecuted in state court for the robberies, which resulted in a mistrial. He was subsequently charged in federal court with the same robberies and additional allegations of murder for hire and witness tampering. Mr. Mohamadi had retained multiple counsel prior to my involvement in the case. Mr. Mohamadi was convicted after trial, which was subsequently upheld on appeal.

Dates of Representation: 2010

Litigated before the United States District Court for the Eastern District of Virginia (Hon. Liam O'Grady).

Co-Counsel:

Whitney E.C. Minter
First Assistant Federal Public Defender
Office of the Federal Public Defender for the Eastern District of Virginia
1650 King Street, Suite 500
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(703) 600-0800

Jeffrey C. Corey
Parsons Behle & Latimer
(formerly Assistant Federal Public Defender for the Eastern District of Virginia)
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(801) 532-1234

Opposing Counsel:

Ronald Walutes
Assistant United States Attorney
Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, VA 22314
(703) 299-3700

3. *United States v. Ayala*, 1:08-cr-474-CMH (E.D. Va.)

Mr. Ayala was charged with second degree murder following the killing of an Afghan national outside of Kandahar, Afghanistan while serving as a contractor with a Human Terrain Team working with the U.S. military. He apprehended an individual who he learned had set his colleague on fire minutes earlier and shot him at point-blank range while the individual was in handcuffs. I served as lead counsel and supervised the investigation, defense, and mitigation strategy as well as the plea negotiation and sentencing of this emotionally-charged case. Mr. Ayala ultimately entered a plea to one count of voluntary manslaughter. We conducted an extensive mitigation investigation and argued that downward departures and a non-guideline sentence would be appropriate given the extraordinary circumstances involved in this case. Mr. Ayala was ultimately sentenced to five years of probation.

Dates of Representation: 2008 to 2009

Litigated before the United States District Court for the Eastern District of Virginia (Hon. Claude M. Hilton).

Co-Counsel:

Richard McWilliams
Assistant Federal Public Defender
District of Nebraska
(formerly Office of the Federal Public Defender, Eastern District of Virginia)
222 South Fifteenth Street, Suite 300N
Omaha, NE 68102
(855) 690-9458

Opposing Counsel:

Michael Rich (deceased)
Assistant United States Attorney
Eastern District of Virginia

4. *Kimbrough v. United States*, 552 U.S. 85 (2007)

While I had been supervising the general strategy of challenging the crack/powder disparity following the decision in *Booker v. United States*, 543 U.S. 220 (2005), my specific involvement in this case arose after certiorari was granted. I argued before the United States Supreme Court on behalf of the petitioner, Mr. Kimbrough, regarding the racial disparity of the 100:1 crack/powder ratio and the authority of district courts to impose below-guidelines sentences in light of *Booker*, based upon a categorical rejection of the advisory guideline range. I presented the oral argument, assisted in drafting the briefs to the Supreme Court, and supervised the team effort of the federal defender and indigent defense community regarding sentencing litigation strategy. The Supreme Court ruled in favor of Mr. Kimbrough, reversed the Fourth Circuit's rejection of the district court's below-guidelines sentence, and remanded the case to the district court for imposition of the original sentence.

Dates of Representation: 2007

Litigated before the United States Supreme Court (Chief Justice Roberts, Justice Scalia, Justice Stevens, Justice Kennedy, Justice Thomas, Justice Souter, Justice Breyer, Justice Ginsberg, and Justice Alito).

Co-Counsel:

Jeremy Kamens
Federal Public Defender
Office of the Federal Public Defender for the Eastern District of Virginia
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Frances Pratt
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Opposing Counsel:

Michael Dreeben
O'Melveny & Myers (formerly Deputy Solicitor General)
1625 Eye Street, Northwest
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(202) 383-5300

5. *United States v. Arriaza-Alvarenga*, 1:06-cr-434-TSE-2 (E.D. Va.)

I served as co-counsel in the trial of Mr. Arriaza-Alvarenga, who was charged with conspiracy to distribute, possession with intent to distribute, possession aboard an aircraft, and importation of 500 grams or more of cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 846, 952, 955 and 960. The case involved a courier from El Salvador, who arrived at Dulles International Airport with more than 500 grams of cocaine secreted inside of votive candles. Mr. Arriaza-Alvarenga denied knowledge of the drugs. I was involved in the defense investigation, motions practice, and trial of the matter. He was acquitted on all charges following a jury trial.

Dates of Representation: 2007

Litigated before the United States District Court for the Eastern District of Virginia (Hon. T. S. Ellis, III).

Co-Counsel:

Jeremy Kamens
Federal Public Defender
Office of the Federal Public Defender for the Eastern District of Virginia
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(703) 600-0800

Opposing Counsel:

John C. Lynch
Troutman Pepper
(formerly Special Assistant United States Attorney, Eastern District of Virginia)
222 Central Park Avenue, Suite 2000
Virginia Beach, VA 23462
(757) 687-7500

6. *United States v. Luangrath*, 1:04-cr-202-JCC (E.D. Va.)

Mr. Luangrath was charged with possession of a firearm by a person who is an unlawful user of a controlled substance, in violation of 18 U.S.C. § 922(g)(3). I served as sole counsel for Mr. Luangrath and filed a motion to suppress statements based upon his unconstitutional questioning by police following his invocation of the right to counsel during custodial interrogation. Judge Cacheris granted the motion and suppressed the statements relating to drug use. The government subsequently dismissed the case.

Dates of representation: 2004

Litigated before the United States District Court for the Eastern District of Virginia (Hon. James C. Cacheris).

Opposing Counsel:

Erik Barnett
Compliance Managing Director, HSBC
(formerly Assistant United States Attorney, Eastern District of Virginia)
8 Canada Square
London, E14 5HQ
United Kingdom
44(0) 20 7991 8888

7. *United States v. Lawson*, 1:02-cr-302-GBL (E.D. Va.)

Mr. Lawson was charged with conspiracy to commit armed bank robbery, armed bank robbery, and brandishing a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. §§ 371, 2113(a) & (d), and 924(c)(1)(A)(ii). I served as sole counsel and participated in the defense investigation, motions practice, and trial of this matter. Mr. Lawson was convicted following a jury trial.

Dates of Representation: 2002

Litigated before the United States District Court for the Eastern District of Virginia (Hon. Gerald Bruce Lee).

Opposing Counsel:

Ronald Walutes
Assistant United States Attorney
Eastern District of Virginia
2100 Jamieson Avenue
Alexandria, VA 22314
(703) 299-3700

Michael Rich (deceased)
Assistant United States Attorney
Eastern District of Virginia

8. *Jackson v. Associated Luxury Hotels, Inc., et al.*, 2000-CA-005102B (D.C. Super. Ct. 2000)

This matter involved a lawsuit brought by Ms. Jackson against Associated Luxury Hotels, Inc., for breach of contract and employment discrimination in violation of Title VII and the ADEA following her termination. Ms. Jackson alleged that she was unlawfully terminated based on her age and gender and replaced with a younger, male employee in violation of the terms of her contract. I served as lead counsel for Ms. Jackson and managed all aspects of the litigation, which included extensive discovery, multiple depositions and pretrial motions practice. The case favorably settled following denial of summary judgment.

Dates of Representation: 2000 to 2002

Co-Counsel:

Joel Dahnke (retired)
Formerly Cohen Gettings

Opposing Counsel:

Christopher Nolan (contact information not available)

Frank E. Brown, Jr.
Saunders & Brown, PLC
8200 Greensboro Drive, Suite 900
McLean, Virginia 22201
(703) 506-1022

James M. Saunders
Saunders & Brown, PLC
8200 Greensboro Drive, Suite 900
McLean, Virginia 22201
(703) 506-1018

9. *United States v. Hernandez*, 1:98-cr-153-CMH-1 (E.D. Va.)

Mr. Hernandez, along with his spouse, brother, and company, was charged in a 38-count indictment with conspiracy to defraud the government, major fraud against the government, and obstruction of justice in connection with his family-owned business which allegedly submitted false invoices to the government. Along with co-counsel, I was responsible for the defense of my client, which included the preparation of and

participation in pre- and post-trial motions, direct and cross examination of witnesses, sentencing, and appeal of the case. Following a week-long jury trial, Mr. Hernandez was convicted and sentenced to 27 months of imprisonment.

Dates of Representation: 1998 to 1999

Litigated before the United States District Court for the Eastern District of Virginia (Hon. Claude M. Hilton).

Co-Counsel:

Frank W. Dunham, Jr. (deceased)

Opposing Counsel:

Thomas McQuillan (deceased)
(formerly Assistant United States Attorney for the Eastern District of Virginia)

10. *United States v. Parris*, 1:99-cr-351-TSE (E.D. Va.)

Mr. Parris, a small-business owner, was charged in a six-count indictment with conspiracy, embezzlement from an ERISA plan, money laundering, and making false statements related to an ERISA plan, in connection with allegations that he illegally diverted funds from his company's pension plan to meet payroll and other business-related expenses. I served as co-counsel with Frank Dunham and participated in all aspects of the defense of Mr. Parris, including the preparation of pre- and post-trial motions, presenting the opening statement, and handling direct and cross-examination of witnesses. Judge Ellis dismissed the money laundering charges on a motion for judgment of acquittal under Rule 29, and Mr. Parris was subsequently convicted of conspiracy and making a false statement after a week-long trial. He was acquitted of embezzlement and engaging in monetary transactions involving specified unlawful activity. Judge Ellis sentenced Mr. Parris to 21 months of imprisonment.

Dates of Representation: 1999

Litigated before the United States District Court for the Eastern District of Virginia (Hon. T.S. Ellis, III).

Co-Counsel:

Frank W. Dunham, Jr. (deceased)

Opposing Counsel:

Daniel Locke Bell (To the best of my knowledge, Mr. Bell has retired or relocated. I do not have his current contact information.)

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.)

In addition to my work in the courtroom, I have pursued a variety of legal activities that do not directly involve litigation. I have devoted substantial time and effort to the pursuit of criminal justice reform as a national advocate for the federal defender program. These activities included testifying before the following congressional and judiciary committees on a variety of topics: the Senate Judiciary Subcommittee on Bankruptcy and the Courts (2013) (federal defender funding crisis), the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security (2008) (crack/powder disparity), and the United States Sentencing Commission (2009, 2010, 2011, and 2012) (25th Anniversary Regional Hearings, Mandatory Minimum Report, crack retroactivity, and *Booker* Hearing).

I also helped establish the first drug court in the Eastern District of Virginia in 2009, and I now serve as one of the magistrate judges presiding over the Alexandria Re-entry and Recovery Court (ARRC) in the Alexandria Division. The ARRC program is a post-conviction re-entry program that requires participants to meet with a magistrate judge on a weekly basis under the supervision of a team of assistant federal public defenders, assistant United States Attorneys, probation officers, and treatment providers who work collaboratively to provide drug treatment and counseling, job training, and other services to defendants with a history of chronic substance abuse.

Additionally, as an attorney, I engaged in advocacy for clients that did not relate directly to their trial or appellate matters. I assisted numerous incarcerated clients with concerns related to the conditions of their confinement, including access to mental health and other treatment programs, the correct calculation of release dates, and other post-conviction issues through non-litigation advocacy and outreach to the Bureau of Prisons. Finally, as a judge, I have also developed substantial expertise outside the courtroom in the area of mediation, having resolved numerous cases through settlement covering the full spectrum of civil litigation that arises in the Eastern District of Virginia.

I have never acted or registered as a lobbyist.

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

I have not taught any courses.

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

I have no anticipated receipts of deferred income from any source.

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 played in musical groups for many years, but I have not taken any compensation for those activities since taking the bench on March 2, 2015.

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.

I am not aware of any specific potential conflicts-of-interest that would arise as a result of family members, parties, affiliations, categories of litigation, or financial arrangements. When I took the bench as a magistrate judge, I addressed potential conflicts-of-interest with the Office of the Federal Public Defender. I consulted the judicial canons of ethics and made arrangements with my colleagues and the Clerk's Office to identify any potential conflicts, including cases involving former clients. There have been very few instances where any issue has arisen.

- 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 follow the same procedures that I implemented when I became a magistrate judge. I would address any potential conflict-of-interest that arises using the procedures set out by the Court and the canons of ethics.

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

I have dedicated a substantial portion of my career to providing legal services to the most vulnerable people in Northern Virginia charged with federal crimes. As an attorney in private practice, I joined the Criminal Justice Act Panel for the Eastern District of Virginia and sought out opportunities to provide pro bono assistance to clients who could not afford to hire our law firm. As Federal Public Defender, I represented people who faced the most severe consequences the criminal justice system can impose. Many of them had been alienated from their families and from society or suffered from mental illness. I have also sought to serve the disadvantaged by speaking on behalf of the federal defender community as a witness before several congressional and judicial committees. In 2008, I co-founded the Frank Dunham Federal Criminal Defense Conference to honor the memory of Frank Dunham, my law partner and the first Federal Public Defender for the Eastern District of Virginia, and to provide CJA panel members from across Virginia with continuing legal education specializing in federal criminal defense issues.

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 December 18, 2020, I submitted an application to Senators Mark Warner and Tim Kaine. On March 18, 2021, I interviewed with the Senators' Committee. Based on the committee's recommendation, I was interviewed by Senators Warner and Kaine on April 12, 2021. On April 30, 2021, I interviewed with attorneys from the White House Counsel's Office. Since that time, I have been in

contact with officials from the Office of Legal Policy at the Department of Justice. On June 30, 2021, 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.