

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Anne Marie Nardacci
Anne Marie Torrey (maiden name)

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

United States District Judge for the Northern District of New York

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.

Boies Schiller Flexner LLP
30 South Pearl Street, 11th Floor
Albany, New York 12207

I reside in Loudonville, New York.

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

1977; Albany, New York

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.

1999 – 2002, Cornell Law School; J.D. (*cum laude*), 2002

1995 – 1998, Georgetown University; B.A. (*magna cum laude*), 1998

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2005 – present
Boies Schiller Flexner LLP

30 South Pearl Street, 11th Floor
Albany, New York 12207
Partner (2020 – present)
Counsel (2012 – 2020)
Associate (2005 – 2012)

Summer 2001, 2002 – 2005
Skadden Arps Slate Meagher & Flom LLP
One Manhattan West
New York, New York 10001
Associate (2002 – 2005)
Summer Associate (Summer 2001)

Fall 2001
Office of the New York State Attorney General, Litigation Bureau
Justice Building, Second Floor
Albany, New York 12224
Extern

2000 – 2001
Cornell Law School
Myron Taylor Hall
Ithaca, New York 14853
Research Assistant to Professor (Emeritus) Katherine Stone

Summer 2000
Lombardi, Reinhard, Walsh & Harrison PC
187 Wolf Road, Suite 211
Albany, New York 12205
Summer Associate

1999
United States House of Representatives
Rayburn House Office Building
Washington, DC 20515
Staff Assistant to (Former) Representative Michael R. McNulty

Other affiliations (uncompensated):

2012 – present
New York State Bar Association
One Elk Street
Albany, New York 12207
Antitrust Section Executive Committee, Member

2013 – 2015

Capital Roots (formerly Capital District Community Gardens)
594 River Street
Troy, New York 12180
Board of Directors, Member

2012

Governor's Judicial Screening Committee for the New York State Third Department
(This organization has no physical address.)
Screening Committee, Member

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 was not required to register for the selective service.

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

Cornell Law School

Cum laude (2002)

Editor, Cornell Law Review (2000 – 2002)

Quarterfinalist, First Year Moot Court Competition (2000)

Georgetown University

Phi Beta Kappa (1998)

Magna cum laude (1998)

Alpha Sigma Nu Jesuit National Honor Society (1998)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

American Bar Association
Antitrust Section

Capital District Women's Bar Association

Governor's Judicial Screening Committee for the New York State Third Department
Screening Committee, Member (2012)

New York State Bar Association
Antitrust Section

Executive Committee, Member (2012 – present)

Women in Law Section

Northern District of New York Federal Court Bar Association

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.

New York, 2003

There have been no lapses in membership.

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

United States Court of Appeals for the Second Circuit, 2017

United States District Court for the Northern District of New York, 2007

United States District Court for the Southern District of New York, 2010

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.

Capital Roots (formerly Capital District Community Gardens)

Board of Directors, Member (2013 – 2015)

Georgetown University Alumni Association

Interviewer (2009 – 2011 (approximately))

School PTA

After-School Environmental Science Program, Co-Chair (2017 – 2020)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above

currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

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

12. Published Writings and Public Statements:

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

Antitrust Litigation Shifts as Class Members Opt Out, Law360 (Apr. 20, 2021).
Copy supplied.

Shepard Goldfein & Neal Stoll, *The Antitrust Laws: Tools of the Trade*, N.Y.L.J. (Mar. 18, 2003) (reprinted in multiple outlets). I assisted in the preparation of this article. Copy supplied.

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

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom

the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

September 5, 2008: Co-Presenter, *Searching for Jesse Torrey*, Lebanon Valley Historical Society and New Lebanon Library, New Lebanon, New York. I spoke about my ancestor, Dr. Jesse Torrey, a noted abolitionist and founder of the first free public library in the United States. I have no notes, transcript, or recording. The address for the Lebanon Valley Historical Society is 14755 State Route 22, New Lebanon, New York 12125. The address for the New Lebanon Library is 550 State Route 20, New Lebanon, New York 12125.

- 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.

Nate Raymond, *Schumer Recommends Boies Schiller Partner for Federal Judgeship*, Reuters (Nov. 15, 2021). Copy supplied.

Marco Poggio, *Schumer Puts Forward Boies Schiller Partner for NY Court*, Law360 (Nov. 15, 2021). Copy supplied.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?
 - i. Of these cases, approximately what percent were:
 - jury trials: _____%
 - bench trials: _____%
 - ii. Of these cases, approximately what percent were:
 - civil proceedings: _____%
 - criminal proceedings: _____%
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a

capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

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

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

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;

- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

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

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

None.

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

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;

I have not served as a clerk to a judge.

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

I have not practiced 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;

2002 – 2005
Skadden Arps Slate Meagher & Flom LLP
One Manhattan West
New York, New York 10001
Associate

2005 – present
Boies Schiller Flexner LLP
30 South Pearl Street, 11th Floor
Albany, New York 12207
Associate (2005 – 2012)
Counsel (2012 – 2020)
Partner (2020 – present)

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

I have not served as a mediator or arbitrator 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.

In 2002, I began my legal career as an associate in the antitrust department of Skadden Arps Slate Meagher & Flom LLP in New York City. My practice focused largely on antitrust litigation, and I spent a significant amount of time litigating a price-fixing class action in the United States District Court for the Central District of California, as well as a related qui tam suit in that court. I also did merger review work, advising clients regarding transactions reviewed by both the United States Department of Justice and the Federal Trade Commission. My work primarily consisted of legal research and writing, drafting pleadings and briefs, preparing for and participating in depositions, working with expert economists, and reviewing and analyzing documents in connection with both litigation and merger investigations. I also engaged in pro bono work, primarily by preparing and pursuing Lawful Permanent Resident petitions for abused spouses and children pursuant to the Violence Against Women Act.

In 2005, I joined Boies Schiller Flexner LLP in its Albany office, and I continue to practice there today. At Boies Schiller, my practice has consisted entirely of complex commercial litigation, and I have litigated in federal district and appellate courts in New York and throughout the United States. I have maintained a focus on antitrust litigation, while also practicing in a range of other subject matter areas, including unfair competition, bankruptcy, securities, breach of contract, fraud, and other commercial disputes. In connection with these matters, I have prepared pleadings; briefed and litigated motions to dismiss; led large-scale electronic discovery; taken and defended depositions; briefed and argued

discovery motions; worked with antitrust economists and industry experts and prepared them for testimony at deposition and in court; briefed, litigated, and participated in evidentiary hearings on motions for class certification; litigated *Daubert* and other expert motions; briefed and argued summary judgment motions; prepared cases for trial, including by preparing motions in limine and other pre-trial submissions; and participated in settlement and mediation sessions. Further, I have maintained my commitment to pro bono work by, for example, serving as pro bono counsel for inmates in cases alleging civil rights violations and violations of the Federal Tort Claims Act.

Although my practice has focused almost exclusively on complex civil litigation, I have had meaningful exposure to federal criminal law and procedure, as well. In civil antitrust cases, there are often parallel United States Department of Justice investigations and prosecutions, and defendants' participation in the Antitrust Criminal Penalty Enforcement and Reform Act program is often relevant to the civil antitrust litigation. I thus have had to develop familiarity with such federal criminal proceedings to effectively represent my clients in parallel civil litigation. Additionally, I have occasionally been involved in criminal matters as part of my pro bono practice, for instance, by assisting a colleague in serving as conflict counsel for a criminal defendant.

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

From 2002 to 2005, at Skadden, my typical clients were large companies involved in civil disputes pending in federal court, as well as in merger review proceedings before the United States Department of Justice and the Federal Trade Commission.

From 2005 to the present, at Boies Schiller, I have represented a range of clients in antitrust and other complex civil litigation, including companies and other organizations as defendants, classes of individuals or businesses as plaintiffs, individual businesses that have opted out of class actions to pursue their own lawsuits, and individual businesses outside of the class action or multidistrict litigation context.

- 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.

For the past 17 years, the entirety of my practice has been in litigation, and, prior to that, I handled both litigation and merger review matters. Throughout my career, I have regularly appeared in court for various purposes, including Rule 16

conferences, status conferences, discovery conferences, evidentiary hearings, class certification hearings, and dispositive motion hearings.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 5% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 5% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

- 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.

My practice is and has been largely focused on federal antitrust litigation. Such actions do not often go to trial, as the availability of treble damages under federal antitrust law leads to the pre-trial settlement of the great majority of antitrust actions. I have, however, fully prepared several cases for trial, because it is common for such matters to settle on trial's eve. Moreover, I served as lead counsel in a bench trial for a federal inmate who brought an action pursuant to the Federal Tort Claims Act in the United States District Court for the Northern District of New York. In that matter, I took pre-trial discovery, argued motions in limine, presented opening and closing arguments, submitted videotaped deposition testimony, and conducted direct and cross examination of live witnesses. I am also currently representing a former New York State inmate in another pro bono matter that is scheduled to go to trial in the Northern District of New York later this year. In addition, I have extensive experience in federal courts in all other phases of litigation, including experience with evidentiary hearings, particularly in the class certification context. For example, I played a key role in a week-long evidentiary hearing on class certification in the United States District Court for the Southern District of Texas, second chairing opening and closing arguments and assisting with expert witness preparation, among other things.

i. What percentage of these trials were:

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

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

I have not argued before the Supreme Court of the United States, but I have appeared as counsel for the following Supreme Court filings:

GE Cap. Retail Bank v. Belton, 141 S. Ct. 1513 (2021) (brief in opposition to petition for writ of certiorari, 2021 WL 465338) (cert. denied).

Credit One Bank N.A. v. Anderson, 139 S. Ct. 144 (2018) (brief in opposition to petition for writ of certiorari, 2018 WL 3689127) (cert. denied).

While employed as a summer associate during law school, I also assisted in the drafting of the following filing:

Mayes v. Local 106, Int'l Union of Operating Eng'rs, 121 S. Ct. 51 (2000) (brief in opposition to petition for writ of certiorari, 2000 WL 34013655) (cert. denied).

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. *In re Broiler Chicken Antitrust Litig.*, No. 1:16-cv-08637 (N.D. Ill.) (Durkin, J.)

Since 2018, I have represented six corporate opt-out plaintiffs in this coordinated action pending in the United States District Court for the Northern District of Illinois. The plaintiffs—direct purchasers of chicken—allege that the defendants—all of the major chicken producers in the United States—have conspired to raise the prices of broiler chickens through supply restrictions and other means. The litigation involves three class actions and numerous opt-out suits all pending and coordinated before the same court. The United States Department of Justice is also investigating and prosecuting the conspiracy. As a lead attorney for my clients, I have handled fact and expert discovery issues, including defendant depositions and working with economic experts in connection with their reports, and represented my clients at court conferences and hearings. I have also coordinated with other opt-out counsel and class counsel. The cases are not yet scheduled for trial.

Co-Counsel:

Philip J. Iovieno (formerly with Boies Schiller Flexner LLP)
Cadwalader Wickersham & Taft LLP
200 Liberty Street
New York, NY 10281
(212) 504-6000

Defendants' Liaison Counsel & Counsel for Sanderson Farms Defendants:

Daniel Laytin
Christa Cottrell
Jenna M. Stupar
Kirkland & Ellis LLP
300 North LaSalle Drive
Chicago, IL 60654
(312) 862-2000

Counsel for Defendant Agri-Stats, Inc.:

Justin W. Bernick
Hogan Lovells US LLP
555 13th Street, Northwest
Washington, DC 20004
(202) 637-5910

Counsel for Amick Defendants:

Howard B. Iwrey
Dykema Gossett PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0526

Counsel for Case Foods Defendants:

Thomas M. Staunton
Miller Shakman Levine & Feldman LLP
180 North LaSalle Street, Suite 3600
Chicago, IL 60601
(312) 263-3700

Counsel for Defendant Norman W. Fries, Inc.:

James F. Herbison
Winston & Strawn LLP
35 West Wacker Drive
Chicago, IL 60601
(312) 558-5600

Counsel for Defendant Fieldale Farms Corporation:

B. Parker Miller

Valarie Williams
Alston & Bird LLP
1201 West Peachtree Street
Atlanta, GA 30309
(404) 881-7000

Counsel for Foster Farms Defendants:

Stephen Medlock
Mayer Brown LLP
1999 K Street, Northwest
Washington, DC 20006
(202) 263-3000

Counsel for George's Defendants:

William L. Greene
Stinson LLP
50 South Sixth Street, Suite 2600
Minneapolis, MN 55402
(612) 335-1500

Counsel for Defendant Harrison Poultry, Inc.:

Patricia Gorham
Eversheds Sutherland LLP
999 Peachtree Street, Northeast, Suite 2300
Atlanta, GA 30309
(404) 853-8000

Counsel for Defendant House of Raeford Farms, Inc.:

Gregory Wrobel
Vedder Price P.C.
222 North LaSalle Street
Chicago, IL 60601
(312) 609-7722

Counsel for Koch Foods Defendants:

Stephen Novack
Novack & Macey LLP
100 North Riverside Plaza
Chicago, IL 60606
(312) 419-6900

Counsel for Mar-Jac Defendants:

Edward C. Konieczny
The Law Office of Edward C. Konieczny
1201 West Peachtree Street, Northeast, Suite 1000
Atlanta, GA 30361

(404) 380-1430

Counsel for Mountaire Farms Defendants:

Bourgon Reynolds
The Rose Law Firm
120 East Fourth Street
Little Rock, AR 72201
(501) 375-9131

Counsel for O.K. Foods Defendants:

John Passarelli
Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102
(402) 346-6000

Counsel for Defendant Peco Foods, Inc.:

Boris Bershteyn
Lara Flath
Skadden Arps Slate Meagher & Flom LLP
One Manhattan West
New York, NY 10001
(212) 735-3000

Counsel for Perdue Defendants:

J. Douglas Baldrige
Venable LLP
600 Massachusetts Avenue, Northwest
Washington, DC 20001
(202) 344-4000

Counsel for Defendant Pilgrim's Pride Corporation:

Debra Bernstein
Quinn Emanuel Urquhart & Sullivan LLP
1050 Crown Pointe Parkway, Suite 500
Atlanta, GA 30338
(404) 482-3502

Counsel for Simmons Defendants:

John Elrod
Vicki Bronson
Conner & Winters, LLP
4375 North Vantage Drive, Suite 405
Fayetteville, AR 72703
(479) 582-5711

Counsel for Tyson Defendants:

Rachel Adcox
Kenina Lee
Axinn Veltrop & Harkrider LLP
1901 L Street, Northwest
Washington, DC 20036
(202) 912-4700

Counsel for Defendant Wayne Farms LLC:

Christopher Ondeck
Proskauer Rose LLP
1001 Pennsylvania Avenue, Northwest, Suite 600 South
Washington, DC 20004
(202) 416-6800

2. *AngioDynamics, Inc. v. C. R. Bard, Inc.*, No. 1:17-cv-00598 (N.D.N.Y.) (Sannes, J.)

Since 2017, I have represented the plaintiff, AngioDynamics, in this antitrust action in which it alleges anti-competitive behavior by the defendant, Bard, in the market for peripherally inserted central catheters (“PICCs”). PICCs are long, thin catheters inserted into the body through a vein in the arm. Clinicians use PICCs to deliver medications, fluids, and nutrients into the body, often in situations in which patients require long-term intravenous medical treatment. At times, clinicians use devices called “tip location systems” to assist with PICC insertion. AngioDynamics alleges that Bard illegally tied the sales of Bard’s market-leading tip location systems to the sales of its PICCs. I have taken a lead role representing AngioDynamics, from the inception of the litigation through a motion to dismiss, discovery, expert work, and summary judgment motions. I have been responsible for document discovery, numerous fact witness depositions, and work related to expert reports and depositions. I have also appeared at status and discovery conferences before United States Magistrate Judge Christian Hummel, the magistrate judge assigned to the case. Additionally, I took the lead role in opposing Bard’s motion to dismiss, which the district court denied. 2018 WL 3730165 (N.D.N.Y. Aug. 6, 2018). And I took the lead role in briefing and arguing the cross motions for summary judgment, which the district court denied, as well. 2021 WL 2403107 (N.D.N.Y. June 11, 2021). The case is set to proceed to trial later this year.

Co-Counsel:

Philip J. Iovieno (formerly with Boies Schiller Flexner LLP)
Cadwalader Wickersham & Taft LLP
200 Liberty Street
New York, NY 10281
(212) 504-6000

Opposing Counsel:

Edward Moss
Cahill Gordon & Reindel LLP

32 Old Slip
New York, NY 10005
(212) 701-3838

Andrew Frackman
O'Melveny & Myers LLP
Seven Times Square
New York, NY 10036
(212) 326-2017

3. *Anderson v. Credit One Bank, N.A.*, No. 15-ap-08214 (Bankr. S.D.N.Y.) (Drain, J.), No. 7:15-cv-4227 (S.D.N.Y.) (Ramon, J.), No. 16-2496-bk (2d Cir.) (Pooler, Droney, Ramos, JJ.), No. 17-1652 (U.S.); *Belton v. GE Cap. Consumer Lending, Inc.*, No. 14-ap-8223 (Bankr. S.D.N.Y.) (Drain, J.), No. 15-cv-1934 (S.D.N.Y.) (Briccetti, J.), No. 19-648 (2d Cir.) (Winter, Wesley, Sullivan, JJ.), No. 20-481 (U.S.); *Bruce v. Citigroup, Inc.*, No. 14-ap-8224 (Bankr. S.D.N.Y.) (Drain, J.), No. 15-cv-3311 (S.D.N.Y.) (Briccetti, J.), No. 19-655 (2d Cir.) (Winter, Wesley, Sullivan, JJ.), No. 20-481 (U.S.)

Since 2015, I have represented putative classes of debtors in these three class action suits alleging that the defendant in each action—Credit One Bank, GE Capital Consumer Lending, and Citigroup, respectively—violated the discharge injunction of the Bankruptcy Code by furnishing inaccurate information to credit reporting agencies regarding the status of their consumer debt after bankruptcy. Throughout the litigation, I have played a significant role in dispositive and discovery motions and electronic and written discovery. In *Anderson*, I also defended the named plaintiff in deposition twice and played a key part in the class certification expert work, briefing, and proceedings, including by participating in the hearing on class certification.

These cases are factually similar to the *Haynes*, *Echevarria*, and *Anderson* cases listed below, but they also involve a separate and significant legal issue concerning whether arbitration of the plaintiffs' claims is appropriate. The bankruptcy court denied the defendants' motions for arbitration in all three actions. In *Anderson*, the district court upheld the bankruptcy court's ruling on appeal and the United States Court of Appeals for the Second Circuit subsequently affirmed the district court's ruling. Defendant Credit One petitioned the United States Supreme Court for a writ of certiorari, which the putative classes opposed and the Supreme Court denied. I played a primary role in drafting the district court and Second Circuit briefs, as well as the opposition to Credit One's petition for a writ of certiorari.

The *Belton* and *Bruce* cases were appealed separately from the *Anderson* case. In *Belton* and *Bruce*, the district court initially reversed the bankruptcy court ruling, and the plaintiffs filed mandamus petitions with the Second Circuit seeking review of that decision, which I took the lead in drafting. The Second Circuit denied the petitions in light of the court's recent decision in *Anderson* and directed the parties to move for reconsideration in the district court. On a motion for reconsideration that I took the lead

role in drafting, the district court ruled that the claims could not be arbitrated. The Second Circuit upheld that decision, and the Supreme Court denied defendant GE Capital Consumer Lending's petition for a writ of certiorari. I took a primary role in drafting the Second Circuit appeal brief and the opposition to the defendant's petition for a writ of certiorari.

Reported decisions include: *Credit One Bank, N.A. v. Anderson*, 139 S. Ct. 144 (2018) (denying defendant's petition for writ of certiorari); *Anderson v. Credit One Bank, N.A.*, 884 F.3d 382 (2d Cir. 2018) (affirming denial of motion to compel arbitration); *In re Anderson*, 551 B.R. 221 (S.D.N.Y. 2016) (affirming bankruptcy court's denial of motion to compel arbitration); *GE Cap. Retail Bank v. Belton*, 141 S. Ct. 1513 (2021) (denying defendant's petition for writ of certiorari); *Belton v. GE Cap. Retail Bank*, 961 F.3d 612 (2d Cir. 2020) (affirming district court ruling that claim could not be arbitrated); *Belton v. GE Cap. Retail Bank*, Nos. 15 CV 1934 & 15 CV 3311, 2019 WL 1017293 (S.D.N.Y. Mar. 4, 2019) (ruling on reconsideration that claims could not be arbitrated in light of *Anderson v. Credit One Bank, N.A.*, 884 F.3d 382 (2d Cir. 2018)); *Belton v. GE Cap. Retail Bank*, Nos. 15 CV 1934 & 15 CV 3311, 2015 WL 6163083 (S.D.N.Y. Oct. 14, 2015) (reversing bankruptcy court and compelling arbitration); *Belton v. GE Cap. Retail Bank*, No. 14-08223, 2014 WL 5819586 (Bankr. S.D.N.Y. Nov. 10, 2014) (denying motion to compel arbitration).

Co-Counsel:

George Carpinello
Adam Shaw
Boies Schiller Flexner LLP
30 South Pearl Street, 11th Floor
Albany, NY 12207
(518) 434-0600

Charles Juntikka
Charles Juntikka & Associates LLP
30 Vesey Street, Suite 100
New York, NY 10007
(212) 315-3755

Counsel for Defendant Credit One Bank, N.A.:

Andrew Tomback (bankruptcy court)
McLaughlin & Stern, LLP
260 Madison Avenue
New York, NY 10016
(212) 448-1100

Colin White (bankruptcy court)
White & Case LLP
1155 Avenue of the Americas
New York, NY 10036

(212) 819-8428

Noah Levine (appeal)
Wilmer Cutler Pickering Hale & Dorr LLP
250 Greenwich Street, 45th Floor
New York, NY 10007
(212) 230-8800

Counsel for Defendant GE Consumer Lending, Inc.:

Joseph Noga
Jenner & Block
919 Third Avenue
New York, NY 10022
(212) 891-1676

Counsel for Citigroup & Citibank Defendants:

Benjamin Nagin
Sidley Austin LLP
787 Seventh Avenue
New York, NY 10019
(212) 839-5911

4. *Haynes v. Chase Bank USA, N.A.*, No. 13-ap-08370 (Bankr. S.D.N.Y.) (Drain, J.)

As noted above, from 2015 to 2018, I represented a putative class of debtors in this matter alleging that Chase Bank violated the discharge injunction of the Bankruptcy Code by furnishing inaccurate information to credit reporting agencies regarding the status of their consumer debt after bankruptcy. The putative class alleged that the defendant's willful actions pressured debtors to continue to make payments on their discharged debts and, moreover, negatively impacted their credit scores, which harmed their ability to obtain credit, housing, and job opportunities, among other things. In this action, I played a primary role in dispositive and discovery motion briefing and electronic and written discovery. I also helped lead our depositions, including defending the deposition of the named plaintiff, and I was responsible for significant settlement-related work. This case was successfully settled in 2018. In two other cases, I also played a similar role in representing putative classes alleging substantively identical conduct by other banks: *Echevarria v. Bank of Am. Corp.*, No. 14-ap-08216 (Bankr. S.D.N.Y.) (Drain, J.); *Anderson v. Cap. One Bank (USA), N.A.*, No. 15-ap-08342 (Bankr. S.D.N.Y.) (Drain, J.). Those cases were also successfully settled in 2017 and 2019, respectively.

Co-Counsel:

George Carpinello
Adam Shaw
Boies Schiller Flexner LLP
30 South Pearl Street, 11th Floor
Albany, NY 12207

(518) 434-0600

Charles Juntikka
Charles Juntikka & Associates LLP
30 Vesey Street, Suite 100
New York, NY 10007
(212) 315-3755

Opposing Counsel:

Noah Levine
Wilmer Cutler Pickering Hale & Dorr LLP
250 Greenwich Street, 45th Floor
New York, NY 10007
(212) 230-8800

5. *In re Cathode Ray Tube Antitrust Litig.*, No. 4:07-cv-05944 (N.D. Cal.) (Tigar, J.), MDL No. 1917 (N.D. Cal.) (Tigar, J.)

From 2011 to 2018, I represented nine corporate opt-out plaintiffs in this MDL action, which is one of the largest antitrust litigations in recent history. The plaintiffs I represented filed their actions in district courts around the country, and the Judicial Panel on Multidistrict Litigation transferred them to the United States District Court for the Northern District of California for coordinated pre-trial proceedings. The plaintiffs alleged that the defendant electronics manufacturers had engaged in a conspiracy to fix the price of cathode ray tubes (“CRTs”) used in televisions and computer monitors. The matter involved two class actions and numerous opt-out actions, as well as a related United States Department of Justice criminal investigation and prosecution.

I played a lead role in all phases of this litigation, from its inception through a motion to dismiss, fact discovery, expert discovery, summary judgment motions, motions on remand, and pre-trial preparation. My firm also served as liaison counsel for the opt-out plaintiffs, and I handled a significant portion of the liaison duties, including by coordinating with other plaintiffs’ groups and communicating with defense counsel. Additionally, I successfully argued an important discovery motion on behalf of all opt-out plaintiffs and appeared for the opt-out plaintiffs at status conferences and other court proceedings. The defendants filed more than 35 motions for summary judgment in the opt-out and class cases. In the actions in which I represented plaintiffs, all of these motions were defeated (one on reversal by the United States Court of Appeals for the Ninth Circuit), and I played a lead role in drafting the summary judgment and appellate briefing. Thereafter, the cases were remanded to the courts in which the actions were originally filed, and I worked with a small team to prepare pre-trial submissions, including motions in limine, deposition designations, exhibit lists, and proposed jury instructions. These cases were settled shortly before trial in 2018.

Reported decisions include: *MARTA Coop. of Am., Inc. v. Toshiba Corp.*, 720 F. App’x 835 (9th Cir. 2017) (Graber, Smith, Zipps, JJ.) (reversing grant of summary judgment for

defendants based on challenge to individual plaintiff's standing); *In re EDNY Cathode Ray Tube Antitrust Cases*, No. 17-CV-04504, 2017 WL 4351503 (E.D.N.Y. Sept. 29, 2017) (Cogan, J.) (on remand, denying defendants' motions for reconsideration of summary judgment rulings in MDL court); *In re Cathode Ray Tube Antitrust Litig.*, No. 4:07-cv-05944, 2016 WL 5725008 (N.D. Cal. Sept. 30, 2016) (Tigar, J.) (denying defendants' motion for summary judgment based on Foreign Trade Antitrust Improvement Act); *In re Cathode Ray Tube Antitrust Litig.*, No. 4:07-cv-05944, 2016 WL 7805628 (N.D. Cal. Aug. 4, 2016) (Tigar, J.) (denying defendants' motions for summary judgment relating to standing and direct purchaser rule); *In re Cathode Ray Tube Antitrust Litig.*, No. 4:07-cv-05944, 2014 WL 12647877 (N.D. Cal. Aug. 20, 2014) (accepting special master's recommendation to deny target price discovery) (Conti, J., Walker, S.M.); *In re Cathode Ray Tube Antitrust Litig.*, 911 F. Supp. 2d 857 (N.D. Cal. 2012) (Conti, J.) (denying defendants' motion for summary judgment on ground that plaintiffs had standing as direct purchasers under the ownership-or-control rule).

Co-Counsel:

William Isaacson (formerly with Boies Schiller Flexner LLP)
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street, Northwest
Washington, DC 20006
(202) 223-7313

Stuart Singer
Boies Schiller Flexner LLP
401 East Las Olas Boulevard, Suite 1200
Fort Lauderdale, FL 33301
(954) 356-0011

Philip J. Iovieno (formerly with Boies Schiller Flexner LLP)
Cadwalader Wickersham & Taft LLP
200 Liberty Street
New York, NY 10281
(212) 504-6000

Scott Wagner
Bilzin Sumberg
1450 Brickell Avenue, 23rd Floor
Miami, FL 33131
(305) 350-7386

Counsel for Chunghwa Defendants:

Rachel Brass
Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105
(415) 393-8293

Counsel for Hitachi Defendants:

Eliot Adelson
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
(415) 268-7243

Kent Roger
Michelle Park Chiu
Morgan Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105
(415) 442-1000

Counsel for LG Defendants:

Hoon Hwang
Laura K. Lin
Munger, Tolles & Olson LLP
560 Mission Street, 27th Floor
San Francisco, CA 94105
(415) 512-4000

Counsel for Mitsubishi Defendants:

Terrence Truax
Michael Brody
Jenner & Block
353 North Clark Street
Chicago, IL 60654
(312) 222-9350

Counsel for Panasonic Defendants:

Jeffrey Kessler
Eva W. Cole
Winston & Strawn LLP
200 Park Avenue
New York, NY 10166
(212) 294-6700

Counsel for Philips Defendants:

John Taladay
Erik Koons
Baker Botts LLP
700 K Street, Northwest
Washington, DC 20001
(202) 639-7714

Counsel for Samsung Defendants:

James McGinnis
Sheppard Mullin Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, CA 94111
(415) 434-9100

Counsel for Thomson Defendants:

Kathy Osborn
Faegre Drinker Biddle & Reath
300 North Meridian Street, Suite 2500
Indianapolis, IN 46204
(317) 237-0300

Counsel for Toshiba Defendants:

Christopher Curran
Lucius B. Lau
White & Case LLP
701 13th Street, Northwest
Washington, DC 20005
(202) 626-3600

6. *In re TFT-LCD (Flat Panel) Antitrust Litig.*, 3:07-md-01827 (N.D. Cal.) (Illston, J.), MDL No. 1827 (N.D. Cal.) (Illston, J.)

From 2009 to 2015, I represented 12 corporate opt-out plaintiffs in this MDL action, another of the largest antitrust litigations in recent history. The plaintiffs I represented filed their actions in district courts around the country, and the Judicial Panel on Multidistrict Litigation transferred them to the United States District Court for the Northern District of California for coordinated pre-trial proceedings. The plaintiffs alleged that the defendant electronics manufacturers had engaged in a long running conspiracy to fix the price of liquid crystal display (“LCD”) panels used in televisions and computer monitors. The matter involved two class actions and numerous opt-out actions, as well as a related United States Department of Justice criminal investigation and prosecution. Following significant summary judgment motions by the defendants, all of which were defeated, these cases were remanded and settled prior to trial.

I played a key role in all phases of this litigation, from its inception through a motion to dismiss, fact discovery, expert discovery, summary judgment motions, and remand proceedings. Among other things, I prepared for and participated in numerous fact witness depositions and worked with economic and industry experts with respect to their reports and testimony. I also took a lead role in successfully briefing an issue of first impression related to whether the purchasers at issue were direct purchasers under the antitrust laws, among other dispositive motion oppositions I drafted. On remand, I worked with a small team to prepare pre-trial submissions, including an opposition to the

defendants' motion to bifurcate the trial, although the case was settled prior to making such submissions.

Reported decisions include: *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 3:11-cv-04119, 2014 WL 4386740 (N.D. Cal. Sept. 4, 2014) (denying defendants' motion for summary judgment asserting that plaintiff MARTA Cooperative lacked standing); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 3:11-cv-04119, 2012 WL 6521463 (N.D. Cal. Dec. 13, 2012) (denying defendant Mitsui's motion for summary judgment asserting that there was insufficient evidence of its participation in the alleged conspiracy); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 3:11-cv-04119, 2012 WL 5869588 (N.D. Cal. Oct. 9, 2012) (denying defendants' motion for summary judgment for lack of standing under *Illinois Brick* direct purchaser rule); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 3:11-cv-04119, 2012 WL 4808447 (N.D. Cal. Oct. 9, 2012) (denying defendants' motion for summary judgment asserting a lack of antitrust injury and standing as to claims involving mobile phone and digital cameras); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 3:11-cv-04119, 2012 WL 6035547 (N.D. Cal. Oct. 9, 2012) (denying defendants' motion for summary judgment asserting that there was insufficient evidence with respect to price fixing of mobile phone displays).

Co-Counsel:

William Isaacson (formerly with Boies Schiller Flexner LLP)
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street, Northwest
Washington, DC 20006
(202) 223-7313

Stuart Singer
Boies Schiller Flexner LLP
401 East Las Olas Boulevard, Suite 1200
Fort Lauderdale, FL 33301
(954) 356-0011

Philip J. Iovieno (formerly with Boies Schiller Flexner LLP)
Cadwalader Wickersham & Taft LLP
200 Liberty Street
New York, NY 10281
(212) 504-6000

Scott Wagner
Bilzin Sumberg
1450 Brickell Avenue, 23rd Floor
Miami, FL 33131
(305) 350-7386

Counsel for AU Optronics Defendants:
Carl Blumenstein

Nossaman LLP
50 California Street, 34th Floor
San Francisco, CA 94111
(415) 398-3600

Counsel for Chi Mei Defendants:

James G. Kreissman
Harrison J. Frahn, IV
Simpson, Thacher & Bartlett LLP
2475 Hanover Street
Palo Alto, CA 94304
(650) 251-5000

Counsel for Chunghwa Defendants:

Rachel Brass
Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 3000
San Francisco, CA 94105
(415) 393-8293

Counsel for Epson Defendants:

Derek Foran
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
(415) 268-6323

Counsel for Hannstar Defendants:

Christopher Wyant
K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
(206) 623-7580

Counsel for Hitachi Defendants:

Kent Roger
Morgan Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105
(415) 442-1000

Counsel for LG Defendants:

Lee F. Berger (formerly with Paul Hastings LLP)
United States Department of Justice, Civil Conduct Task Force
450 Fifth Street, Northwest, Liberty Square Building
Washington, DC 20530

(202) 598-2698

Counsel for Mitsui Defendants:

Michael Mumford
Baker & Hostetler LLP
PNC Center
1900 East Ninth Street, Suite 3200
Cleveland, OH 44114
(216) 621-0200

Counsel for NEC Defendants:

George Niespolo
Stephen Sutro
Duane Morris LLP
One Market, Spear Street Tower, Suite 2200
San Francisco, CA 94105
(415) 957-3000

Counsel for Sanyo Defendants:

Allison Davis
Davis Wright Tremaine LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111
(415) 276-6500

Counsel for Samsung Defendants:

Derek Ludwin
Covington & Burling LLP
One City Center
850 Tenth Street, Northwest
Washington, DC 20001
(202) 662-6000

Counsel for Sharp Defendants:

Jacob R. Sorensen
Pillsbury Winthrop Shaw Pittman LLP
50 Fremont Street
San Francisco, CA 94105
(415) 983-1000

Counsel for Toshiba Defendants:

Christopher Curran
Kristen McAhren
White & Case LLP
701 13th Street, Northwest
Washington, DC 20005

(202) 626-3600

7. *Simon-Whelan v. The Andy Warhol Found. for the Visual Arts, Inc.*, No. 1:07-cv-06423 (S.D.N.Y.) (Swain, J.)

From 2009 to 2010, I represented the Warhol Foundation in an antitrust action brought by a collector who alleged that the Foundation and the Andy Warhol Art Authentication Board had conspired to restrain trade in the market for Warhol artwork by denying the authenticity of purported Warhol works and thereby driving up the prices for the artist's work. I represented the Warhol defendants from the beginning of discovery through much of the later phases of the litigation. For instance, a colleague and I conducted the initial investigation into the claims and the relevant law and prepared related materials for the client, and I conducted witness interviews and played a significant role in discovery (including large scale electronic discovery, written discovery, and preparation for depositions). I also worked closely with economic and art industry experts with respect to their reports and testimony. In addition, I took a primary role in defeating a disqualification challenge against my firm's representation of the Warhol defendants. In 2010, the plaintiff voluntarily dismissed all claims and achieved no recovery.

Co-Counsel:

Nicholas A. Gravante, Jr. (formerly with Boies Schiller Flexner LLP)
Philip J. Iovieno (formerly with Boies Schiller Flexner LLP)
Cadwalader Wickersham & Taft LLP
200 Liberty Street
New York, NY 10281
(212) 504-6000

Opposing Counsel:

Seth Redniss
Redniss LLC
375 Greenwich Street
New York, NY 10013
(212) 334-9200

Brian Kerr
Baker Botts LLP
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2543

8. *Funeral Consumers All., Inc. v. Serv. Corp. Int'l*, No. 4:05-cv-03394 (S.D. Tex.) (Hoyt, J., Botley, M.J.); *Pioneer Valley Casket Co. v. Serv. Corp. Int'l*, No. 4:05-cv-03399 (S.D. Tex.) (Hoyt, J., Botley, M.J.)

From 2006 to 2010, I represented defendant Batesville Casket Company in these companion cases—a consumer class action and a competitor class action—alleging that

Batesville and the three largest funeral companies in the United States had restricted competition in the market for casket sales. The cases were originally filed in the United States District Court for the Northern District of California in 2005. The defendants successfully moved to transfer the cases to the United States District Court for the Southern District of Texas later that year. I had a significant role in these cases, including a primary role in discovery (including dozens of depositions), expert work, and the class certification briefing and proceedings. In particular, I played a key role in a week-long evidentiary hearing on class certification that included opening statements, fact witness testimony, expert witness testimony, and closing statements. Among other things, I second chaired the opening and closing arguments in the *Pioneer Valley* action, assisted with expert witness preparation, designated fact witness testimony, created exhibit lists, prepared courtroom demonstratives, drafted briefs related to the hearing, and liaised with co-counsel and opposing counsel. Following the evidentiary hearing, the district court denied the plaintiffs' motions for class certification. *Funeral Consumers All., Inc. v. Serv. Corp. Int'l*, No. 4:05-cv-03394, 2008 WL 7356272 (S.D. Tex. Nov. 24, 2008), *R&R adopted*, 2009 WL 10712586 (S.D. Tex. Mar. 26, 2009); *Pioneer Valley Casket Co. v. Serv. Corp. Int'l*, No. 4:05-cv-03399, 2008 WL 11395528 (S.D. Tex. Nov. 24, 2008), *R&R adopted*, 2009 WL 10695539 (S.D. Tex. Mar. 26, 2009). The *Pioneer Valley* case was successfully settled shortly thereafter in 2009. I then helped prepare the *Funeral Consumers Alliance* case for trial. Shortly before trial, the district court dismissed the case for lack of subject matter jurisdiction. The plaintiffs appealed the district court's subject matter jurisdiction and class certification rulings, and the United States Court of Appeals for the Fifth Circuit reversed and remanded the subject matter jurisdiction ruling and affirmed the class certification ruling. 695 F.3d 330 (5th Cir. 2012) (Dennis, Clement, Higginson, JJ.). The case was subsequently settled in 2012.

Co-Counsel:

Richard Drubel (formerly with Boies Schiller Flexner LLP)
(retired)

John F. Cove, Jr. (formerly with Boies Schiller Flexner LLP)
Sherman & Sterling LLP
535 Mission Street, 25th Floor
San Francisco, CA 94105
(415) 616-1139

Kenneth Marks (formerly with Susman Godfrey LLP)
Kenneth Marks Dispute Resolution
2326 Tangley Street
Houston, TX 77005
(713) 410-0674

Counsel for Defendant Alderwoods Group, Inc.:

John M. Majoras
Jones Day
51 Louisiana Avenue, Northwest

Washington, DC 20001
(202) 879-7652

Counsel for Defendant Service Corporation International:
Hon. Andrew M. Edison (formerly with Bracewell LLP)
United States District Court for the Southern District of Texas
United States Courthouse
601 Rosenberg Street, Seventh Floor
Galveston, TX 77550
(409) 766-3729

Counsel for Defendant Stewart Enterprises, Inc.:
David G. Radlauer
Jones Walker LLP
201 Saint Charles Avenue
New Orleans, LA 70170
(504) 582-8000

Opposing Counsel:
Jean Kim
Gordon Schnell
Matthew Cantor
Constantine Cannon LLP
335 Madison Avenue, Ninth Floor
New York, NY 10017
(212) 350-2700

Thomas E. Bilek
The Bilek Law Firm LLP
700 Louisiana Street, Suite 3950
Houston, TX 77002
(713) 227-7720

9. *In re Graphics Processing Units Antitrust Litig.*, No. 3:07-md-01826 (N.D. Cal.)
(Alsup, J.), MDL No. 1826 (N.D. Cal.) (Alsup, J.)

From 2007 to 2009, I represented the direct purchaser class in this MDL action alleging that the defendants had engaged in an illegal conspiracy to fix the price of graphics processing units (“GPUs”), which are components in computers and other electronic devices that render graphics. The district court appointed Boies Schiller as counsel for the direct purchaser class, and I played a significant role in litigating the action for the firm. Among other things, I did substantial work in connection with discovery (including large scale electronic discovery, written discovery, and depositions), expert work related to class certification, and the class certification briefing and proceedings. I appeared at status conferences and hearings on behalf of the class, and I second chaired the direct purchaser class’s argument at the class certification hearing. The district court

subsequently granted the motion for class certification in part and denied it in part. 253 F.R.D. 478 (N.D. Cal. 2008). In 2009, the case was successfully settled.

Co-Counsel:

William Isaacson (formerly with Boies Schiller Flexner LLP)
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street, Northwest
Washington, DC 20006
(202) 223-7313

John F. Cove, Jr. (formerly with Boies Schiller Flexner LLP)
Sherman & Sterling LLP
535 Mission Street, 25th Floor
San Francisco, CA 94105
(415) 616-1139

Philip J. Iovieno (formerly with Boies Schiller Flexner LLP)
Cadwalader Wickersham & Taft LLP
200 Liberty Street
New York, NY 10281
(212) 504-6000

Counsel for Indirect Purchaser Class:

Michael Lehmann
Hausfeld LLP
600 Montgomery Street
San Francisco, CA 94111
(415) 633-1909

Counsel for ATI Technologies, Inc. & Advanced Micro Devices, Inc.:

Margaret M. Zwisler (formerly with Latham & Watkins LLP)
(retired)

Amanda P. Reeves
Latham & Watkins LLP
555 11th Street, Northwest
Washington, DC 20004
(202) 637-1092

Charles Samel (formerly with Latham & Watkins LLP)
Stoel Rives LLP
Three Embarcadero Center, Suite 1120
San Francisco, CA 94111
(415) 500-6517

Counsel for Nvidia Corporation:

Stephen Neal
Whitty Somvichian
Jeff Gutkin
Cooley Godward Kronish LLP
Three Embarcadero Center, 20th Floor
San Francisco, CA 94111
(415) 693-2000

Hon. James Donato (formerly with Cooley Godward Kronish LLP)
United States District Court for the Northern District of California
United States Courthouse
450 Golden Gate Avenue, 19th Floor
San Francisco, CA 94102
(415) 522-2066

10. *Bacon v. United States*, No. 9:01-CV-1688 (N.D.N.Y.) (Peebles, M.J.)

In 2007, I served as pro bono trial counsel for a federal inmate who brought an action pursuant to the Federal Tort Claims Act related to an incident that occurred during his incarceration. The plaintiff alleged that the defendant corrections officers were negligent in the manner in which they transported him to his cell, resulting in the plaintiff falling and sustaining disabling head and back injuries. Prior to trial, the parties litigated the issue of whether the plaintiff would be permitted to attend trial in person, or whether he would only be allowed to attend via telephone. Following the district court's ruling adopting the latter view, the plaintiff chose to participate via telephone rather than wait to bring his case to trial following his release from prison in 2010. As part of this representation, I took discovery to prepare for trial (including videotaped depositions of the plaintiff and another inmate for use at trial), made pre-trial submissions of a trial brief and witness and exhibit lists, and drafted and litigated motions in limine. I also served as lead counsel in the bench trial. At trial, I argued the motions in limine, presented opening argument, submitted videotaped direct examination testimony, conducted direct and cross examination of live witnesses, and gave the closing argument. Following trial, I made a post-trial submission of supplemental, rebuttal deposition testimony from the plaintiff. Thereafter, the district court issued an opinion in the defendants' favor and entered judgment for them on the plaintiff's claims.

Co-Counsel:

Adam Shaw
Boies Schiller Flexner LLP
30 South Pearl Street, 11th Floor
Albany, NY 12207
(518) 434-0600

Opposing Counsel:

William Larkin
United States Attorney's Office for the Northern District of New York

100 South Clinton Street
Syracuse, NY 13202
(315) 448-0672

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.)

I have spent close to 20 years litigating antitrust and other complex commercial cases in federal courts throughout the country. In addition to those significant litigation activities, which have been the primary focus of my career, I have assisted clients with a variety of non-litigation matters. For example, I have represented clients in various governmental investigations, including by conducting internal investigations, responding to subpoenas, and negotiating with the governmental agencies involved. I have also counseled clients on antitrust compliance, including with respect to participation in trade associations and other industry groups, as well as potential communications with competitors and appropriate responses to governmental inquiries. Additionally, I have done work for clients in securing pre-suit settlements or tolling agreements in order to avoid litigation.

I am involved in the legal community outside of my practice, as well. For instance, I am a longstanding member of the New York State Bar Association's Antitrust Section Executive Committee, and one of its only upstate New York members. In that capacity, I have served as a point of contact in Albany, including acting as a liaison to the larger Association body on occasion. Further, I previously served as a member of the New York Governor's Judicial Screening Committee for the New York State Third Department, where I helped screen candidates for judicial positions in the Third Department. Finally, I have consistently strived to serve as a mentor to young attorneys, and, in particular, have supported female associates in their career development, including by helping provide them in-court experiences.

I have never performed lobbying activities on behalf of any client or organization, and I am not and have never been 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 from deferred income arrangements, stock, options, uncompleted contracts, or other future benefits from previous business relationships, professional services, firm memberships, former employers, clients, or customers.

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

None.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse myself in any litigation where I have ever played a role. Potential conflicts of interest could also be presented in matters being litigated by lawyers from Boies Schiller Flexner LLP or in matters involving parties I formerly represented or opposed. I do not anticipate any other potential conflicts of interest involving family members or other persons, parties, categories of litigation, or financial arrangements if confirmed to the position to which I have been nominated.

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

If confirmed, I will assess any actual or potential conflict of interest on a case-by-case basis in accordance with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other relevant statutes, codes, or standards. I will also utilize the court's automatic conflict checking system. And I will seek counsel from other judges and input from the parties where necessary and appropriate.

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.

Throughout my career, I have undertaken various pro bono efforts. I have served as pro bono counsel for several inmates bringing claims in the United States District Court for the Northern District of New York. For example, I represented a federal inmate who brought an action pursuant to the Federal Tort Claims Act related to an incident that occurred during his incarceration. The representation was significant, and involved taking discovery to prepare for trial, pre-trial motion practice, and the trial itself, in which I served as lead counsel for the plaintiff. The case was tried before United States Magistrate Judge David Peebles, who noted in his opinion that he "appreciate[d] the extensive energy and effort expended on plaintiff's behalf, *pro bono*, by the attorneys" on my team. *Bacon v. United States*, No. 9:01-CV-1688, 2007 WL 4224639, at *1 n.1 (N.D.N.Y. Nov. 27, 2007). Along with an associate at my firm, I am also currently representing a former New York State inmate in a matter involving a procedural due process challenge. The matter is pending in the Northern District of New York, and it has been scheduled for trial later this year.

Additionally, during my time at Skadden Arps Slate Meagher & Flom LLP, I successfully prepared and pursued Lawful Permanent Resident ("LPR") petitions for abused spouses and children pursuant to the Violence Against Women Act ("VAWA"). VAWA has a provision that allows spouses and children of abusive U.S. citizens or lawful permanent residents to self-petition for LPR status. The petitions are a significant undertaking, as they are extensive and require a detailed history of the abuse in the relevant relationships, among other support for the petition. Further, most of my clients did not speak English as their primary language, meaning the application process would have been particularly difficult, if not impossible for them, without our pro bono support.

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 February 12, 2021, I submitted an application for a position on the United States District Court for the Northern District of New York to Senator Charles Schumer's Judicial Screening Committee, as well as to Senator Kirsten Gillibrand. On April 6, 2021 and April 12, 2021, I interviewed with Senator Gillibrand's staff. On June 3, 2021, I interviewed with Senator Schumer's Screening Committee. On October 10, 2021, I interviewed with Senator Schumer. On November 13, 2021, Senator Schumer informed me that he would recommend me to the White House for the vacancy in the Northern District of New York. On November 16, 2021, I interviewed with attorneys from the White House Counsel's Office. Since November 18, 2021, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On April 27, 2022, the President announced his intent to nominate me. On May 19, 2022, my nomination was submitted to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.