

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jennifer Hutchison Rearden

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

United States District Judge for the Southern 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.

Office: Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, New York 10166

Residence: Darien, Connecticut

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

1970; New York, 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.

1993 – 1996, New York University School of Law; J.D., 1996
1988 – 1992, Yale University; B.A. (*magna cum laude*), 1992
Fall 1990, Middlebury College in Spain; no degree received (study abroad program)

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.

2003 – present
Gibson, Dunn & Crutcher LLP
200 Park Avenue

New York, New York 10166
Partner (2006 – present)
Associate (2003 – 2005)

1992 – 1993, 1998 – 2003
Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, New York 10017
Associate (1998 – 2003)
Legal Assistant (1992 – 1993)

Summer 1995, 1996 – 1998
King & Spalding LLP
1180 Peachtree Street (formerly at 191 Peachtree Street)
Atlanta, Georgia 30309
Associate (1996 – 1998)
Summer Associate (Summer 1995)

Summer 1994
Lange Simpson Robinson & Somerville LLP (now known as Adams & Reese LLP)
417 20th Street North, Suite 1700
Birmingham, Alabama 35203
Summer Associate

Other affiliations (uncompensated):

2012 – present
Copland House
1538 Washington Street
Cortlandt, New York 10567
Board of Trustees

2001 (approximate) – present
The Yale Club of New York City
50 Vanderbilt Avenue
New York, New York 10017
Council (2006 – 2015)
House Committee (approximately 2001 – present)

2006 – 2020
The Rearden Family LLC
42 Burroughs Hall
Kiawah, South Carolina 29455
Managing Member

2011 – 2015
New York University Law Alumni Association
40 Washington Square South
New York, New York 10012
Board of Directors

2006 – 2010
Inwood House
1233 Second Avenue
New York, New York 10065
Board of Trustees (2006 – 2010)
Governance Committee (2006 – 2010)
Nominating Committee (2006 – 2010)

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

I have not served in the military. I 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.

New York University Journal of International Law & Politics, Article & Note Editor
(1994 – 1996)

Yale University
Graduated *magna cum laude* (1992)
Graduated with Distinction in History major (1992)
Master's Cup, Timothy Dwight College (1992)

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 (2011 – 2013)
Securities Litigation Committee, Class Actions & Derivative Litigation Sub-Committee, Co-Chair (approximately 2011 – 2012)

Association of the Bar of the City of New York (approximately 1998 – present)

New York State Bar Association (several years from approximately 2000 to 2010)

The Sedona Conference (several years from approximately 2000 to 2010)

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.

Connecticut, 1996
Georgia, 1996
New York, 1997

There have been no lapses in membership. My membership in the Georgia bar has been inactive since 1998, when I left Georgia for New York.

- 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, 2012
United States District Court for the Northern District of Georgia, 1997
United States District Court for the Eastern District of New York, 1998
United States District Court for the Southern District of New York, 1998

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.

Berkeley Electric Cooperative (approximately 2006 – 2020)

The Blackstone Group L.P.

Limited Partner (for investment purposes) (2017 – 2019)

Copland House

Board of Trustees (2012 – present)

Darien Junior Football League (2017 – 2020)

Darien Soccer Association (approximately 2017 – 2018)

Inwood House

Board of Trustees (2006 – 2010)
Governance Committee (2006 – 2010)
Nominating Committee (2006 – 2010)

The Junior League of the City of New York, Inc. (1998 – 2002)

Kappa Alpha Theta (approximately 1989 – present)

New York University Law Alumni Association (1996 – present)
Board of Directors (2011 – 2015)

The Rearden Family LLC
Managing Member (2006 – 2020)

Recreational Equipment, Inc. (“REI”) Co-op (approximately 2017 – present)

Wee Burn Country Club (2015 – present)

Yale Alumni Association (approximately 1992 – 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, 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.

Kappa Alpha Theta is a national service organization that limits its membership to women. The Junior League of the City of New York, now known as the New York Junior League, is a women’s non-profit volunteer organization.

Before Yale University accepted female students, the Yale Club of New York City did not admit female members. To the best of my knowledge, throughout my time as a member, the Yale Club of New York City has not employed any discriminatory policies or practices.

I understand that, years before I became a member of Wee Burn Country Club in 2015—for some or all of the time during my childhood (until about the time I turned 23) when I had access to club facilities and privileges through my parents’ membership—the club did not provide female members in all membership categories with equal access to certain facilities and privileges. Those policies are no longer in place. To the best of my knowledge, throughout my time as a member, Wee Burn Country Club has not employed any discriminatory policies

or practices.

Except as set forth above, to the best of my knowledge, none of the organizations listed in response to Question 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.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 3, *Automatic Stay of Discovery Under the PSLRA*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2019). Copy supplied.

With Jefferson Bell & Mark Mixon, *In 'Aruba Networks,' Del. High Court Emphasizes Deal Price as a Measure of Appraisal Value*, Del. Bus. Ct. Insider (May 15, 2019). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 3, *Automatic Stay of Discovery Under the PSLRA*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2018). Copy supplied.

With Jefferson Bell & Michael Marron, *Chancery Court Rejects Demand Futility in Absence of Particularized Allegations*, Del. Bus. Ct. Insider (June 13, 2018). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 3, *Automatic Stay of Discovery Under the PSLRA*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2017). Copy supplied.

With Jefferson Bell & Michael Marron, *Del. Supreme Court Clarifies, Applies Choice of Law to Multistate Disputes*, Del. Bus. Ct. Insider (May 16, 2017). Copy supplied.

With Goutam Jois, *Trends Under Amended Federal Rules of Civil Procedure 37 and 26*, Bloomberg BNA: The United States Law Week (Nov. 10, 2016). Copy supplied.

With Goutam Jois, *Trends Under Amended Federal Rules of Civil Procedure 37 and 26*, Bloomberg BNA: Expert Evidence Report (Nov. 7, 2016). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, author of chapter 3, *Automatic Stay of Discovery Under the PSLRA*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2016). Copy supplied.

With Goutam Jois, *Trends Under Amended Federal Rules of Civil Procedure 37 and 26*, Bloomberg BNA: Digital Discovery & e-Evidence (Sept. 15, 2016). Copy supplied.

With Sharon Grysman, *Advice From Law Firm's In-House Counsel Found Shielded by Privilege*, N.Y.L.J. (Sept. 1, 2016). Copy supplied.

With Gareth Evans, Heather Richardson, Matthew Kahn & Katherine Warren, *2016 Mid-Year E-Discovery Update*, Gibson, Dunn & Crutcher LLP (Aug. 17, 2016). Copy supplied.

With Jefferson Bell & Michael Marron, *Further Guidance on Advancing Litigation Costs to Officers, Directors*, Del. Bus. Ct. Insider (May 25, 2016). Copy supplied.

With Goutam Jois, *Spoilation Standards Under the New Rule 37(e)*, Law360 (Oct. 28, 2015). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Credit Crisis Securities Litigation and Enforcement*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2015). Copy supplied.

With Gareth Evans, *Practical Considerations In Using Predictive Coding*, N.Y.L.J. (Oct. 5, 2015). Copy supplied.

With Jefferson Bell & Michael Marron, *Stockholder Ratification of Compensation for Non-employee Directors*, Law.com (May 20, 2015) (reprinted in multiple sources). Copy supplied.

With Gareth Evans, *2014 Year-End E-Discovery Update*, Gibson, Dunn & Crutcher LLP (Jan. 20, 2015). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Credit Crisis Securities Litigation and Enforcement*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2014). Copy supplied.

With Seema Gupta, *Commercial Division's New Approach to Privilege Logs*, N.Y.L.J. (Sept. 26, 2014). Copy supplied.

With Seema Gupta, *How Litigants Should Approach Categorical Privilege Logs*, N.Y. Com. Litig. Insider (Sept. 22, 2014). Copy supplied.

With Sharon Grysman, *Nonparty Depositions: From 'Potted Plant' Rule to Venus Fly Traps*, N.Y. Com. Litig. Insider (Sept. 8, 2014). Copy supplied.

With Gareth Evans, *2014 Mid-Year eDiscovery Update: Is This the 'Year of Technology' in eDiscovery?*, Bloomberg BNA: Digital Discovery & e-Evidence (Aug. 18, 2014). Copy supplied.

With Gareth Evans, *2014 Mid-Year eDiscovery Update: Is This the 'Year of Technology' in eDiscovery?*, Bloomberg BNA: Digital Discovery & e-Evidence (July 31, 2014). Copy supplied.

With Gareth Evans, *2014 Mid-Year Electronic Discovery Update*, Gibson, Dunn & Crutcher LLP (July 16, 2014). Copy supplied.

With Goutam Jois, *Litigation, Legal Holds and 'Bring Your Own Device'*, Bloomberg BNA: Digital Discovery & e-Evidence (Apr. 10, 2014). Copy supplied.

With Sharon Grysman, *Chancery Continues Fight to Remain Leader in Business Dispute Resolution*, Del. Bus. Ct. Insider (Feb. 19, 2014). Copy supplied.

With Gareth Evans, *2013 Year-End Electronic Discovery and Information Law Update*, Gibson, Dunn & Crutcher LLP (Jan. 15, 2014). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Subprime- and Other Credit Crisis-Related Securities Class Actions and Derivative Suits*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2013). Copy supplied.

With Gareth Evans & G. Charles Nierlich, *2012 Year-End Electronic Discovery and Information Law Update*, Gibson, Dunn & Crutcher LLP (Jan. 14, 2013). Copy supplied.

With Sharon Grysman, *Chancery Court in Brookstone Underscores Primacy of Comity and Efficiency*, Del. Bus. Ct. Insider (Dec. 27, 2012). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Subprime-Related Securities Class Actions and Derivative Suits*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation:*

A Practitioner's Guide (Fall 2012). Copy supplied.

With Darcy Harris, *Growing Trend Favors Disclosure of Witnesses' Identities*, Am. Bar Ass'n Sec. Litig. Newsl. (Fall 2012). Copy supplied.

With Brooke Myers Wallace, *Non-Party ... Party? When It Comes to Deleted ESI, Is There a Difference Anymore?*, Bloomberg BNA: Digital Discovery & e-Evidence (Apr. 26, 2012). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Subprime-Related Securities Class Actions and Derivative Suits*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2011). I am unable to locate a copy.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *2011 Mid-Year E-Discovery Update*, Gibson, Dunn & Crutcher LLP (July 22, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Admissibility and Presentation of ESI* (Vol. 1, No. 10), Gibson, Dunn & Crutcher LLP (July 18, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Production of ESI* (Vol. 1, No. 9), Gibson, Dunn & Crutcher LLP (July 11, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Processing & Reviewing ESI* (Vol. 1, No. 8), Gibson, Dunn & Crutcher LLP (July 5, 2011). Copy supplied.

With Lawrence Zweifach & Darcy Harris, *Standing in Mortgage-Backed Securities Class Action Litigation*, Am. Bar Ass'n Sec. Litig. Newsl. (Summer 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Collection of ESI* (Vol. 1, No. 7), Gibson, Dunn & Crutcher LLP (June 27, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Preservation of ESI, Part 2* (Vol. 1, No. 6), Gibson, Dunn & Crutcher LLP (June 20, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Preservation of ESI, Part 1* (Vol. 1, No. 5), Gibson, Dunn & Crutcher LLP (June 13, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Legal Holds* (Vol. 1, No. 4), Gibson, Dunn & Crutcher LLP (June 6, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Litigation Preparedness* (Vol. 1, No. 3), Gibson, Dunn & Crutcher LLP (May 31, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: The E-Discovery Life Cycle* (Vol. 1, No. 2), Gibson, Dunn & Crutcher LLP (May 23, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Developments: Court Holds that Oral Preservation Notice Is Not Automatically Sanctionable*, Martindale Legal Library (May 19, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Basics: Why Should I Care About E-Discovery?* (Vol. 1, No. 1), Gibson, Dunn & Crutcher LLP (May 17, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich & Farrah Pepper, *E-Discovery Developments: Court Holds that Oral Preservation Notice Is Not Automatically Sanctionable*, Gibson, Dunn & Crutcher LLP (May 13, 2011). Copy supplied.

With Farrah Pepper, *How (Not) to Lose Data and Alienate Judges*, L. Tech. News (Apr. 20, 2011). Copy supplied.

With Farrah Pepper, *Scheindlin's 'Day Laborer' Decision: Much Ado About Metadata*, L. Tech. News (Feb. 22, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich, Sean Royall & Farrah Pepper, *Client Alert: E-Discovery Trends: Latest Scheindlin Decision Offers Guidance Regarding Format of Production, Metadata and Rule 26(f) Duties*, Gibson, Dunn & Crutcher LLP (Feb. 10, 2011). Copy supplied.

With Gareth Evans, G. Charles Nierlich, Sean Royall & Farrah Pepper, *2010 Year-End Electronic Discovery and Information Law Update*, Gibson, Dunn & Crutcher LLP (Jan. 13, 2011). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Subprime-Related Securities Class Actions and Derivative Suits*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2010). I am unable to locate a copy.

With Gareth Evans, Farrah Pepper & other Gibson, Dunn & Crutcher LLP attorneys, *2010 Mid-Year Electronic Discovery and Information Law Update*,

Bloomberg BNA: Digital Discovery & e-Evidence (July 22, 2010). Copy supplied.

With Gareth Evans & Farrah Pepper, *2010 Mid-Year Electronic Discovery and Information Law Update*, Gibson, Dunn & Crutcher LLP (July 13, 2010). Copy supplied.

With Farrah Pepper, *Oh No, Ephemeral Data!*, N.Y.L.J. (Mar. 22, 2010). Copy supplied.

With Farrah Pepper, *Judge Issues a 'Wake-Up Call' to New York Lawyers: When It Comes to Search Terms, Play Nice and Plan Ahead*, Bloomberg L. Reports: N.Y. Law (Jan. 4, 2010). Copy supplied.

With Farrah Pepper, *Sedona Continues Call for Cooperation*, Corp. Counsel (Oct. 29, 2009). Copy supplied.

With Farrah Pepper, *If the Sedona Conference Builds It, Will They Cooperate? Year in Review*, N.Y.L.J. (Oct. 27, 2009). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, editor of chapter 18, *Subprime-Related Securities Class Actions and Derivative Suits*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2009). I am unable to locate a copy.

With several Gibson, Dunn & Crutcher LLP associates, *Appellate Division of New York State Supreme Court, Third Judicial Department, Rules that New York's Labor Law Section 220 Does Not Apply to Charter School Projects*, Gibson, Dunn & Crutcher LLP (May 11, 2009). Copy supplied.

With Farrah Pepper, *Judge Issues a 'Wake-Up Call' to New York Lawyers: When It Comes to Search Terms, Play Nice and Plan Ahead*, Bloomberg L. Reports: N.Y. Law (May 4, 2009). Copy supplied.

With J. Taylor McConkie, *Trends in Subprime-Related Securities Fraud Actions*, Law360 (Oct. 31, 2008). Copy supplied.

With various Gibson, Dunn & Crutcher LLP associates, author of chapter 18, *Subprime-Related Securities Class Actions and Derivative Suits*, of Practising Law Institute and Gibson, Dunn & Crutcher LLP's treatise, *Securities Litigation: A Practitioner's Guide* (Fall 2008). I am unable to locate a copy.

Book Annotation—Reordering the World: Geopolitical Perspectives on the 21st Century, 27 N.Y.U. J. Int'l L. & Pol. 720 (1995). 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.

The following list reflects my best efforts to identify all materials responsive to the question, including through searching my files and internet databases and contacting organizations with which I am or have been affiliated. There may nevertheless be other materials that I have not been able to recall or locate.

With Darcy Harris, *Growing Trend Favors Disclosure of Witnesses' Identities*, Am. Bar Ass'n Sec. Litig. Newsl. (Fall 2012). Copy supplied in response to Question 12a.

With Lawrence Zweifach & Darcy Harris, *Standing in Mortgage-Backed Securities Class Action Litigation*, Am. Bar Ass'n Sec. Litig. Newsl. (Summer 2011). Copy supplied in response to Question 12a.

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

None.

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

September 24, 2019: Speaker, The Federal Rules of Civil Procedure: Surveying Recent Amendments and What's to Come, Lawline, New York, New York. Video available at <https://youtu.be/OkRXI0DmeZA>.

April 25, 2019: Moderator, Governing Ephemeral Data Sources, Regional Meeting of Compliance Governance and Oversight Council, Gibson, Dunn & Crutcher LLP, New York, New York. Presentation supplied.

March 14, 2019: Speaker, Everything You Don't Know About E-Discovery (But

Wish You Did), National Business Institute (virtual). Presentation supplied.

May 1, 2018: Moderator, Text, Lies & Social Media, Regional Meeting of Compliance Governance and Oversight Council, Gibson, Dunn & Crutcher LLP, New York, New York. Presentation supplied.

July 25, 2017: Speaker, Evolving Standards on Spoliation of Electronically Stored Information and Proportionality, Clear Law Institute (virtual). Audio and presentation supplied.

April 26, 2017: Speaker, Identifying New Challenges in Mobile Device Discovery: What Lies Ahead?, The Knowledge Group (virtual). Presentation supplied.

March 9, 2017: Moderator, eDiscovery—Update from the Trenches, Regional Meeting of Compliance Governance and Oversight Council, Gibson, Dunn & Crutcher LLP, New York, New York. Presentation supplied.

November 9, 2016: Speaker, Everything You Don't Know About E-Discovery (But Wish You Did), National Business Institute (virtual). Presentation supplied.

July 29, 2016: Speaker, Recent Amendments to the New York CPLR and Uniform Commercial Division Court Rules, Lawline, New York, New York. Video available at <https://youtu.be/F3GZiM437bs>.

June 30, 2016: Speaker, The New Federal Rules of Civil Procedure—What You Need to Know Now, National Business Institute (virtual). Presentation supplied.

June 7, 2016: Speaker, BYOD in eDiscovery: Managing Risks and Ensuring Best Practices in 2016, The Knowledge Group (virtual). Presentation supplied.

April 29, 2016: Speaker, December 2015 Amendments to the Federal Rules of Civil Procedure: Key Components and Recent Case Law, Clear Law Institute (virtual). Audio and presentation supplied.

March 23, 2016: Moderator, Mock Hearing—Motion to Compel, Conference of Compliance Governance and Oversight Council on Privacy, Security & Compliance: A Global Framework for Information Governance, Gibson, Dunn & Crutcher LLP, New York, New York. To the best of my recollection, I moderated a discussion about various practices, risks, and legal authorities associated with information governance. I have no notes, transcript, or recording. The Compliance Governance and Oversight Council has no physical address.

March 10, 2016: Speaker, December 2015 Amendments to the Federal Rules of Civil Procedure, Lawline, New York, New York. Presentation supplied.

February 29, 2016: Speaker, Proportionality in Discovery Under the New Federal Rules of Civil Procedure, National Business Institute (virtual). Presentation supplied.

May 1, 2015: Speaker, E-Discovery Issues in Trust and Investment Management Litigation, American Bankers Association Wealth Management & Trust Conference, Palm Beach, Florida. Presentation supplied.

March 11, 2015: Speaker, Legal Considerations for Defensible Disposal: What Have the Courts Said?, Conference of Compliance Governance and Oversight Council on the Impact of Emerging Technologies and Regulations on Information Governance, Gibson, Dunn & Crutcher LLP, New York, New York. To the best of my recollection, I summarized legal authorities relating to the disposal of data. I have no notes, transcript, or recording. The Compliance Governance and Oversight Council has no physical address.

November 21, 2014: Speaker, Information Governance in a Big Data World, Georgetown Advanced eDiscovery Institute, McLean, Virginia. Presentation and press coverage supplied.

May 13, 2014: Speaker, Bring Your Own Device: Policies in a Litigious Environment, New York Law Journal, New York, New York. Presentation supplied. To the best of my knowledge, the presentation I used was prepared by another speaker, and I did not draft or edit the slides myself.

March 6, 2014: Speaker, Developments (and Sometimes Disasters) in High-Tech E-Discovery: Risks, Consequences, and Better (or Worse) Practices, Legal Malpractice & Risk Management Conference, Chicago, Illinois. Outline and presentation supplied. To the best of my knowledge, the outline and presentation I used were prepared by another speaker, and I did not draft or edit the materials myself.

December 12, 2013: Speaker, The Global Embrace: Security & Strategy in Cross-Border eDiscovery, 17th Annual eDiscovery & Information Governance Forum, Thomson Reuters, New York, New York. I spoke about issues and legal authorities relating to cross-border discovery. I have no notes, transcript, or recording. The address for Thomson Reuters is Three Times Square, New York, New York 10036.

December 9, 2013: Moderator, Tackling the Review Process: Learn from Industry Leaders How It's Done, New York Law Journal (virtual). Presentation supplied. To the best of my knowledge, the presentation I used was prepared by another speaker, and I did not draft or edit the slides.

November 5, 2013: Speaker, Roadmap to Defensible Deletion and Efficient Retention of Company Data, Association of Corporate Counsel—Washington

Metropolitan Area Chapter, McLean, Virginia. Presentation supplied.

April 15, 2013: Moderator, New Normal: Big Data and the Future of Litigation, New York Law Journal (virtual). To the best of my recollection, I moderated a panel about issues and legal authorities relating to large, complex data sets. I have no notes, transcript, or recording. The New York Law Journal has no physical address.

March 18, 2013: Speaker, Defensible Disposal: If it doesn't exist, I don't have to review it ... right?, New York Law Journal (virtual). Presentation supplied.

April 15, 2011: Speaker, Protecting a Parent from its Insolvent Subsidiary: Fiduciary Duties and the Attorney-Client Privilege, American Bar Association Business Law Section Spring Meeting, Boston, Massachusetts. Outline supplied.

July 24, 2010: Speaker, Mid-Year Summary of 2010 Electronic Discovery Cases, ESIBytes (virtual). Audio available at <http://www.esibytes.com/mid-year-2010-summary-of-electronic-discovery-cases/>.

December 8, 2009: Speaker, Securities Litigation Conference, New York City Bar Association, New York, New York. I have no notes, transcript, or recording, and I am unable to recall or identify the specific topic that I addressed. The address for the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

February 12, 2009: Speaker, Securities Litigation During the Financial Crisis: Current Developments and Strategies, New York City Bar Association, New York, New York. I have no notes, transcript, or recording, and I am unable to recall or identify the specific topic that I addressed. The address for the New York City Bar Association is 42 West 44th Street, New York, New York 10036.

June 25, 2008: Speaker, Pathways to Partnership: The Next Steps Following Advancement from the Associate Ranks, LexisNexis Women in the Legal Profession Summit: Rainmaking and Collaborative Development, New York, New York. To the best of my recollection, I spoke about strategies to succeed as a new partner. I have no notes, transcript, or recording. The address for LexisNexis is 230 Park Avenue, Viaduct Seven, New York, New York 10169.

- 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.

Miriam Hall, *Howard Marks wants judge to seal court records for 740 Park lawsuit*, TheRealDeal (May 2, 2017). Copy supplied.

Julia Marsh, *Mogul: No looks at my luxe*, N.Y. Post (May 2, 2017). Copy supplied.

Julia Marsh, *Billionaire suddenly wants privacy amid apartment lawsuit*, N.Y. Post (May 1, 2017). Copy supplied.

Abby Shulman, *How to Use Social Media Evidence in Court*, JusticeHub Innovation Lab (Nov. 14, 2015). Copy supplied.

Socially Acceptable: The Perils of Social Media Discovery, Law.com (Nov. 5, 2015) (reprinted in multiple sources). Copy supplied.

E-Discovery, Law.com (Oct. 4, 2015). Copy supplied.

Phil Favro, *The Great Leap Forward: Gibson Dunn's 2014 Mid-Year Electronic Discovery Update*, Mind Over Matters (July 29, 2014). Copy supplied.

Sue Reisinger, *Solving the Biggest Problems of E-Discovery*, Corp. Counsel (Mar. 8, 2013). Copy supplied.

View from the trenches: What's next?, Nat'l L.J. (Jan. 28, 2013). Copy supplied.

Susan Beck, *Judges Are Imposing Fewer Sanctions For E-Discovery Violations, Report Says*, N.Y.L.J. (Jan. 19, 2011). Copy supplied.

Susan Beck, *Gibson Dunn Report: Sanctions Dropping in E-Discovery Disputes*, Law.com (Jan. 19, 2011) (reprinted in multiple sources). Copy supplied.

Repercussions of sub-prime litigation may go far, Compliance Wk. (Feb. 2009). Copy supplied.

Stephen Taub, *Decisions to Drive Sub-prime Litigation in '09*, Compliance Wk. (Jan. 5, 2009). Copy supplied.

Andrew Longstreth, *Analysis: Plaintiffs Lawyers Will Have Subprime Blues If They Can't Prove Intent and Causation*, Am. Law. (Dec. 4, 2008). Copy supplied.

Subprime Suit Hits Roadblock, Cheetah (Dec. 2, 2008). Copy supplied.

New York Appellate Court to Hear Precedent-Setting Case on Interstate Recognition of Same-Sex Spousal Unions, PR Newswire (Sept. 6, 2007) (reprinted in multiple sources). Copy supplied.

In the late 1990s or early 2000s, I was interviewed on MSNBC regarding a legal issue. I am unable to locate a copy of the interview, and I do not recall the issue discussed.

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, approximately what percent were:

jury trials: _____%

bench trials: _____%

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 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 (3) 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.

In the 1990s, I was a notary public in the State of New York. Otherwise, I have not held public office, nor have I had any unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

I have not held a position in a political campaign. I have engaged in a few political activities, however. Specifically, I co-hosted several fundraisers for Senator Kirsten Gillibrand at the offices of Gibson, Dunn & Crutcher LLP (“Gibson Dunn”) in New York. In addition, in 2016, I co-hosted a fundraiser for Senator Maggie Hassan, then the Governor of New Hampshire, at Gibson Dunn.

For all of those fundraisers, my responsibilities principally consisted of arranging for the use of Gibson Dunn space, inviting Gibson Dunn attorneys (and sometimes others), and asking invitees to make a donation.

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.

1996 – 1998

King & Spalding LLP

1180 Peachtree Street (formerly at 191 Peachtree Street)

Atlanta, Georgia 30309

Associate

1998 – 2003

Davis Polk & Wardwell LLP

450 Lexington Avenue

New York, New York 10017

Associate

2003 – present

Gibson, Dunn & Crutcher LLP

200 Park Avenue

New York, New York 10166

Associate (2003 – 2005)

Partner (2006 – 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.

b. Describe:

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

Throughout my legal career, I have worked as a litigator at various law firms, where I have focused on complex commercial litigation and handled various matters in federal and state courts around the country. I have typically represented clients in large-scale litigation matters, including major fraud and contract actions. In my early years as a lawyer (approximately 1996 to 2004), I also worked on securities fraud and hostile merger-and-acquisition matters. Over time, I began litigating bankruptcy-related matters, disputes with state and local governments, and significant environmental and sales tax cases, as well. In addition, I have devoted substantial time to pro bono matters.

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

For the most part, I have represented business entities of varying sizes and from various industries, though I have represented some individual clients, too.

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

The entirety of my practice has been in litigation, and I have litigated matters in an array of federal and state courts. I do not recall appearing in court during my tenure at King & Spalding LLP or Davis Polk & Wardwell LLP. To the best of my recollection, I began appearing in court as a senior associate at Gibson, Dunn & Crutcher LLP. I have appeared in court frequently as a partner.

- i. Indicate the percentage of your practice in:

1. federal courts:	50%
2. state courts of record:	48%
3. other courts:	0%
4. administrative agencies:	2%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	99%
2. criminal proceedings:	1%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather

than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried four cases, including one preliminary injunction trial, to verdict, judgment, or final decision. I was lead counsel in three of those matters, and co-lead counsel in the preliminary injunction trial. Two of the trials occurred in the United States District Court for the Southern District of New York. One occurred in the United States Bankruptcy Court for the Southern District of Texas. And the fourth occurred in Connecticut Superior Court.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 25% |
| 2. non-jury: | 75% |

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

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

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

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

1. *Tri-City LLC v. N.Y.C. Taxi & Limo. Comm'n*, No. 153369/2018 (N.Y. Cty. Sup. Ct.) (Borrok, J.)

In this case, Uber Technologies Inc. (“Uber”), Lyft, Via, and a traditional black car company challenged a New York City Taxi & Limousine Commission (“TLC”) regulation requiring for-hire vehicles to provide 25% of all trips in wheelchair-accessible vehicles by 2023. The petitioners sought to annul and vacate the TLC’s rule and clear the way for a competing proposal that would still allow Uber and other services to meet the needs of people who use wheelchairs. The petitioners also moved for a preliminary injunction. From 2017 to 2018, I served as the lead lawyer for Uber in this matter. In that capacity, I argued on behalf of all of the petitioners at the June 2018 hearing on the

petitioners' preliminary injunction motion. Following my argument, the trial court ordered the parties to confer on a potential settlement that would conclusively resolve the matter. The parties drafted a new regulation based on the petitioners' alternative approach to resolving wheelchair-accessibility issues. The parties then agreed to a settlement pursuant to which the TLC would promulgate a rule adopting that approach. The TLC passed that rule in October 2018.

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2. *Patriarch Partners XV, LLC v. U.S. Bank Nat'l Ass'n*, No. 16-cv-07128 (S.D.N.Y.)
(Rakoff, J.)

Plaintiffs Ms. Tilton, Patriarch Partners XV, LLC, and Octaluna LLC sued MBIA and U.S. Bank for breach of fiduciary duty, aiding and abetting breach of fiduciary duty, breach of Uniform Commercial Code § 9-610, breach of contract, and breach of the

implied covenant of good faith and fair dealing. The plaintiffs sought to preliminarily enjoin the bank, as indenture trustee, from selling the collateral of a distressed debt collateralized loan obligation fund on commercially unreasonable terms. Following an October 2016 hearing on the plaintiffs' preliminary injunction motion, the district court denied the motion and ordered the sale of the collateral to proceed on specific terms. On December 30, 2016, the court denied the plaintiffs' motion to amend. The action was then voluntarily dismissed pursuant to a January 19, 2017 stipulation and order.

In 2016 and 2017, I was a co-lead counsel for the plaintiffs in this matter. In that capacity, I supervised discovery and motion practice. I also cross-examined U.S. Bank's corporate representative at the preliminary injunction hearing. And I argued various motions, including a successful application in December 2016 to postpone the sale of the collateral a second time.

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3. *Zohar CDO 2003-1 v. Patriarch Partners, LLC*, No. 12247 (Del. Ch.) (Noble, Special Master)

This contractual books and records proceeding concerned the scope of the judgment in a 2016 breach of contract action in Delaware Chancery Court: *Zohar CDO 2003-1 v. Patriarch Partners, LLC*, No. 12447 (Del. Ch.) (Slights, V.C.). The 2016 case principally related to an obligation by the former collateral manager of several collateralized loan obligation vehicles to produce certain documents to a new collateral manager. The court held that certain documents needed to be produced. From 2016 to 2018, I was the lead lawyer in the follow-up books and records matter for Ms. Tilton and Patriarch Partners, LLC. (I was not involved in the initial breach of contract action.) In that capacity, I developed the strategy for, and was a principal drafter of, more than 60

submissions regarding the extent to which the 2016 judgment required the production of various categories of materials. I also had ten arguments before the Special Master. In 2018, the Zohar Funds filed for bankruptcy protection, and I understand that this matter has been stayed since then. Between late 2016 and early 2018, the Special Master issued several oral and unpublished written rulings concerning the scope of the 2016 judgment. There have been no published opinions.

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4. *Home Depot, U.S.A. v. Conn. Dep't of Revenue Servs.*, Nos. HHB-CV-09-5014432-S & HHB-CV-09-5014433-S (Conn. Super. Ct.) (Cohn, J.)

These actions sought to reverse the Connecticut Commissioner of Revenue Services' denial of credit or reimbursement to Home Depot for sales tax it previously had remitted. Home Depot remitted that sales tax on behalf of private label credit card customers who ultimately did not pay for their purchases (or the applicable sales tax). The litigation

involved discovery, extensive motion practice, and two trials in March 2015 and December 2017. Ultimately, the trial court denied Home Depot's appeals. From 2009 to 2018, I served as lead counsel for Home Depot in these matters. In that role, I oversaw all aspects of the litigation. I conducted significant discovery and briefed and argued various motions. During both trials, I also had primary responsibility for presenting arguments and examining witnesses.

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5. *HLP Props., LLC v. Consol. Edison Co. of N.Y., Inc.*, No. 14-cv-1383 (S.D.N.Y.) (Schofield, Netburn, JJ.)

This CERCLA matter concerned defendant Consolidated Edison's liability for remediating a valuable piece of property in Manhattan. The litigation involved extensive

discovery and motion practice. On November 21, 2014, the district court granted in part and denied in part the defendant's motion to dismiss. On August 28, 2015, the court granted in part and denied in part the plaintiffs' motion for partial judgment on the pleadings. Shortly before trial, the parties mediated before Magistrate Judge Sarah Netburn and settled the case. From 2014 to 2015, I served as second-in-charge for the plaintiffs. In that capacity, I argued several motions, engaged in significant discovery (including defending the depositions of the plaintiffs' senior executives and others), selected and defended the plaintiffs' expert witnesses, and mediated and settled the case before Magistrate Judge Netburn.

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6. *Chacon v. LeFrak Org., Inc.*, No. 13-cv-2759 (S.D.N.Y.) (Cote, Pitman, JJ.)

In this case, an individual plaintiff and the Fair Housing Justice Center alleged discrimination under the Fair Housing Act and the New York City Human Rights Law against LeFrak Organization, Inc. and Estates NY Real Estate Services LLC, primarily based on the defendants' alleged requirements relating to establishing the ability to pay rent. The defendants filed motions to dismiss, which were denied. Following discovery, the parties mediated before Magistrate Judge Henry Pitman and settled the case. From 2013 to 2014, I served as co-lead counsel for the defendants. In that role, I oversaw

briefing and discovery. I also argued the defendants' motions to dismiss the original and amended complaints. And I represented the defendants in mediation and in settlement negotiations.

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7. *Francois v. Mazer*, No. 09-cv-03275 (S.D.N.Y.) (Forrest, J.), *aff'd*, No. 12-3545 (2d Cir. 2013) (Straub, Hall, Chin, JJ.)

In this action, Gibson, Dunn & Crutcher LLP represented Ms. Francois at the request of the Urban Justice Center. Ms. Francois, a domestic worker, principally alleged that her employer, defendant Mazer, had battered and assaulted her and that both defendants had violated various provisions of the Fair Labor Standards Act and the New York Labor Law. Defendant Mazer countersued, asserting battery, assault, and claims for intentional and negligent infliction of emotional distress against Ms. Francois. The parties stipulated to dismiss both emotional distress claims with prejudice. Following discovery and motion practice, the case proceeded to an eight-day trial before a jury. The jury found in favor of Ms. Francois on the federal and state wage and hour claims and on her assault claim, but not on her battery claim. And the jury ruled for defendant Mazer on his assault claim, but found that he had suffered no damages. The jury also rejected defendant Mazer's battery claim. The defendants appealed, and the United States Court of Appeals for the Second Circuit affirmed. In 2012, I was the lead lawyer for Ms. Francois. In that capacity, I had primary responsibility for presenting arguments and examining witnesses at trial. I was also involved in briefing the appeal.

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8. *N.Y. Skyline, Inc. v. City of New York*, No. 106840/2011 (N.Y. Cty. Sup. Ct.) (Mills, J.), *rev'd*, No. 2012-01379 (N.Y. App. Div. 1st Dep't 2012) (Andrias, Saxe, Acosta, Freedman, Richter, JJ.)

In this case, New York Skyline, Inc. and Calaif Parks challenged the New York City Police Department's arrests of New York Skyline ("Skyline") employees who had sold tickets on City streets to "Skyride," a virtual helicopter tour of New York City from the Empire State Building. The New York City Police Department ("NYPD") had determined that such persons were "general vendors" requiring a "general vendor license" under New York City's Administrative Code. The petitioners brought a proceeding under Article 78 of the New York Civil Practice Law and Rules and 42 U.S.C. §§ 1983 and 1988—principally seeking a judgment that the NYPD's determination was in violation of lawful procedure, affected by errors of law, arbitrary and capricious, and an abuse of discretion. The petitioners further sought a declaration that the NYPD's determination violated their rights under the U.S. and New York Constitutions. In 2011, the trial court granted the petitioners a temporary restraining order and preliminary injunction. On September 20, 2011, the trial court denied the petition, holding that the respondents' determination that Skyline's ticket vendors were "general vendors" who needed a license to operate was rational, reasonable, not affected by errors of law, and did not violate the petitioners' constitutional rights. In 2012, New York's Appellate Division, First Department reversed, ruling that a general vendor license was not required in order for Skyline's ticket vendors to sell admission tickets to Skyride on public sidewalks. The case ended when the New York Court of Appeals denied the City's motion for leave to appeal.

From 2011 to 2012, I served as co-lead counsel for the petitioners. In that capacity, I developed strategy and oversaw the briefing in the trial court proceeding. I also argued two motions in the Appellate Division, First Department, including a successful application for a temporary restraining order preventing the City and the NYPD from ticketing and arresting Skyline ticket agents. In addition, I led the briefing efforts in connection with the City's appeal.

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9. *Home Depot U.S.A., Inc. v. Mich. Dep't of Treasury*, No. 07-000118-MT (Mich. Ct. Cl.) (Aquilina, J.), *aff'd*, No. 301341 (Mich. Ct. App.) (Owens, P.J., Talbot, Meter, JJ.)

In this case, Home Depot sought a refund from the State of Michigan of sales taxes paid on behalf of private label credit card customers who ultimately did not pay for their purchases (or the applicable sales tax). The Michigan Court of Claims granted Home Depot's motion for summary disposition, denied the Michigan Department of Treasury's motion for summary disposition, and held that Home Depot was entitled to the requested refund. The Department appealed, and the Michigan Court of Appeals affirmed. The case ended when the Michigan Supreme Court denied the Department's application for leave to appeal. In approximately 2008 and 2009, I served as second-in-charge for Home Depot in the trial court proceeding. In that role, I developed strategy and oversaw Home Depot's briefing before the trial court. In approximately 2011 and 2012, I served as the lead lawyer for Home Depot in the Michigan Department of Treasury's appeal. In that capacity, I developed strategy, oversaw Home Depot's briefing, and successfully argued before the Michigan Court of Appeals for an affirmance of the trial court's grant of summary judgment in Home Depot's favor.

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10. *In re Asarco LLC*, No. 05-bk-21207 (Bankr. S.D. Tex.) (Schmidt, J.)

This matter centered on the application of Lehman Brothers, and subsequently, Barclays Capital Inc. (“Bar Cap”), for a fee enhancement, a success fee, and an auction fee for services provided in connection with ASARCO’s bankruptcy and these Chapter 11 bankruptcy proceedings. Following a trial in 2010, the bankruptcy court held that the original contract between the debtors and Lehman Brothers had resulted in compensation below market rate. In an unpublished ruling dated December 2, 2010, granting in part and denying in part Bar Cap’s application, the court ordered payment of a fee enhancement to bring Lehman Brothers’ compensation to market level. The court declined to award the requested success fee or auction fee. From 2007 to 2010, I was the lead litigator representing Lehman Brothers and then Bar Cap. In that capacity, I developed legal strategy, engaged in intensive motion practice, and conducted depositions and document discovery. In addition, at trial, I led the presentation of arguments and examination of witnesses. My involvement in the case ended following trial. On appeal, the district court affirmed the bankruptcy court’s fee enhancement award to BarCap and its denial of the two other fees BarCap had sought. *ASARCO LLC v. Barclays Cap. Inc.*, 457 B.R. 575 (S.D. Tex. 2011) (Hanan, J.).

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

The vast majority of my legal career has been in litigation, but I have pursued various other significant legal activities, as well. For example, as an associate at Gibson, Dunn & Crutcher LLP (“Gibson Dunn”), I worked extensively on behalf of Cablevision, Madison Square Garden, and several community groups to challenge New York City’s sweeping proposal to build a stadium for the New York Jets in Manhattan. The New York State Public Authorities Control Board ultimately declined to approve the project. I also have spent considerable time writing for legal publications, primarily about discovery issues, Delaware law, and amendments to the Federal Rules, as well as teaching seminars for CLE credit. Moreover, throughout my career, I have mentored younger attorneys both formally and informally, recruited law students and lateral candidates, and otherwise taken on leadership and managerial roles at the firms where I have worked.

To the best of my recollection, I have not performed any 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.

None to my knowledge, except for any compensation I will or may receive upon departing, or following my departure from, the partnership of Gibson, Dunn & Crutcher

LLP.

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.

If confirmed, I do not have any plans, commitments, or agreements to pursue outside employment, though I hope to continue my uncompensated, non-fiduciary relationships with some of the organizations listed above, to the extent that applicable ethics rules and other authorities permit me to do so.

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 from any case in which I have ever played any role. For a period of time, I also anticipate recusing myself from cases where my current employer, Gibson, Dunn & Crutcher, LLP, is involved. I will address any potential conflicts of interest by following 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other applicable authorities. I will also seek input from the parties, their counsel, and other judges as necessary and permissible.

- 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 carefully review and address any potential conflict of interest on a case-by-case basis, in accordance with 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other applicable authorities. I will also seek input from the parties, their counsel, and other judges as necessary

and permissible.

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 in private practice, I have maintained a commitment to pro bono practice and giving back to the community. For example, I represented the New York City Center for Charter School Excellence as an *amicus curiae* in a case successfully challenging a New York Department of Labor opinion deeming agreements with a board of education, the board of trustees of the State University of New York, or New York’s board of regents to organize and operate a charter school subject to New York’s “prevailing wage” requirements. Also, as described above, I spent several hundred hours representing a Vermont civil union spouse in connection with his New York State Workers’ Compensation spousal death benefit claim. Additionally, as described above, I spent several hundred more hours representing a domestic worker in a Fair Labor Standards Act and New York Labor Law case—obtaining a jury verdict for our client following an eight-day trial in federal district court.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In May 2016, I expressed an interest in serving on the United States District Court for the Southern District of New York to Senator Kirsten Gillibrand. From that time through the present, I have had periodic contact with Senator Gillibrand and her staff. Later in 2016, I communicated with the Chairman of Senator Charles Schumer’s Judicial Screening Panel. In January 2017, I submitted an application to the Panel. Between 2017 and 2019, I periodically supplemented my application, and I occasionally communicated with the Chairman of Senator Schumer’s Panel and with Senator Schumer’s office. On June 14, 2018, I interviewed with attorneys from the White House Counsel’s Office and the Office of Legal Policy at the United States Department of Justice. Thereafter, I had periodic contact with attorneys at the White House Counsel’s Office and the Office of Legal Policy. On February 12, 2020, President Donald Trump expressed his intent to nominate me for a position on the United States District

Court for the Southern District of New York. On May 4, 2020, my nomination was submitted to the Senate. My nomination expired at the end of the 116th Congress in January 2021. On September 7, 2021, I interviewed with attorneys from the White House Counsel's Office. On September 24, 2021, the White House Counsel's Office informed me that the Office of Legal Policy would begin the vetting process. On January 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.