

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Merrick Brian Garland

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

Associate Justice, Supreme Court of the United States

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

Office: E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, NW
Washington, DC 20001

Residence: Bethesda, MD

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

1952; Chicago, IL

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

Harvard Law School, 1974-77, J.D., June 1977
Harvard College, 1970-74, A.B., June 1974

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.

1997-present United States Court of Appeals for the District of Columbia Circuit
Chief Judge, 2013-present
Circuit Judge, 1997-2013
E. Barrett Prettyman United States Courthouse

333 Constitution Avenue, NW
Washington, DC 20001

- 1993-97 United States Department of Justice
Principal Associate Deputy Attorney General, 1994-97
Deputy Assistant Attorney General, Criminal Division, 1993-94
950 Pennsylvania Avenue, NW
Washington, DC 20530
- 1992-93 Arnold & Porter
Partner
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
- 1989-92 United States Attorney's Office for the District of Columbia
Assistant United States Attorney
555 4th Street, NW
Washington, DC 20530
- 1981-89 Arnold & Porter
Partner, 1985-89
Associate, 1981-85
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
- 1987-88 In re Nofziger (Wedtech)
Associate Independent Counsel (part time)
(Now closed) 1201 Pennsylvania Avenue, NW
Washington, DC 20530
- 1986 Harvard Law School
Lecturer, Advanced Antitrust (Winter Term)
1585 Massachusetts Avenue
Cambridge, MA 02138
- 1979-81 United States Department of Justice
Special Assistant to the Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530
- 1978-79 Supreme Court of the United States
Law Clerk, Justice William J. Brennan, Jr.
One First Street, NE

Washington, DC 20543

- 1978 Arnold & Porter
Summer Associate
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
- 1977-78 United States Court of Appeals for the Second Circuit
Law Clerk, Judge Henry J. Friendly
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007
- 1977 Arnold & Porter
Summer Associate
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
- 1976 Pillsbury, Madison & Sutro
(Now Pillsbury Winthrop Shaw Pittman LLP)
Summer Associate
(Now at) Four Embarcadero Center
22nd Floor
San Francisco, CA 94111
- 1975-77 Harvard Law School
Research Assistant, Professors Philip Areeda and Charles Nesson
1585 Massachusetts Avenue
Cambridge, MA 02138
- 1974-77 Harvard University
Proctor and Assistant Senior Tutor
Massachusetts Hall
Cambridge, MA 02138
- 1974 Committee to Reelect Congressman Mikva
Summer Worker
(Now closed) 4016b Church Street
Skokie, IL 60076

Other affiliations (uncompensated):

- 2003-10 Harvard University Board of Overseers

President, 2009-10
Member, 2003-10
Massachusetts Hall
Cambridge, MA 02138

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 timely registered for Selective Service.

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

Reflections of Hope Award, Oklahoma City National Memorial Foundation, 2015

Judge of the Year Award, Bar Association of the District of Columbia, 2011

Honorary Senior Fellow Award, Administrative Law and Regulatory Practice Section,
American Bar Association, 2004

Edmund J. Randolph Award, United States Department of Justice, 1997

Prune Award, Council for Excellence in Government, 1993

Director's Award, Executive Office for United States Attorneys, 1992

J.D., magna cum laude, Harvard Law School, 1977

Harvard Law Review, 1975-77; Articles Editor, 1976-77

Harvard Graduate National Scholarship, 1974-77

A.B., summa cum laude, Harvard College, 1974

Paul Revere Frothingham Award, Harvard College, 1974

Detur Prize, Harvard College, 1973

Richard Perkins Parker Award, Harvard College, 1973

West European Studies Center Award, Harvard University, 1973

Phi Beta Kappa, 1972

Edwards Whitaker Award, Harvard College, 1971

G.D. Searle Co. Scholarship, 1970-74

National Merit Scholarship, 1970

Harvard National Scholar, 1970

United States Presidential Scholar, 1970

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.

United States Judicial Conference, 2013-present

Executive Committee, 2013-present

Member, 2013-present

Committee on Judicial Security, 2008-13

Committee on the Judicial Branch, 2001-05

Executive Committee, District of Columbia Pretrial Services Agency, 2013-present

Board of Directors, Historical Society of the District of Columbia Circuit, 2012-15

Search Committee for Director of the Administrative Office of the United States Courts,
2005-06

Federal Judges Association, 2003-present (intermittent)

United States Court of Appeals for the District of Columbia Circuit

Library Committee, 1997-present

Judicial Council, 1999-2009, 2011-present

American Law Institute, 1998-present

Edward Bennett Williams Inn of Court, 1996-present

District of Columbia Assistant United States Attorneys Association, 1989-96

Judge William J. Bryant Inn of Court, 1988-92

Council for Court Excellence, 1987-89

American Bar Association, 1981-present (intermittent)

Judicial Branch Liaison, Administrative Law Section Council, 2000-03

Department of Justice Representative, Criminal Justice Section Council, 1994-97

District of Columbia Bar, 1979-present

Nominating Committee for Officers and Board of Governors, 1994

Co-chair, Administrative Law and Agency Practice Section, 1991-94

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.

I took and passed the District of Columbia bar examination in 1979 and was admitted on December 17, 1979. I did not apply to any jurisdiction for reciprocal admission. My membership in the District of Columbia Bar has not lapsed.

- 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 Tenth Circuit, November 25, 1996

United States Court of Appeals for the Fourth Circuit, February 17, 1983

Supreme Court of the United States, January 17, 1983

United States Court of Appeals for the District of Columbia Circuit, July 19, 1980

United States Court of Appeals for the Ninth Circuit, March 19, 1980

United States District Court, District of Columbia, January 7, 1980

District of Columbia Court of Appeals, December 17, 1979

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.

Board of Overseers, Harvard University, 2003-10
President, 2009-10

Harvard College Visiting Committee, 2003-10

Edgemoor Club, 2001-present

Temple Sinai, 1994-present

Council for Excellence in Government, 1992-95 (closed in 2009)

Sidwell Friends School Tennis Center, 1990-91 (summers)

Chevy Chase Recreation Association, 1989-95 (summers)

Sutton Place (D.C.) Condominium Association and tennis courts, 1981-89

Harvard Club of Washington, 1978-present (intermittent)

Harvard Law School Alumni Association, 1977-present

Harvard University Alumni Association, 1974-present

Phi Beta Kappa, elected 1972

- 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.

None have from before the time I joined.

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

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

I have provided copies of all of the following:

Entry in Harvard Law School Class of 1977, 25th Anniversary Report (2001).

Entry in Harvard Class of 1974, 25th Anniversary Report (1999).

Entry in Harvard Class of 1974, 20th Anniversary Report (1994).

Merrick B. Garland, Antitrust and State Action: Economic Efficiency and the Political Process, 96 Yale L.J. 486 (1987).

Merrick B. Garland, Antitrust and Federalism: A Response to Professor Wiley, 96 Yale L.J. 1291 (1987).

Merrick B. Garland, Deregulation and Judicial Review, 98 Harv. L. Rev. 505 (1985).

Merrick B. Garland, Courts Give Deregulatory Policies New Hard Look, Legal Times, April 22, 1985.

Entry in Harvard Class of 1974, 10th Anniversary Report (1984).

Merrick B. Garland & Robert Pitofsky, Federal Trade Commission Investigations, 4 Antitrust Counseling and Litigation Techniques, Ch. 48 (J.O. Kalinowski ed. 1984).

James F. Fitzpatrick & Merrick Garland, The Court, 'Veto' and Airbags, New York Times, August 20, 1983, at 21.

Commercial Speech, Supreme Court, 1975 Term, 90 Harv. L. Rev. 142 (1976) (collaborative student note).

State Action Exemption and Antitrust Enforcement Under the Federal Trade Commission Act, 89 Harv. L. Rev. 715 (1976) (collaborative student note).

Innocence in the Union: The Fantasticks, Co-Directed by Lindsay Davis and David Luke in the Freshman Union Tonight and Sunday at 7:30, The Harvard Crimson, January 22, 1976 (theater review).

McDonald's Offers Hamburger Reward for Pints of Blood, The Harvard Crimson, December 3, 1973.

Pinter in Progression: Three Plays by Harold Pinter: Night School, Landscape, and Silence at the Loeb, March 7-10, The Harvard Crimson, March 8, 1973 (theater review).

Harvard Housing: Playing the 'Numbers Game,' The Harvard Crimson, January 8, 1973.

UHS Committee Recommends \$25 Student Health Fee Boost, The Harvard Crimson, October 26, 1972.

Housing: Or the Harvard-to-Radcliffe Crowded-Room Bad-Ratio Blues, The Harvard Crimson, March 1, 1972.

The Homecoming: Whores Pimps and Kindly Old Men, The Harvard Crimson, February 15, 1972 (theater review).

I was an editor of the Harvard Law Review from 1975-77. Although I do not remember all the pieces that I edited in that capacity, those that I recall are:

William J. Brennan, Jr., State Constitutions and the Protection of Individual Rights, 90 Harv. L. Rev. 489 (1977).

James R. Farrand, Ancillary Remedies in SEC Civil Enforcement Actions, 89 Harv. L. Rev. 1779 (1976).

Phillip Areeda, Antitrust Violations Without Damage Recoveries, 89 Harv. L. Rev. 1127 (1976).

In addition to the above, as a research assistant to Professor Phillip Areeda, I edited portions of Phillip Areeda & Donald Turner, *Antitrust Law: An Analysis of Antitrust Principles and Their Application*, Vols. I, II & III (Little, Brown 1978). I do not have access to these now-superseded volumes.

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

I have provided copies of all of the following:

Judicial Conference of the United States

Report of the Proceedings of the Judicial Conference of the United States, September 17, 2015.

Report of the Proceedings of the Judicial Conference of the United States, Special Session, September 9, 2015.

Report of the Proceedings of the Judicial Conference of the United States, March 10, 2015.

Report of the Proceedings of the Judicial Conference of the United States, September 16, 2014.

Report of the Proceedings of the Judicial Conference of the United States, March 11, 2014.

Report of the Proceedings of the Judicial Conference of the United States, September 17, 2013.

Report of the Proceedings of the Judicial Conference of the United States, March 12, 2013.

In addition to these public reports, the Judicial Conference produces other reports that are not in my possession but may be available upon request to:

Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

- 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.

I have provided copies of all of the following:

I sent a letter to the Honorable Charles E. Grassley responding to his request regarding statistics about the United States Court of Appeals for the District of Columbia Circuit on July 1, 2013.

I testified before the Senate Judiciary Committee at my confirmation hearing to be a Judge on the District of Columbia Circuit. *Confirmation Hearings on Federal Appointments, Part 2: Hearings Before the Senate Comm. on the Judiciary*, 104th Cong. (November 30, 1995). I also received Questions for the Record from the Honorable Charles E. Grassley on December 1, 1995, and provided a response on December 6, 1995. These documents do not appear to have been made part of the formal printed hearing record.

I appeared before a subcommittee of the Senate Judiciary Committee as part of a panel of Justice Department officials, but did not provide any testimony. *False Claims Act of 1979, S. 1981: Hearing Before the Subcomm. on Improvements in Judicial Machinery of the S. Comm. on the Judiciary*, 96th Cong. (November 19, 1979).

In addition, I met with Members of Congress and staff to discuss security preparations for the Salt Lake City Olympics in the fall of 1996, and to discuss the explosion of TWA Flight 800 in the summer of 1996. I do not have statements or notes.

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

I have tried to identify all speeches or remarks I have given since graduating from law school. I have provided written texts or notes where I have them, and video and press reports where readily available.

Date	Location	Organization/Event	Description
04/21/16	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Annual 40 at 50 Judicial Pro Bono Recognition Breakfast	Gave remarks recognizing law firms with substantial pro bono service. Text and press report provided.
03/16/16	Washington, DC	Remarks at Rose Garden Ceremony	Gave remarks regarding nomination to Supreme Court of the United States. Text, video, and press reports provided.
03/11/16	Washington, DC	Historical Society of the District of Columbia Circuit, 11th Annual Mock Court Argument Program	Welcomed District of Columbia high school students participating in mock trial to courthouse. Text and press report provided.
03/03/16	Washington, DC	Visit by Yale Chapter of the American Constitution Society to the District of Columbia Circuit Court of Appeals	Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes. Press report provided.
02/17/16	Washington, DC	George Washington University Law School, Meeting with George Washington Law Students	Provided an introduction to the District of Columbia Circuit. I do not have remarks or notes, and have not located any press coverage.
11/16/15	Washington, DC	Historical Society of the District of Columbia Circuit, Law Clerk Reception	Introduced Solicitor General Donald Verrilli. Text and press report provided.
10/27/15	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Federal Government Pro Bono Recognition Reception	Gave remarks recognizing government lawyers for pro bono service. Text provided. I have not located any press coverage.
10/22/15	Washington, DC	Washington Bar Association Event at Howard Law School	Greeted the Washington Bar Association and reported on the state of the District of Columbia

Date	Location	Organization/Event	Description
			Circuit. Text provided. I have not located any press coverage.
10/07/15	Washington, DC	District of Columbia Circuit Oral Arguments at George Washington University Law School	Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes, and have not located any press coverage.
06/23/15-06/26/15	Philadelphia, PA	District of Columbia Circuit Judicial Conference	Presided over the District of Columbia Circuit's Judicial Conference. Text and press reports provided.
06/04/15	Washington, DC	Visit by J.O. Wilson Elementary School Students to United States Courthouse	Welcomed students to courthouse. I do not have remarks or notes, and have not located any press coverage.
05/14/15	Washington, DC	District of Columbia Circuit Court of Appeals, Attorney Admissions Ceremony	Presided over attorney admissions ceremony. Text provided. I have not located any press coverage.
05/11/15	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Don Quixote</i>	Served as panelist at mock trial event. Transcript and press reports provided.
04/20/15	Oklahoma City, OK	Oklahoma City National Memorial and Museum, 20th Anniversary Commemoration	Participated in panel titled "The Oklahoma City Bombing – 20 Years Later: The Investigation." I do not have remarks or notes. Agenda and press reports provided.
04/13/15	Washington, DC	Legal Services Corporation, Supreme Court Reception	Gave remarks at Supreme Court of the United States regarding legal services for the poor.

Date	Location	Organization/Event	Description
			Text provided. I have not located any press coverage.
04/09/15	Washington, DC	Visit by Harvard Chapter of the American Constitution Society to the District of Columbia Circuit Court of Appeals	Answered questions from law students regarding careers in the law. I do not have remarks or notes, and have not located any press coverage.
04/01/15	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Annual 40 at 50 Judicial Pro Bono Recognition Breakfast	Gave remarks recognizing law firms with substantial pro bono service. Text and press report provided.
03/20/15	Washington, DC	Historical Society of the District of Columbia Circuit, 10th Annual Mock Court Argument Program	Welcomed District of Columbia high school students participating in mock trial to courthouse. Text and press report provided.
03/19/15	Washington, DC	District of Columbia Circuit Oral Arguments at the Catholic University of America Columbus School of Law	Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes. Press report provided.
02/25/15	New Haven, CT	Yale Supreme Court Advocacy Clinic, Meeting with Clinic Students	Answered questions from law students regarding appellate advocacy. I do not have remarks or notes, and have not located any press coverage.
12/04/14	Washington, DC	Council for Court Excellence, Meeting at United States Courthouse	Participated in a conversation about court administration and serving as a judge. I do not have remarks or notes. Press report provided.

Date	Location	Organization/Event	Description
11/05/14	Washington, DC	District of Columbia Circuit Oral Arguments at Howard Law School	<p>Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer.</p> <p>I do not have remarks or notes, and have not located any press coverage.</p>
10/21/14	Washington, DC	Historical Society of the District of Columbia Circuit, Law Clerk Reception	<p>Introduced Justice Elena Kagan and Judge Ellen Segal Huvelle.</p> <p>Text and press report provided.</p>
09/19/14	Cambridge, MA	Joint Forum, Harvard Chapters of the Federalist Society and the American Constitution Society	<p>Answered questions from law students regarding careers in the law.</p> <p>I do not have remarks or notes, and have not located any press coverage.</p>
09/12/14	Washington, DC	District of Columbia Circuit Court of Appeals, Investiture Ceremony for Judge Robert Wilkins	<p>Presided over investiture ceremony.</p> <p>Text and press report provided.</p>
07/11/14	Washington, DC	District of Columbia District Court, Investiture Ceremony for Judge Christopher Cooper	<p>Gave brief remarks.</p> <p>Text and press report provided.</p>
06/05/14	Washington, DC	Visit by J.O. Wilson Elementary School Students to United States Courthouse	<p>Welcomed students to courthouse.</p> <p>I do not have remarks or notes, and have not located any press coverage.</p>
05/21/14	Washington, DC	Visit by Officials of the Administrative Office of the United States Courts to United States Courthouse	<p>Welcomed court executives and chief deputies of three circuits to courthouse.</p> <p>Text provided. I have not located any press coverage.</p>
05/19/14	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Measure for Measure</i>	<p>Served as panelist at mock trial event.</p> <p>I do not have remarks or notes. Press report provided.</p>

Date	Location	Organization/Event	Description
05/13/14	Washington, DC	District of Columbia Circuit Court of Appeals, Attorney Admissions Ceremony	Presided over attorney admissions ceremony. Text provided. I have not located any press coverage.
04/25/14	Washington, DC	Historical Society of the District of Columbia Circuit, 9th Annual Mock Court Argument Program	Welcomed District of Columbia high school students participating in mock trial to courthouse. Text and press report provided.
04/23/14	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Annual 40 at 50 Judicial Pro Bono Recognition Breakfast	Gave remarks recognizing law firms with substantial pro bono service. Text and press report provided.
04/10/14	Washington, DC	Visit by African Judges to the District of Columbia Circuit Court of Appeals	Welcomed visiting judges. I do not have remarks or notes, and have not located any press coverage.
03/13/14	Washington, DC	District of Columbia Circuit Court of Appeals, Investiture Ceremony for Judge Cornelia Pillard	Presided over investiture ceremony. Text, video, and press report provided.
02/28/14	Washington, DC	District of Columbia Circuit Court of Appeals, Investiture Ceremony for Judge Patricia Millett	Presided over investiture ceremony. Text, video, and press report provided.
02/27/14	Washington, DC	Visit by Yale Chapter of the American Constitution Society to the District of Columbia Circuit Court of Appeals	Answered questions from law students regarding careers in the law. I do not have remarks or notes, and have not located any press coverage.
02/19/14	Washington, DC	Cosmos Club, Meeting	Gave remarks regarding court administration. Notes provided. I have not located any press coverage.

Date	Location	Organization/Event	Description
01/29/14	Washington, DC	Federal Public Defenders Conference	Gave welcoming remarks. Text provided. I have not located any press coverage.
12/16/13	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Federal Government Pro Bono Recognition Reception	Gave remarks recognizing government lawyers for pro bono service. Text and press report provided.
11/12/13	Washington, DC	District of Columbia Circuit Oral Arguments at Georgetown University Law Center	Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes. Press provided.
10/23/13	Cambridge, MA	Harvard Law School, Moot Court Competition	Served as panelist at moot court event. Video and press report provided.
10/17/13	Washington, DC	Washington Bar Association Event at Howard Law School	Greeted the Washington Bar Association. I do not have remarks or notes, and have not located any press coverage.
10/08/13	Washington, DC	District of Columbia Circuit Court of Appeals, Attorney Admissions Ceremony	Presided over attorney admissions ceremony. Text provided. I have not located any press coverage.
09/26/13	Washington, DC	District of Columbia Circuit Court of Appeals, Investiture Ceremony for Judge Sri Srinivasan	Presided over investiture ceremony. Notes and press reports provided.
05/22/13	Washington, DC	American Law Institute, 90th Annual Meeting	Presented the Henry J. Friendly Medal to William H. Webster. Text, video, and press report provided.

Date	Location	Organization/Event	Description
05/13/13	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Latin Herald v. Gaius Marcius Coriolanus (Coriolanus)</i>	Served as panelist at mock trial event. I do not have remarks or notes. Press report provided.
05/06/13	Washington, DC	District of Columbia Circuit Court of Appeals, Attorney Admissions Ceremony	Presided over attorney admissions ceremony. Notes provided. I have not located any press coverage.
04/15/13	Washington, DC	Visit by African Judges to District of Columbia Circuit Court of Appeals	Welcomed visiting judges. I do not have remarks or notes, and have not located any press coverage.
04/12/13	Washington, DC	Historical Society of the District of Columbia Circuit, 8th Annual Mock Court Argument Program	Congratulated District of Columbia high school students participating in mock trial. Text and press report provided.
04/09/13	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Annual 40 at 50 Judicial Pro Bono Recognition Breakfast	Gave remarks recognizing law firms with substantial pro bono service. Text and press reports provided.
04/08/13	Washington, DC	Visit by Harvard Chapter of the American Constitution Society to the District of Columbia Circuit Court of Appeals	Answered questions from law students regarding careers in the law and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes. Press report provided.
04/05/13	Washington, DC	District of Columbia Circuit Court of Appeals, Portrait Presentation Ceremony for Judge David B. Sentelle	Presided over portrait presentation ceremony. Text and transcript provided. I have not located any press coverage.
02/20/13	New Haven, CT	Yale Supreme Court Advocacy Clinic, Meeting with Clinic Students	Answered questions from law students regarding appellate advocacy. I do not have remarks or notes,

Date	Location	Organization/Event	Description
			and have not located any press coverage.
02/16/13	Washington, DC	J. Reuben Clark Law Society, Annual Conference, Georgetown University Law Center	Discussed life lessons learned throughout career. Video provided. I have not located any press coverage.
02/12/13	Washington, DC	District of Columbia Circuit Court of Appeals, Ceremony Honoring Judge David B. Sentelle	Gave remarks thanking Judge Sentelle for his service as Chief Judge. Text provided. I have not located any press coverage.
01/22/13	Washington, DC	Edward Coke Appellate Inn of Court, January Meeting on the Life and Career of Judge Henry Friendly	Participated in panel discussion regarding Judge Friendly. I do not have remarks or notes. Press report provided.
12/03/12	New Haven, CT	Yale Law School, Moot Court Competition	Served as panelist at moot court event. Video and press report provided.
11/15/12	Washington, DC	The Federalist Society, 2012 National Lawyers Convention	Moderated panel titled "Prosecutorial Misconduct." Notes and video provided. I have not located any press coverage.
10/18/12	Washington, DC	George Washington University Law School, Conversation with Author of "Henry Friendly: Greatest Judge of His Era"	Participated in panel discussion. Video provided. I have not located any press coverage.
06/07/12	Washington, DC	Visit by J.O. Wilson Elementary School Students to United States Courthouse	Welcomed students to courthouse. I do not have remarks or notes, and have not located any press coverage.
04/30/12	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Claudio v. Hero</i>	Served as panelist at mock trial event. I do not have remarks or notes. Press reports provided.

Date	Location	Organization/Event	Description
04/21/12	Washington, DC	15th Reunion of Garland Law Clerks at the District of Columbia Circuit Court of Appeals	Gave remarks. Text provided. I have not located any press coverage.
02/28/12	Washington, DC	Visit by Harvard Law School Class to the District of Columbia Circuit Court of Appeals	Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes, and have not located any press coverage.
02/24/12	New Haven, CT	Yale Law Journal, Meeting with Editors	Answered questions from law students regarding careers in the law. I do not have remarks or notes, and have not located any press coverage.
01/24/12	Washington, DC	United States Department of Justice, Jack Keeney Memorial Event	Gave remarks regarding former Department official Jack Keeney. Text and video provided. I have not located any press coverage.
01/18/12	Washington, DC	Visit by Harvard Law School Supreme Court Litigation Clinic to the District of Columbia Circuit Court of Appeals	Answered questions from law students seeking career advice and information regarding my experiences as a judge and practicing lawyer. I do not have remarks or notes, and have not located any press coverage.
12/03/11	Washington, DC	Bar Association of the District of Columbia, Judge of the Year Ceremony	Gave remarks accepting award at ceremony. Text provided. I have not located any press coverage.

Date	Location	Organization/Event	Description
10/05/11	New Haven, CT	Yale Supreme Court Advocacy Clinic, Meeting with Clinic Students	Discussed False Claims Act cases and legislation. Notes provided. I have not located any press coverage.
06/20/11	Washington, DC	United States Presidential Scholars Program, Reception at Cannon House Building	Gave remarks to students. Text provided. I have not located any press coverage.
06/16/11	Washington, DC	American Constitution Society, Moot Court Competition	Served as panelist at moot court event. Agenda provided. I have not located any press coverage.
04/11/11	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>An Ideal Husband</i>	Served as panelist at mock trial event. I do not have remarks or notes. Press reports provided.
04/07/11	Washington, DC	District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, Annual 40 at 50 Judicial Pro Bono Recognition Breakfast	Gave remarks recognizing law firms with substantial pro bono service. Text and press reports provided.
03/29/11	Washington, DC	Visit by High School Students to the District of Columbia Circuit Court of Appeals	Answered questions regarding my experiences as a judge. I do not have remarks or notes, and have not located any press coverage.
02/15/11	Washington, DC	Visit by Elementary School Students to the District of Columbia Circuit Court of Appeals	Answered questions regarding my experiences as a judge. I do not have remarks or notes, and have not located any press coverage.
01/10/11	Washington, DC	National War College, Guest Lecture	Lectured students on federal courts and administrative law. Text provided. I have not located any press coverage.

Date	Location	Organization/Event	Description
12/09/10	Washington, DC	The Federalist Society, Panel	Moderated panel titled "Changing the Federal Rules of Civil Procedure: Has the Time Come?" Video provided. I have not located any press coverage.
12/06/10	New Haven, CT	Yale Law School, Moot Court Competition	Served as panelist at moot court event. Video provided. I have not located any press coverage.
12/01/10	Cambridge, MA	Harvard Law School, Meeting with Law School Class	Spoke to students about the roles of advocates in the legal system. I do not have remarks or notes. Press reports provided.
10/22/10	New Haven, CT	Yale Law Journal, Meeting with Editors	Answered questions from law students regarding careers in the law. I do not have remarks or notes, and have not located any press coverage.
04/11/10	Cambridge, MA	Harvard College, Meeting with Freshmen	Answered questions regarding college and law school. I do not have remarks or notes, and have not located any press coverage.
03/25/10	Washington, DC	Discussion with Students at District of Columbia Elementary School	Answered questions regarding my experiences as a judge. I do not have remarks or notes, and have not located any press coverage.
03/16/10	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Judgment at Agincourt</i>	Served as panelist at mock trial event. Video provided. I have not located any press coverage.
01/22/10	Washington, DC	Harvard Law School Supreme Court Litigation Clinic, Meeting with Clinic Students	Answered questions from law students regarding appellate advocacy.

Date	Location	Organization/Event	Description
			I do not have remarks or notes, and have not located any press coverage.
01/19/10	Washington, DC	National War College, Guest Lecture	Lectured students on federal courts and administrative law. Text provided. I have not located any press coverage.
12/17/09	Washington, DC	Harvard Club of Washington Event	Introduced Justice Ruth Bader Ginsburg at Harvard Club event. Text provided. I have not located any press coverage.
11/03/09	New Haven, CT	Yale Supreme Court Advocacy Clinic, Meeting with Clinic Students	Lectured students regarding appellate advocacy. Notes provided. I have not located any press coverage.
09/15/09	Washington, DC	Harvard Alumni Association Event	Introduced Harvard President Drew Gilpin Faust at event. Text provided. I have not located any press coverage.
06/19/09	Washington, DC	American Constitution Society, 2009 Annual Convention	Moderated panel titled "The Internet Revolution and its Effect on the First Amendment." Notes, video, and press report provided.
04/06/09	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Malvolio's Revenge</i>	Served as panelist at mock trial event. I do not have remarks or notes. Press reports provided.
03/25/09	Salt Lake City, UT	University of Utah Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
02/19/09	Washington, DC	Edward Bennett Williams Inn of Court, Panel	Moderated panel on legal blogs. Notes provided. I have not

Date	Location	Organization/Event	Description
			located any press coverage.
01/22/09	Washington, DC	Harvard Law School Supreme Court Litigation Clinic, Meeting with Clinic Students	Spoke with law students regarding appellate advocacy. I do not have remarks or notes, and have not located any press coverage.
01/15/09	Washington, DC	National War College, Guest Lecture	Lectured students on federal courts and administrative law. Text provided. I have not located any press coverage.
11/20/08	Washington, DC	The Federalist Society, 2008 National Lawyers Convention	Moderated panel titled "The Prosecution of Public Corruption." Notes and video provided. I have not located any press coverage.
06/13/08	Washington, DC	American Constitution Society, 2008 National Convention	Participated in panel titled "(In)effective Assistance of Counsel for Criminal Defendants." Video provided. I have not located any press coverage.
06/06/08	Farmington, PA	District of Columbia Circuit Judicial Conference	Moderated panel titled "How Are the Courts of the Circuit Doing?" Notes provided. I have not located any press coverage.
05/29/08	Washington, DC	The Federalist Society, Panel	Moderated panel titled "The Obstruction of Justice." Notes and video provided. I have not located any press coverage.
03/05/08	Washington, DC	National Association of Attorneys General, Appellate Advocacy Conference	Participated in panel regarding appellate advocacy. Notes provided. I have not located any press coverage.

Date	Location	Organization/Event	Description
01/17/08	Washington, DC	National War College, Guest Lecture	Lectured students on federal courts and administrative law. Text provided. I have not located any press coverage.
11/30/07	Cambridge, MA	Harvard Law School, Meeting with Law School Class	Spoke to students about the legal profession. I do not have remarks or notes, and have not located any press coverage.
11/15/07	Washington, DC	The Federalist Society, 2007 National Lawyers Convention	Moderated panel titled "The Independence of Federal Prosecutors." Notes, transcript, agenda, and video provided. I have not located any press coverage.
10/26/07	Washington, DC	American Bar Association Administrative Law and Regulatory Practice Section, Meeting	Introduced Judge A. Raymond Randolph upon his induction as a senior fellow. Participated on panel titled "D.C. Circuit Judges Talk About Deference." Text, notes, and press report provided.
07/27/07	Washington, DC	American Constitution Society, 2007 National Convention	Moderated panel titled "The Role of the Department of Justice." Notes and video provided. I have not located any press coverage.
02/23/07	Washington, DC	Visit by Judges of the European Court of Justice to the District of Columbia Circuit Court of Appeals	Welcomed judges to courthouse and discussed U.S. administrative law. I do not have remarks or notes. Press report provided.
11/14/06	Cambridge, MA	Harvard Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes. Press report provided.

Date	Location	Organization/Event	Description
10/24/06	Annapolis, MD	United States Naval Academy, Guest Lecture	Lectured students on American government. I do not have remarks or notes, and have not located any press coverage.
06/21/06	Washington, DC	Georgetown University Law Center, Meeting with Chinese Legal Officials	Gave remarks to Chinese legal officials regarding United States law relating to suits against the government. Notes provided. I have not located any press coverage.
06/17/06	Washington, DC	American Constitution Society, 2006 National Convention	Moderated panel titled "Can the Department of Justice Police the Executive and Legislative Branches?" Notes and agenda provided. I have not located any press coverage.
05/15/06	Washington, DC	Reunion of Judge Friendly Clerks	Gave a toast to Chief Justice John G. Roberts, Jr. Text provided. I have not located any press coverage.
04/11/06	Washington, DC	Visit by New Hampshire High School Students to the District of Columbia Circuit Court of Appeals	Answered questions regarding my experiences as a judge. I do not have remarks or notes, and have not located any press coverage.
03/22/06	Washington, DC	Visit by Middle School Students to the District of Columbia Circuit Court of Appeals	Answered questions regarding my experiences as a judge. I do not have remarks or notes, and have not located any press coverage.
01/26/06	Philadelphia, PA	University of Pennsylvania Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes. Press report provided.

Date	Location	Organization/Event	Description
12/12/05	New Haven, CT	Yale Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
12/12/05	New Haven, CT	Yale Law School, Panel on Judicial Clerkships	Participated on panel regarding judicial clerkships. I do not have remarks or notes, and have not located any press coverage.
11/12/05	Washington, DC	The Federalist Society, 2005 National Lawyers Convention	Moderated panel titled "Originalism and the Administrative Procedure Act." Notes and agenda provided. I have not located any press coverage.
10/01/05	Cambridge, MA	Harvard Law School, Meeting with Law School Class	Answered questions regarding criminal law and professional responsibility. I do not have remarks or notes, and have not located any press coverage.
08/03/05	Washington, DC	Historical Society of the District of Columbia Circuit, Panel	Participated in panel on arguing cases before the District of Columbia Circuit. I do not have remarks or notes. Press reports provided.
06/01/05	New Haven, CT	Yale Law School, China-Yale Senior Government Leadership Program	Gave remarks regarding judicial review of administrative actions. Notes provided. I have not located any press coverage.
05/19/05	Washington, DC	Woodrow Wilson International Center for Scholars, Discussion of "Becoming Justice Blackmun"	Participated in panel regarding a biography of Justice Harry Blackmun. I do not have remarks or notes. Press report provided.

Date	Location	Organization/Event	Description
05/04/05	Chicago, IL	University of Chicago Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
04/18/05	Washington, DC	Metropolitan Police Department Retirement Dinner	Gave remarks at retirement of MPD Detective Lorren Leadmon. Notes provided. I have not located any press coverage.
04/07/05	Washington, DC	American Bar Association Administrative Law and Regulatory Practice Section, Panel	Participated in panel titled "Agency Law Making In Action: The Process from Beginning to End Using the Landmark <i>State Farm</i> Case." I do not have remarks or notes, and have not located any press coverage.
03/30/05	Washington, DC	Harvard Law School, Admitted Students Reception	Answered questions regarding law school experience. I do not have remarks or notes, and have not located any press coverage.
03/15/05	Washington, DC	Joint Meeting of the Edward Coke Appellate Inn of Court and the Giles Sutherland Rich American Inn of Court	Participated in panel regarding differences between the circuit courts. I do not have remarks or notes. Press report provided.
02/24/05	Washington, DC	Federal Public Defenders Conference, Panel	Participated in panel regarding effective appellate writing. Notes provided. I have not located any press coverage.
11/08/04	Washington, DC	Edward Bennett Williams Inn of Court, Meeting	Participated in moot court event. I do not have remarks or notes, and have not located any press coverage.

Date	Location	Organization/Event	Description
10/21/04	Washington, DC	American Bar Association Administrative Law and Regulatory Practice Section, Administrative Law Conference, Awards Luncheon	Gave address titled "Scholars and Public Servants at the Founding (of the APA)." Text and press reports provided.
10/14/04	Washington, DC	Visit by Chinese Judges to the District of Columbia Circuit Court of Appeals	Welcomed visiting judges and discussed Chinese and American legal systems. I do not have remarks or notes, and have not located any press coverage.
10/12/04	Washington, DC	Discussion with Visiting Chinese Judges at the Supreme Court of the United States	Discussed Chinese and American legal systems. I do not have remarks or notes, and have not located any press coverage.
05/17/04	Washington, DC	American Bar Association Section of Litigation, Panel	Participated in panel titled "Courts, Cases, and the Media: Can We Talk? A Workshop To Improve News Coverage And Public Perception Of The Justice System." I do not have remarks or notes, and have not located any press coverage.
04/12/04	Washington, DC	Shakespeare Theatre Company, Mock Trial: <i>Falstaff v. King Henry V</i>	Served as panelist at mock trial event. I do not have remarks or notes, and have not located any press coverage.
02/29/04	Washington, DC	George Washington University Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
4/21/03	Champaign, IL	University of Illinois College of Law, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes,

Date	Location	Organization/Event	Description
			and have not located any press coverage.
06/14/02	Kingsmill, VA	District of Columbia Circuit Judicial Conference	Moderated panel titled "Privacy and Security in an Age of Emerging Technologies." Notes provided. I have not located any press coverage.
02/24/02	Washington, DC	American University Washington College of Law, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
12/17/01	New Haven, CT	Yale Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
12/12/01	Washington, DC	American Bar Association Administrative Law and Regulatory Practice Section, Panel	Participated in panel titled " <i>State Farm</i> and the Arbitrary and Capricious Standard." Notes and press report provided.
10/30/01	Washington, DC	District of Columbia Bar, Panel	Participated in panel on appellate advocacy. Notes provided. I have not located any press coverage.
05/04/01	Palo Alto, CA	Stanford Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press coverage.
04/21/01	Boston, MA	Harvard Law Review, Annual Banquet	Gave address at annual banquet. Text provided. I have not located any press coverage.
01/07/00	Washington, DC	Association of American Law Schools, Panel	Participated in panel titled "Do Antitrust Teachers and Scholars Matter?"

Date	Location	Organization/Event	Description
			Notes provided. I have not located any press coverage.
11/15/99	Crystal City, VA	United States Department of Justice, National Institute of Justice Panel	Moderated panel titled "The Role of U.S. Attorney's Offices in Case Selection, Investigation, and Enforcement." Notes provided. I have not located any press coverage.
11/04/99	Washington, DC	American University Washington College of Law, American Bar Association Criminal Justice Section, Meeting	Participated in panel titled "Holding Prosecutors Accountable: What Rules Apply and Who Should Enforce Them?" Agenda provided. I have not located any press coverage.
10/26/99	Washington, DC	District of Columbia Bar, Panel	Participated in panel discussion on appellate advocacy. Notes and press report provided.
09/02/99	Washington, DC	Federal Public Defenders Conference, Panel	Participated in panel discussion on appellate advocacy. Notes provided. I have not located any press coverage.
04/17/99	Dallas, TX	American Bar Association Section of Litigation, Panel	Participated in moot court and discussion of appellate advocacy. Notes provided. I have not located any press coverage.
04/15/99	Washington, DC	Visit by High School Students to the District of Columbia Circuit Court of Appeals	Answered questions regarding my experiences as a judge. I do not have remarks or notes, and have not located any press coverage.
04/02/99	Berkeley, CA	University of California Law School, Berkeley, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes, and have not located any press

Date	Location	Organization/Event	Description
			coverage.
11/04/98	Washington, DC	Council for Court Excellence, Panel	Participated in panel titled "Lawyers, the Courts, and the Press." I do not have remarks or notes, and have not located any press coverage.
05/02/98	Chevy Chase, MD	Ohr Kodesh Congregation, Talk	Gave Law Day speech. Text provided. I have not located any press coverage.
02/21/98	Washington, DC	Toast to Seth Waxman on Occasion of His Becoming Solicitor General	Gave toast to Seth Waxman. Text and notes provided. I have not located any press coverage.
11/18/97	Cambridge, MA	Harvard Law School, Moot Court Competition	Served as panelist at moot court event. I do not have remarks or notes. Press report provided.
11/14/97	Washington, DC	Federal Judicial Center Program for Chinese Judges	Gave remarks titled "The Role of the Appellate Court in Criminal Cases." Notes provided. I have not located any press coverage.
08/12/97	Washington, DC	Attorney General's Advocacy Institute, Panel	Participated in panel discussion on appellate advocacy. Notes provided. I have not located any press coverage.
08/02/97	San Francisco, CA	American Bar Association Annual Meeting	Participated in panel titled "The Press and Terrorism Trials." Notes and press report provided.
06/03/97	Washington, DC	District of Columbia Circuit Court of Appeals Investiture Ceremony	Gave remarks at my investiture ceremony. Text and press report provided.
04/17/97	Washington, DC	Edward Bennett Williams Inn of Court, Meeting	Moderated panel titled "Corporate Cooperation in Criminal Investigations."

Date	Location	Organization/Event	Description
			Notes provided. I have not located any press coverage.
04/08/97	Washington, DC	United States Department of Justice, Farewell Ceremony	Gave remarks at my farewell ceremony. Text provided. I have not located any press coverage.
03/25/97	Washington, DC	United States Department of Justice, Farewell Ceremony for Deputy Attorney General Jamie Gorelick	Gave remarks at farewell ceremony. Text provided. I have not located any press coverage.
03/07/97	New Orleans, LA	American Bar Association Criminal Justice Section, Meeting	Participated in panel titled "Trial Strategies in White Collar Criminal Cases." I do not have remarks or notes, and have not located any press coverage.
01/16/97	Washington, DC	Washington Metropolitan Area Chapter of the American Corporate Counsel Association, Meeting	Gave remarks regarding corporate and white collar crime. Text and press report provided.
10/23/96	Airlie, VA	American Bar Association Section of Litigation, Symposium on Corporate Criminal Liability	Participated in panel on corporate criminal liability. I do not have remarks or notes, and have not located any press coverage.
05/29/96	Baltimore, MD	United States Attorneys National Conference	Gave remarks regarding the Department of Justice's Critical Incident Response Plan. Notes provided. I have not located any press coverage.
07/16/95	Las Vegas, NV	National District Attorneys Association Convention	Spoke to Board of Directors regarding relations with the Department of Justice. I do not have remarks or notes, and have not located any press coverage.

Date	Location	Organization/Event	Description
10/15/94	Washington, DC	American Bar Association Criminal Justice Section, White Collar Crime Committee, Meeting	Gave remarks regarding the Department of Justice's Professional Responsibility Initiatives. Notes and press report provided.
09/01/94	Washington, DC	District of Columbia Bar, George Washington University Annual Institute on Program Fraud	Gave remarks regarding the Department of Justice's Professional Responsibility Initiatives. Notes and press report provided.
08/06/94	New Orleans, LA	American Bar Association Convention	Participated in panel on high publicity cases. I do not have remarks or notes. Press reports provided.
06/15/94	Washington, DC	District of Columbia Bar, Administrative Law and Agency Practice Section Meeting	Moderated discussion of talk by Walter Dellinger. I do not have remarks or notes, and have not located any press coverage.
05/23/94	Washington, DC	District of Columbia Bar, Panel	Participated in panel discussion regarding plea negotiations. I do not have remarks or notes, and have not located any press coverage.
10/22/93	Washington, DC	American Bar Association Section of Litigation, Meeting	Participated in question and answer session regarding Department of Justice initiatives. I do not have remarks or notes, and have not located any press coverage.
06/24/93	Philadelphia, PA	American Corporate Counsel Association, Panel	Participated in panel titled "Will There Be a New Antitrust Agenda?" Notes provided. I have not located any press coverage.

Date	Location	Organization/Event	Description
05/21/93	San Antonio, TX	St. Mary's University School of Law Symposium, Panel	Participated in panel titled "Will There Be a New Antitrust Agenda?" I likely used the same notes as for the previous entry. I have not located any press coverage.
02/22/93	Washington, DC	District of Columbia Bar, Winter Convention	Moderated panel titled "Property Rights and Regulatory Takings." Notes and press report provided.
02/28/86	New Haven, CT	Yale Law School, Meeting with Law School Class	Spoke to law school class regarding administrative law. I do not have remarks or notes, and have not located any press coverage.
02/21/86	Kings Point, NY	Office of Personnel Management, Executive Seminar Center, U.S. Merchant Marine Academy, Guest Lecture	Explained basic administrative law concepts. I do not have remarks or notes, and have not located any press coverage.
02/15/85	Kings Point, NY	Office of Personnel Management, Executive Seminar Center, U.S. Merchant Marine Academy, Guest Lecture	Explained basic administrative law concepts. I do not have remarks or notes, and have not located any press coverage.
05/22/84	Williamsburg, VA	District of Columbia Circuit Judicial Conference	As an audience member, I asked the panel a question about administrative law. Transcript provided. I do not have remarks or notes, and have not located any press coverage.
05/11/83	Skokie, IL	Niles West High School, Event	Discussed high school and college experiences. I do not have remarks or notes, and have not located any press coverage.

- 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.

The following includes all entries that I could locate, using my own records and publicly available electronic databases, in which I was interviewed, gave remarks to the press, or was quoted. Most do not reflect original interviews, but rather include quotations from other interviews or court proceedings. I have supplied clips or transcripts where available.

Bridget Bowman, Senators Speak About Their Meetings with Merrick Garland, Atlanta Journal-Constitution, April 27, 2016.

“Senator Cory Booker Meeting with Merrick Garland,” C-SPAN, April 12, 2016. Video provided.

Mary Clare Jalonick, GOP Senator Meets with Garland, Says Hearings Should Be Held, Associated Press, April 6, 2016.

Mary Clare Jalonick, Nominee Garland Smiles, Stays Quiet While in Public View, Associated Press, April 6, 2016.

“Senator Susan Collins Meeting with Merrick Garland,” C-SPAN, April 5, 2016. Video provided.

“Senator Joe Manchin Meeting with Merrick Garland,” C-SPAN, April 5, 2016. Video provided.

“Senator Jeanne Shaheen Meeting with Merrick Garland,” C-SPAN, April 5, 2016. Video provided.

“Senator Mark Kirk Meeting with Merrick Garland,” C-SPAN, March 29, 2016. Video provided.

Lynn Sweet, Senate GOP Must Be “Rational” About Court Pick, Kirk Says, Chicago Sun-Times, March 29, 2016.

Sheryl Gay Stolberg, Matt Apuzzo & Katharine Q. Seelye, Merrick Garland Is a Deft Navigator of Washington’s Legal Circles, New York Times, March 26, 2016.

“Merrick Garland, The Tutor,” The White House, March 19, 2016. Video provided.

“Senator Harry Reid Meeting with Merrick Garland,” C-SPAN, March 17, 2016. Video provided.

Yousur Al-Hlou, “Oklahoma City’s Effect on a Supreme Court Nominee,” The New York Times, March 17, 2016. Video provided.

“Garland: His Time in Oklahoma City,” NewsOK, March 17, 2016. Video provided.

“Meet Merrick Garland, President Obama’s Supreme Court Nominee,” The White House, March 16, 2016. Video provided.

Michael Doyle, Who Is Merrick Garland, Obama’s Pick for the Supreme Court?, McClatchy Washington Bureau (DC), March 16, 2016.

Remarks at Ceremony for Nomination to the United States Supreme Court, March 16, 2016. Transcript and video provided.

Zoe Tillman, Obama Nominates Merrick Garland for Supreme Court, National Law Journal, March 16, 2016.

Presidential Scholars Foundation, Merrick Garland – 1970 Scholar, September 1, 2015.

News Release, The D.C. Circuit Fights Internet Link Rot, United States Court of Appeals for the District of Columbia Circuit, July 30, 2015.

Zoe Tillman, D.C. Circuit to Combat ‘Link Rot’ in Court Rulings, National Law Journal, July 29, 2015.

Zoe Tillman, Howard Law to Host D.C. Circuit, Legal Times, October 2, 2014.

United States Court of Appeals Holds Oral Arguments at Georgetown Law, Georgetown Law, November 12, 2013.

Zoe Tillman, D.C. Circuit to Hold Arguments at Georgetown Law, BLT: Blog of the Legal Times, November 7, 2013.

News Release, Audio Recordings of Oral Arguments, United States Court of Appeals for the District of Columbia Circuit, 2013.

Board of Overseers Elects Senior Officers, Harvard Gazette, April 23, 2009.

Interview with David M. Dorsen for “Henry Friendly, Greatest Judge of His Era” (Harvard University Press 2012), November 16, 2006.

Paul Queary, Prosecutor’s MS Stirs Concern, Associated Press, April 25, 1997.

Daniel R. Marcus, Snaring the Price-Fixers, American Lawyer, December 1996.

Robert Schmidt, Low Key, High Pressure: Top Prosecutor in Oklahoma City Bombing Case Plays a Surprisingly Quiet Role, Legal Times, September 2, 1996.

Kelly Kurt, Officials: McVeigh, Second Man at Federal Building Days Before Blast, Associated Press, May 20, 1995.

George Lardner Jr., Probable Cause Found for Blast Suspect; But Terry Nichols’ Lawyer Says Evidence Can Be Explained, The Fresno Bee, May 19, 1995.

David Zucchini, Oklahoma Bombing Suspects’ Lawyers Tear Into the Government’s Case, The Philadelphia Inquirer, May 19, 1995 (reprinted in multiple outlets).

Pete Slover, Planning Role Alleged for Nichols – He May Have Been Home During Blast, Agent Says, The Dallas Morning News, May 19, 1995 (quote reprinted in multiple outlets).

Press Conference Following Preliminary Hearing of Terry Nichols, Oklahoma City, OK, CNN Report, May 18, 1995.

Tony Clark, Judge Affirms Strength of Case Against Terry Nichols, CNN News, May 18, 1995.

Lou Waters, Text of Briefing After Terry Nichols’ Hearing, CNN News, May 18, 1995.

Pam Belluck, Document Details Events Linked to Oklahoma Bombing, Daily News of Los Angeles, May 12, 1995.

Pam Belluck, Suspect Hoarded Bomb Materials, Affidavit Implies, New York Times, May 12, 1995.

More Evidence Is Revealed Against Terry Nichols in the Oklahoma City Bombing, CBS Morning News, May 12, 1995.

Federal Authorities Make Their Case Against Terry Nichols in the Oklahoma City Bombing, CBS This Morning, May 12, 1995.

Tony Clark, Terry Nichols Handed Specific Charges in Bombing, CNN News, May 11, 1995.

Prosecutors Reveal Evidence Against Terry Nichols, Second Suspect in Oklahoma Bombing Case; Nichols' Son Also Being Questioned, CBS Evening News, May 11, 1995.

Julie DelCour, Evidence Links Suspect to Bomb, Tulsa World, April 30, 1995.

McVeigh Held Without Bail, Morning Edition (NPR), April 28, 1995.

John Parker, McVeigh Ordered to Trial in Bombing, The Daily Oklahoman, April 28, 1995. Versions from two editions provided.

Greg LaMotte, FBI Quashes Rumors About Oklahoma City Bombing Case, CNN News, April 28, 1995.

Gaylord Shaw, Knut Royce, Sylvia Adcock & Pete Bowles, 'An Indelible Trail'; McVeigh Is Held Without Bail at Jailhouse Hearing, Newsday, April 28, 1995.

Press conference Following Preliminary Hearing of Timothy McVeigh, El Reno, OK, CNN Report, April 27, 1995. Transcript and video provided.

Pool Reporter Describes Timothy McVeigh Before Judge, CNN News, April 27, 1995.

Interview with Jim McGee for "Main Justice: The Men and Women Who Enforce the Nation's Criminal Laws and Guard Its Liberties" (Simon & Schuster 1996), 1995.

Matthew Purdy, Using the Racketeering Law to Bring Down Street Gangs, New York Times, October 19, 1994.

Harvey Berkman, Jobs in the Law: Changing Picture; The Green Cadre of U.S. Attorneys Is Sporting Gray as Prosecutors Stay on the Job, National Law Journal, August 15, 1994.

John Murawski, Indicted for Posing as a Witness, Investigator is Key to Second Case, Legal Times, December 21, 1992.

Interview with Stephen Wermiel for "Justice Brennan, Liberal Champion" (Houghton Mifflin Harcourt 2010), March 30, 1990.

Daniel Klaidman, Winning Garland, Legal Times, March 6, 1989.

Paul Duggan, Damages Deadlock S&L Jury, Washington Post, October 8, 1988.

Robert J. Cole, Six Savings Executives Held Liable in Maryland, New York Times, October 7, 1988.

Paul Duggan, S&L Officers Liable for \$112 Million, Washington Post, October 7, 1988.

David Shribman, Campaign '88: Susan Estrich, Campaign Manager for Dukakis, Is, Like Her Candidate, Cerebral and Disciplined, Wall Street Journal, July 14, 1988.

Stephen Wermiel, Reagan Administration's Deregulation Drive Often Thwarted by Appeals Court in Washington, Wall Street Journal, December 3, 1985.

Martha Middleton, Deregulation Hits Court Roadblock, National Law Journal, September 9, 1985.

Ken Fireman, Election Panel Member Faulted Zaccaro on Loan, Philadelphia Inquirer, August 17, 1984.

Jeff Gerth & Ralph Blumenthal, Finances of Ferraro and Husband Are Interwoven, New York Times, August 16, 1984.

WPPSS May Still Seek Damages Despite Bid-Riggers' Civil Acquittal, Bond Buyer, January 24, 1984.

Warren Wintrobe, Juror, Defense Say Government Failed to Prove Case, Associated Press, January 22, 1984.

Fred Barbash, Supreme Court May Act Quickly on ERA Ruling, Washington Post, January 16, 1982.

R.W. Palmer, CHUL Approves Decrease in Male Freshman Class, The Harvard Crimson, December 6, 1973.

Daniel Swanson, CHUL Nixes ROTC Poll, The Harvard Crimson, October 13, 1973.

CHUL Will Consider Request to Conduct ROTC Referendum, The Harvard Crimson, October 4, 1973.

NAM Asks CHUL to Sponsor Referendum on ROTC's Return, The Harvard Crimson, October 3, 1973.

Denise Lavoie, Supreme Court Nominee Formed Lasting Bonds at Harvard, The Associated Press, March 28, 2016.

Susan F. Kinsley, Five House Ratios to Remain Fixed; Upperclass Women Can Leave Quad, The Harvard Crimson, March 23, 1972.

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.

United States Court of Appeals for the District of Columbia Circuit
Chief Judge, 2013-present
Circuit Judge, 1997-2013

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

None. I was never a trial judge.

- i. Of these, approximately what percent were:

jury trials: _____%
bench trials: _____% [total 100%]

civil proceedings: _____%
criminal proceedings: _____% [total 100%]

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

Opinions for the court

FEC v. Craig for U.S. Senate, 816 F.3d 829 (D.C. Cir. 2016)

Minter v. District of Columbia, 809 F.3d 66 (D.C. Cir. 2015)

United States v. Law, 806 F.3d 1103 (D.C. Cir. 2015)

Spurlino Materials v. NLRB, 805 F.3d 1131 (D.C. Cir. 2015)

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Panhandle E. Pipe Line Co. v. FERC, 196 F.3d 1273 (D.C. Cir. 1999)

Trunkline LNG Co. v. FERC, 194 F.3d 68 (D.C. Cir. 1999)

*Telecom*USA, Inc. v. United States*, 192 F.3d 1068 (D.C. Cir. 1999)

Garvey v. Nat'l Transp. Safety Bd., 190 F.3d 571 (D.C. Cir. 1999)

Novecon Ltd. v. Bulgarian-Am. Enter. Fund, 190 F.3d 556 (D.C. Cir. 1999)

In re United Mine Workers of Am. Int'l Union, 190 F.3d 545 (D.C. Cir. 1999)

United States v. Christian, 187 F.3d 663 (D.C. Cir. 1999)

United States v. Weathers, 186 F.3d 948 (D.C. Cir. 1999)

United States v. Gloster, 185 F.3d 910 (D.C. Cir. 1999)

In re Sealed Case No. 99-3096 (Brady Obligations), 185 F.3d 887 (D.C. Cir. 1999)

United States v. Clark, 184 F.3d 858 (D.C. Cir. 1999)

United Seniors Ass'n, Inc. v. Shalala, 182 F.3d 965 (D.C. Cir. 1999)

Pioneer Hotel, Inc. v. NLRB, 182 F.3d 939 (D.C. Cir. 1999)

In re Sealed Case No. 97-3112, 181 F.3d 128 (D.C. Cir. 1999) (en banc)

Anderson v. Zubieta, 180 F.3d 329 (D.C. Cir. 1999)

United States v. Bridges, 175 F.3d 1062 (D.C. Cir. 1999)

Davenport v. Int'l Bhd. of Teamsters, AFL-CIO, 166 F.3d 356 (D.C. Cir. 1999)

United States v. Dozier, 162 F.3d 120 (D.C. Cir. 1998)

United States v. Perkins, 161 F.3d 66 (D.C. Cir. 1998)

Evans Fin. Corp. v. Dir., Office of Workers' Comp. Programs, 161 F.3d 30 (D.C. Cir. 1998)

Nat'l Ass'n of Mfrs. v. Dep't of Labor, 159 F.3d 597 (D.C. Cir. 1998)

Serono Labs., Inc. v. Shalala, 158 F.3d 1313 (D.C. Cir. 1998)

Cassell v. FCC, 154 F.3d 478 (D.C. Cir. 1998)

Grand Canyon Air Tour Coal. v. FAA, 154 F.3d 455 (D.C. Cir. 1998)

In re Sealed Case No. 96-3167, 153 F.3d 759 (D.C. Cir. 1998)

United States v. Glover, 153 F.3d 749 (D.C. Cir. 1998)

United States ex rel. Yesudian v. Howard Univ., 153 F.3d 731 (D.C. Cir. 1998)

LaRouche v. Fowler, 152 F.3d 974 (D.C. Cir. 1998)

United States v. Gartmon, 146 F.3d 1015 (D.C. Cir. 1998)

United States v. Andrews, 146 F.3d 933 (D.C. Cir. 1998)

La. Energy & Power Auth. v. FERC, 141 F.3d 364 (D.C. Cir. 1998)

Appalachian Power Co. v. EPA, 135 F.3d 791 (D.C. Cir. 1998) (per curiam, authored in part)

Hunter-Boykin v. George Wash. Univ., 132 F.3d 77 (D.C. Cir. 1998)

United States v. Davis, 127 F.3d 68 (D.C. Cir. 1997)

United States v. Turner, 119 F.3d 18 (D.C. Cir. 1997)

Opinions Concurring in Part

United States v. Linares, 367 F.3d 941 (D.C. Cir. 2004)

Opinions Concurring in Part and Concurring in the Result

Hutchins v. District of Columbia, 188 F.3d 531 (D.C. Cir. 1999) (en banc)
(Garland, J. et al.)

Opinions Concurring in the Judgment/Result

AKM LLC v. Sec’y of Labor, 675 F.3d 752 (D.C. Cir. 2012)

Sottera, Inc. v. FDA, 627 F.3d 891 (D.C. Cir. 2010)

Bennett v. Islamic Repub. of Iran, 618 F.3d 19 (D.C. Cir. 2010)

Citizens for Responsibility & Ethics in Wash. v. FEC, 475 F.3d 337 (D.C. Cir. 2007)

Wertheimer v. FEC, 268 F.3d 1070 (D.C. Cir. 2001)

Pub. Citizen Health Research Group v. Food & Drug Admin., 185 F.3d 898 (D.C. Cir. 1999)

Opinions Concurring in Part and Dissenting in Part

McDonnell Douglas Corp. v. Air Force, 375 F.3d 1182 (D.C. Cir. 2004)

Am. Corn Growers Ass’n v. EPA, 291 F.3d 1 (D.C. Cir. 2002)

United States v. Wilson, 240 F.3d 39 (D.C. Cir. 2001)

Ross Stores, Inc. v. NLRB, 235 F.3d 669 (D.C. Cir. 2001)

Berger v. Iron Workers Reinforced Rodmen, Local 201, 170 F.3d 1111 (D.C. Cir. 1999)

Opinions Dissenting in Part

FedEx Home Delivery v. NLRB, 563 F.3d 492 (D.C. Cir. 2009)

Ne. Beverage Corp. v. NLRB, 554 F.3d 133 (D.C. Cir. 2009)

United States v. Spinner, 152 F.3d 950 (D.C. Cir. 1998)

Dissenting Opinions

In re Aiken County, 725 F.3d 255 (D.C. Cir. 2013)

Saleh v. Titan Corp., 580 F.3d 1 (D.C. Cir. 2009)

Fin. Planning Ass'n v. SEC, 482 F.3d 481 (D.C. Cir. 2007)

Valdes v. United States, 475 F.3d 1319 (D.C. Cir. 2007) (en banc)

United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488 (D.C. Cir. 2004)

Akinseye v. District of Columbia, 339 F.3d 970 (D.C. Cir. 2003)

United States v. Watson, 171 F.3d 695 (D.C. Cir. 1999)

Opinions Concurring in the Denial of Rehearing En Banc

Al-Bihani v. Obama, 619 F.3d 1 (D.C. Cir. 2010) (Garland, J., et al.)

Bismullah v. Gates, 514 F.3d 1291 (D.C. Cir. 2008)

Opinions Dissenting From the Denial of Rehearing En Banc

Lee v. Dep't of Justice, 428 F.3d 299 (D.C. Cir. 2005)

- 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).

I have never been a trial judge. The 10 most significant cases in which I heard oral argument and wrote an opinion as an appellate judge are the cases listed in 13(d).

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Cause of Action v. FTC*, 799 F.3d 1108 (D.C. Cir. 2015).

A nonprofit organization argued that it was entitled to Freedom of Information Act (FOIA) fee waivers because the disclosure of the information it sought was in the public interest and because it was a member of the news media. The district court upheld the Federal Trade Commission's denial of the organization's waiver requests. The unanimous court of appeals rejected the legal standards for such waivers proffered by the FTC and accepted by the district court, set out the correct standards, and remanded for the district court to reconsider its denial of the organization's requests.

Aram A. Gavoor argued for the appellant.
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Katie Townsend argued for amici curiae Reporters Committee for Freedom of the Press, et al.
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Peter R. Maier argued for the appellee.
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2. *Wagner v. FEC*, 793 F.3d 1 (D.C. Cir. 2015) (en banc).

Government contractors brought suit to challenge a provision of the Federal Election Campaign Act that barred individuals or firms negotiating or performing federal contracts from making federal campaign contributions. The unanimous en banc court of appeals upheld the constitutionality of the statute over First Amendment and Equal Protection challenges.

Alan B. Morrison argued for the appellants.
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Kevin Deeley argued for the appellee.
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3. *American Civil Liberties Union v. CIA*, 710 F.3d 422 (D.C. Cir. 2013).

The plaintiffs filed a FOIA request for records held by the Central Intelligence Agency (CIA) pertaining to drone strikes. The CIA issued a so-called *Glomar* response, refusing to confirm or deny that it had any such records. The district court affirmed the CIA's *Glomar* response. The unanimous court of appeals reversed, holding that in light of public statements by a number of high-level government officials, the CIA's disclosure of whether it had records on the subject would not plausibly reveal anything not already officially acknowledged.

Jameel Jaffer argued for the appellants.
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Stuart F. Delery argued for the appellee.
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4. *United States v. Gaskins*, 690 F.3d 569 (D.C. Cir. 2012).

The defendant appealed his conviction for conspiracy to distribute narcotics. The unanimous court of appeals ordered entry of judgment of acquittal, holding that no reasonable jury could have found that the defendant knowingly entered into a conspiracy or had the specific intent to further its aims.

Julian S. Greenspun argued for the appellants.
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Suzanne Grealy Curt argued for the appellee.
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5. *Saleh v. Titan Corp.*, 580 F.3d 1 (D.C. Cir. 2009) (Garland, J., dissenting).

The plaintiffs alleged abuse by United States military contractors at the Abu Ghraib prison complex. The district court allowed the plaintiffs to proceed past summary judgment on certain claims, but the court of appeals held that all claims had to be dismissed. I dissented from the court's holding that plaintiffs' state tort claims were preempted by federal law. I wrote that no act of Congress or judicial precedent barred the plaintiffs from suing private contractors; that the contractors were neither soldiers nor civilian government employees; and that there was no evidence that the brutal acts alleged were pursued on the authority or at the direction of the military. I also observed that neither President Obama nor President Bush nor any other Executive Branch official had suggested that subjecting the contractors to tort liability for their conduct would interfere with the nation's foreign policy or the Executive's ability to wage war.

Susan L. Burke argued for the appellants.
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Ari S. Zymelman (deceased) argued for the appellee;
Kannon K. Shanmugam was also on the brief.
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J. William Koegel, Jr. argued for the intervenors CACI International Inc.
and CACI Premier Technology, Inc.
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6. *Parhat v. Gates*, 532 F.3d 834 (D.C. Cir. 2008).

A combatant status review tribunal decided that petitioner – a Chinese Uighur detained at Guantanamo Bay who was not a member of either al Qaida or the Taliban – qualified as an “enemy combatant” under the Detainee Treatment Act. The unanimous court of appeals held that the tribunal's determination was invalid.

The court explained that under the governing statute and regulations, a tribunal's determination of a detainee's status must be based on evidence that both the tribunal and the court can assess for reliability. In this case, the tribunal's determination was based on activities or relationships that "reportedly" or "were said to have" or "were suspected of having" occurred, without additional information that would permit an assessment of the reliability of those assertions. The court stated that it was not requiring the government to demonstrate the reliability of its evidence in any particular way. Rather, the court rejected the contention that the government could, without more, simply assert as facts the elements required to establish an enemy combatant determination. Accordingly, the court held that the evidence was insufficient to sustain a determination against the petitioner.

P. Sabin Willett argued for the petitioner.
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Gregory G. Katsas argued for the respondents.
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7. *United States ex rel. Totten v. Bombardier Corp.*, 380 F.3d 488 (D.C. Cir. 2004) (Garland, J., dissenting).

The panel held that, under the False Claims Act, the United States may not recover against a contractor that obtains money by presenting a false claim to a federal grantee, unless the grantee re-presents the false claim to a federal employee. Concluding that the holding was inconsistent with congressional intent, I dissented from the majority's conclusion that false claims presented to Amtrak, a federally funded corporation, were not covered by the Act. In 2009, Congress amended the Act to make clear its "original intent" that liability does attach to a contractor that makes a false claim to a federal grantee. Fraud Enforcement and Recovery Act of 2009, Pub. L. No. 111-21, §4, 123 Stat. 1617, 1621-23.

H. Vincent McKnight, Jr. argued for the appellant.
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Thomas M. Bondy argued for amicus curiae United States of America.
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Mark R. Hellerer argued for the appellee.
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8. *Rancho Viejo, LLC v. Norton*, 323 F.3d 1062 (D.C. Cir. 2003).

The unanimous court of appeals upheld, against a Commerce Clause challenge, the application of the Endangered Species Act to a commercial real estate project that threatened the existence of an endangered species of toad.

John C. Eastman argued for the appellant.
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Katherine J. Barton argued for the appellees.
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9. *Sparrow v. United Air Lines, Inc.*, 216 F.3d 1111 (D.C. Cir. 2000).

The district court dismissed the plaintiff's employment discrimination lawsuit against his former employer. The unanimous court of appeals reversed, holding that an employment discrimination complaint need not set forth the elements of a prima facie case in order to survive a motion to dismiss. Citing *Sparrow*, a unanimous Supreme Court subsequently resolved a split among the courts of appeals by reaching the same conclusion. See *Swierkiewicz v. Sorema*, 534 U.S. 506, 510 & n.2 (2002).

Victor H. Sparrow, III, appearing pro se, argued for the appellant.

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Jeffrey S. Piell argued for the appellees.
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10. *Anderson v. Zubieta*, 180 F.3d 329 (D.C. Cir. 1999).

In this Title VII case, the district court granted summary judgment against black American citizens of Panamanian and Hispanic national origin who claimed they were paid substantially less in salary and benefits than other American citizens working at the same jobs – the overwhelming majority of whom were white, non-Panamanians. The unanimous court of appeals reversed, holding that in light of the record in the case, a reasonable juror could find intentional discrimination.

Richard J. Hirn argued for the appellants.
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Kimberly N. Brown argued for the appellee.
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e. Provide a list of all cases in which certiorari was requested or granted.

The following is a list of all cases where I was a member of the panel:

Certiorari Granted

Menominee Indian Tribe of Wisconsin v. United States, 764 F.3d 51 (D.C. Cir. 2014)

Pinson v. Samuels, 761 F.3d 1 (D.C. Cir. 2014)

White Stallion Energy Center, LLC v. EPA, 748 F.3d 1222 (D.C. Cir. 2014)

Mohamad v. Rajoub, 634 F.3d 604 (D.C. Cir. 2011)

Maine Pub. Utilities Comm'n v. FERC, 520 F.3d 464 (D.C. Cir. 2008)

United States v. Miller, 395 F.3d 452 (D.C. Cir. 2005)

United States v. Weeks, 388 F.3d 913 (D.C. Cir. 2004)

United States v. Haire, 371 F.3d 833 (D.C. Cir. 2004)

United States v. Thomas, 361 F.3d 653 (D.C. Cir. 2004)

Al Odah v. United States, 321 F.3d 1134 (D.C. Cir. 2003)

Amfac Resorts, L.L.C. v. U.S. Dep't of the Interior, 282 F.3d 818 (D.C. Cir. 2002)

NextWave Personal Communications, Inc. v. FCC, 254 F.3d 130 (D.C. Cir. 2001)

Kolstad v. Am. Dental Ass'n, 139 F.3d 958 (D.C. Cir. 1998) (en banc) (Tatel, J., dissenting, joined by Garland, J., et al.)

Certiorari Pending

White Stallion Energy Ctr., LLC v. EPA, 2015 U.S. App. LEXIS 21819 (D.C. Cir. Dec. 15, 2015) (per curiam), petition for cert. filed sub nom. *Michigan v. EPA* on Mar. 14, 2016 (No. 15-1152)

Rail-Term Corp. v. Surface Transp. Bd., 2015 U.S. App. LEXIS 11786 (D.C. Cir. July 8, 2015) (per curiam), petition for cert. filed on Jan. 27, 2016 (No. 15-977)

Helmerich & Payne Int'l Drilling Co. v. Bolivarian Repub. of Venezuela, 784 F.3d 804 (D.C. Cir. 2015), petitions for cert. filed on Oct. 5, 2015 (No. 15-423) & Nov. 25, 2015 (No. 15-698)

Certiorari Denied or Dismissed

Abigail Alliance for Better Access to Developmental Drugs v. von Eschenbach, 495 F.3d 695 (D.C. Cir. 2007) (en banc), cert. denied, 552 U.S. 1159 (2008)

Abou-Hussein v. Gates, 2010 U.S. App. LEXIS 12047 (D.C. Cir. June 11, 2010), cert. denied, 562 U.S. 1201 (2011)

Ace/Cleardefense, Inc. v. Clear Def., Inc., 47 F. App'x 582 (D.C. Cir. 2002), cert.

denied, 538 U.S. 925 (2003)

Adams v. District of Columbia, 618 F. App'x 1 (D.C. Cir. 2015), *cert. denied*, 2016 WL 1551181 (U.S. Apr. 18, 2016)

Air Line Pilots Ass'n, Int'l v. Nw. Airlines, Inc., 199 F.3d 477 (D.C. Cir. 1999), *cert. denied*, 531 U.S. 1011 (2000)

Al-Alwi v. Obama, 653 F.3d 11 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 2739 (2012)

Albert v. Starbucks Coffee Co., 213 F. App'x 1 (D.C. Cir. 2007), *cert. denied*, 551 U.S. 1118 (2007)

Alec L. ex rel. Loorz v. McCarthy, 561 F. App'x 7 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 774 (2014)

Alee Cellular Commc'ns v. FCC, 2000 U.S. App. LEXIS 7111 (D.C. Cir. Mar. 7, 2000), *cert. denied*, 534 U.S. 950 (2001)

Allied Local & Regional Mfrs. Caucus v. EPA, 215 F.3d 61 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 1018 (2001)

Am. Road & Transp. Builders Ass'n v. EPA, 588 F.3d 1109 (D.C. Cir. 2009), *cert. denied*, 562 U.S. 836 (2010)

Americans for Safe Access v. DEA, 706 F.3d 438 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 267 (2013)

Andrews v. Ashcroft, 123 F. App'x 408 (D.C. Cir. 2005), *cert. denied sub nom. Andrews v. Gonzales*, 547 U.S. 1043 (2006)

Andrx Pharm., Inc. v. Biovail Corp. Int'l, 256 F.3d 799 (D.C. Cir. 2001), *cert. denied*, 535 U.S. 931 (2002)

Animal Legal Defense Fund, Inc. v. Glickman, 154 F.3d 426 (D.C. Cir. 1998) (en banc), *cert. denied*, 526 U.S. 1064 (1999)

Asemani v. Gov't of Islamic Republic, 322 F. App'x 1 (D.C. Cir. 2009), *cert. dismissed*, 558 U.S. 803 (2009)

Ass'n of Civilian Technicians, Inc. v. Fed. Labor Relations Auth., 283 F.3d 339 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1045 (2002)

Associated Builders & Contractors, Inc. v. Shiu, 773 F.3d 257 (D.C. Cir. 2014), *cert. denied*, 2015 U.S. LEXIS 4004 (U.S. June 15, 2015)

Atraqchi v. Darui, 254 F.3d 315 (D.C. Cir. 2000), *cert. dismissed*, 532 U.S. 901 (2001)

Atraqchi v. Fred A. Smith Co., 2000 U.S. App. LEXIS 15494 (D.C. Cir. May 23, 2000), *cert. denied*, 531 U.S. 882 (2000)

Atraqchi v. Williams, 2000 U.S. App. LEXIS 29151 (D.C. Cir. Oct. 31, 2000), *cert. denied*, 531 U.S. 1121 (2001)

Baade v. Columbia Hosp. for Women, 1997 WL 404322 (D.C. Cir. June 13, 1997), *cert. denied*, 522 U.S. 1127 (1998)

Baker v. United States, 2005 U.S. App. LEXIS 13587 (D.C. Cir. July 6, 2005), *cert. denied*, 546 U.S. 1054 (2005)

Bamdad v. DEA, 617 F. App'x 7 (D.C. Cir. 2015), *cert. denied*, 2016 U.S. LEXIS 1939 (U.S. Mar. 21, 2016)

Banks v. Brown, 2010 U.S. App. LEXIS 4803 (D.C. Cir. Mar. 5, 2010), *cert. denied*, 562 U.S. 1260 (2011)

Barber v. Office of Info. & Privacy, 2004 U.S. App. LEXIS 3341 (D.C. Cir. Feb. 20, 2004), *cert. denied*, 543 U.S. 889 (2004)

Barbour v. Wash. Metro. Area Transit Auth., 374 F.3d 1161 (D.C. Cir. 2004), *cert. denied*, 544 U.S. 904 (2005)

Belize Social Development Ltd. v. Government of Belize, 668 F.3d 724 (D.C. Cir. 2012), *cert. denied*, 133 S. Ct. 274 (2012)

Bell-Boston v. Capital Hill Hyatt Regency, 324 F. App'x 5 (D.C. Cir. 2009), *cert. dismissed*, 129 S. Ct. 2866 (2009)

Bell-Boston v. Superior Court for the Dist. of Columbia, 321 F. App'x 6 (D.C. Cir. 2009), *cert. dismissed*, 556 U.S. 1279 (2009)

Bennett v. Stotler, 224 F. App'x 4 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 935 (2007)

Bestor v. Lieberman, 91 F. App'x 156 (D.C. Cir. 2004), *cert. denied*, 543 U.S. 818 (2004)

Blanca Telephone Co. v. FCC, 743 F.3d 860 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 230 (2014)

BNSF Ry. Co. v. Surface Transp. Bd., 604 F.3d 602 (D.C. Cir. 2010), *cert. denied*, 563 U.S. 987 (2011)

Boehner v. McDermott, 484 F.3d 573 (D.C. Cir. 2007) (en banc), *cert. denied*, 552 U.S. 1072 (2007)

Bonilla v. Wainwright, 2011 U.S. App. LEXIS 24543 (D.C. Cir. Dec. 8, 2011), *cert. denied*, 558 U.S. 975 (2012)

Bourdon v. Mabus, 2012 U.S. App. LEXIS 14329 (D.C. Cir. July 12, 2012), *cert. denied*, 133 S. Ct. 1503 (2013)

Brink v. Continental Ins. Co., 787 F.3d 1120 (D.C. Cir. 2015), *cert. denied*, 136 S. Ct. 824 (2016)

Briscoe v. Potter, 171 F. App'x 850 (D.C. Cir. 2005), *cert. denied*, 547 U.S. 1128 (2006)

Brockton Hosp. v. NLRB, 294 F.3d 100 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1105 (2003)

Broderick v. Reno, 2000 WL 1683482 (D.C. Cir. Oct. 27, 2000), *cert. denied sub nom. Broderick v. Ashcroft*, 533 U.S. 918 (2001)

Brookens v. Solis, 2009 U.S. App. LEXIS 26934 (D.C. Cir. Dec. 9, 2009), *cert. denied*, 562 U.S. 890 (2010)

Brown v. Chevy Chase Bank, 373 F. App'x 79 (D.C. Cir. 2010), *cert. denied*, 562 U.S. 804 (2010)

Brown v. Plaut, 131 F.3d 163 (D.C. Cir. 1997), *cert. denied*, 524 U.S. 939 (1998)

Bush v. NationsBank, 1999 U.S. App. LEXIS 34730 (D.C. Cir. Dec. 27, 1999), *cert. denied*, 530 U.S. 1218 (2000)

Butler v. FAA, 109 F. App'x 438 (D.C. Cir. 2004), *cert. denied*, 544 U.S. 1027 (2005)

Caldwell v. Kagan, 455 F. App'x 1 (D.C. Cir. 2011), *cert. denied*, 133 S. Ct. 279 (2012)

Campbell v. Nat'l Endowment for the Arts, 1999 WL 151428 (D.C. Cir. Feb. 2, 1999), *cert. denied*, 532 U.S. 971 (2001)

Cannings v. Librarian of Congress, 1999 U.S. App. LEXIS 3976 (D.C. Cir. Mar. 2, 1999), *cert. denied*, 527 U.S. 1038 (1999)

Carmona v. O'Neill, 2002 U.S. App. LEXIS 14844 (D.C. Cir. July 23, 2002), *cert. denied*, 537 U.S. 1193 (2003)

Carson v. Director, Office of Workers Compensation Programs, 1997 U.S. App. LEXIS 26408 (D.C. Cir. Aug. 26, 1997), *cert. denied*, 522 U.S. 1121 (1998)

Carter v. United States, 2003 WL 22889987 (D.C. Cir. Nov. 25, 2003), *cert. denied*, 542 U.S. 962 (2004)

Cason v. DC Dep't of Corr., 2009 WL 6407589 (D.C. Cir. Aug. 14, 2009), *cert. denied*, 560 U.S. 914 (2010)

Ceminchuk v. Cohen, 1997 U.S. App. LEXIS 26341 (D.C. Cir. Aug. 21, 1997), *cert. denied*, 523 U.S. 1099 (1998)

Ceminchuk v. Obama, 2009 U.S. App. LEXIS 26505 (D.C. Cir. Dec. 3, 2009), *cert. denied*, 562 U.S. 890 (2010)

Citizen Power, Inc. v. FERC, 38 F. App'x 18 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1046 (2002)

City of Bogue v. FCC, 2001 U.S. App. LEXIS 7562 (D.C. Cir. Mar. 15, 2001), *cert. denied*, 534 U.S. 1015 (2001)

Clark v. Sherrill, 358 F. App'x 199 (D.C. Cir. 2009), *cert. denied*, 561 U.S. 1033 (2010)

Coelho v. City of Angels Camp, 2002 U.S. App. LEXIS 12180 (D.C. Cir. June 18, 2002), *cert. denied*, 538 U.S. 960 (2003)

Cohen v. United States, 650 F.3d 717 (D.C. Cir. 2011) (en banc), *cert. denied*, 135 S. Ct. 946 (2015)

Conn. Dep't of Pub. Util. Control v. FERC, 569 F.3d 477 (D.C. Cir. 2009), *cert. denied*, 130 S. Ct. 1051 (2010)

Conn. Dep't of Pub. Util. Control v. FERC, 484 F.3d 558 (D.C. Cir. 2007), *cert. denied*, 558 U.S. 1110 (2010)

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Sawyer v. Powell, 2002 U.S. App. LEXIS 12241 (D.C. Cir. June 18, 2002), *cert. denied*, 537 U.S. 1206 (2003)

Schoenbohm v. FCC, 204 F.3d 243 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 968 (2000)

Scott v. Johanns, 409 F.3d 466 (D.C. Cir. 2005), *cert. denied*, 546 U.S. 1089 (2006)

SEC v. Bilzerian, 378 F.3d 1100 (D.C. Cir. 2004), *cert. denied*, 544 U.S. 1017 (2005)

Sedgwick v. United States, 109 F. App'x 436 (D.C. Cir. 2004), *cert. denied*, 544 U.S. 928 (2005)

Shipley v. Woolrich, Inc., 428 F. App'x 4 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 300 (2011)

Shove v. U.S. District Court Judges ex rel. Cal., 407 F. App'x 494 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 336 (2011)

Sibley v. Obama, 2012 U.S. App. LEXIS 25050 (D.C. Cir. Dec. 6, 2012), *cert. denied*, 133 S. Ct. 1263 (2013)

Sidles v. Suter, 1998 U.S. App. LEXIS 20681 (D.C. Cir. July 31, 1998), *cert. denied*, 526 U.S. 1055 (1999)

Siegel v. SEC, 592 F.3d 147 (D.C. Cir. 2010), *cert. denied*, 560 U.S. 926 (2010)

Singh v. George Wash. Univ., 667 F.3d 1 (D.C. Cir. 2011), *cert. denied*, 133 S. Ct. 172 (2012)

Skinner v. U.S. Dep't of Justice, 584 F.3d 1093 (D.C. Cir. 2009), *cert. denied*, 562 U.S. 973 (2010)

Slinger Drainage, Inc. v. EPA, 244 F.3d 968 (D.C. Cir. 2001), *cert. denied*, 534 U.S. 972 (2001)

Smith v. U.S. Clerk of Court, 280 F. App'x 1 (D.C. Cir. 2008), *cert. denied*, 555 U.S. 1037 (2008)

Sonds v. Huff, 2006 U.S. App. LEXIS 17553 (D.C. Cir. June 22, 2006), *cert. denied*, 549 U.S. 1134 (2007)

Soudavar v. Islamic Repub. of Iran, 66 F. App'x 207 (D.C. Cir. 2003), *cert. denied*, 540 U.S. 1109 (2004)

Soudavar v. Islamic Repub. of Iran, 67 F. App'x 618 (D.C. Cir. 2003), *cert. denied*, 540 U.S. 1109 (2004)

SpeechNow.org v. FEC, 599 F.3d 686 (D.C. Cir. 2010) (en banc), *cert. denied sub nom. Keating v. FEC*, 562 U.S. 1003 (2010)

Stanton v. D.C. Court of Appeals, 2012 U.S. App. LEXIS 14734 (D.C. Cir. July 18, 2012), *cert. denied*, 133 S. Ct. 1726 (2013)

Staton Holdings, Inc. v. FCC, 433 F. App'x 1 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 778 (2011)

Stubbs v. Carr, 2007 U.S. App. LEXIS 6648 (D.C. Cir. Mar. 16, 2007), *cert. denied*, 550 U.S. 975 (2007)

Suleiman v. Obama, 670 F.3d 1311 (D.C. Cir. 2012), *cert. denied*, 133 S. Ct. 353 (2012)

Sullivan v. SEC, 1998 U.S. App. LEXIS 12922 (D.C. Cir. May 27, 1998), *cert. denied*, 525 U.S. 1070 (1999)

T.E.G./L.V.I. Env'tl. Servs. v. NLRB, 2000 U.S. App. LEXIS 7104 (D.C. Cir. Mar. 10, 2000), *cert. denied*, 531 U.S. 943 (2000)

Taylor v. Reilly, 685 F.3d 1110 (D.C. Cir. 2012), *cert. denied*, 133 S.Ct. 998 (2010)

*Telecom*USA, Inc. v. United States*, 192 F.3d 1068 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1123 (2000)

TermoRio S.A. E.S.P. v. Electranta S.P., 487 F.3d 928 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1038 (2007)

Thomas v. Network Solutions, Inc., 176 F.3d 500 (D.C. Cir. 1999), *cert. denied*, 528 U.S. 1115 (2000)

Thomas v. Nicholson, 2009 U.S. App. LEXIS 18991 (D.C. Cir. Aug. 19, 2009), *cert. denied*, 559 U.S. 940 (2010)

Thomas v. Shinseki, 2009 U.S. App. LEXIS 10010 (D.C. Cir. May 7, 2009), *cert. denied*, 558 U.S. 1050 (2009)

Thompson v. District of Columbia, 2002 U.S. App. LEXIS 12529 (D.C. Cir. May 9, 2002), *cert. denied*, 537 U.S. 958 (2002)

Thompson v. U.S. Postal Serv., 254 F.3d 316 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 911 (2001)

Thurston v. United States, 2003 U.S. App. LEXIS 3501 (D.C. Cir. Feb. 25, 2003), *cert. denied*, 540 U.S. 922 (2003)

Thurston v. United States, 2006 U.S. App. LEXIS 14075 (D.C. Cir. June 2, 2006), *cert. denied*, 549 U.S. 929 (2006)

Trescott v. FHA, 2009 U.S. App. LEXIS 26933 (D.C. Cir. Dec. 9, 2009), *cert. denied*, 562 U.S. 832 (2010)

Trout v. Sec’y of Navy, 317 F.3d 286 (D.C. Cir. 2003), *cert. denied*, 540 U.S. 981 (2003)

Truesdale v. U.S. Dep’t of Justice, 2012 U.S. App. LEXIS 17125 (D.C. Cir. Aug. 15, 2012), *cert. dismissed*, 133 S. Ct. 2398 (2013)

TruServ Corp. v. NLRB, 254 F.3d 1105 (D.C. Cir. 2001), *cert. denied*, 534 U.S. 1130 (2002)

Turner v. Dep’t of Justice, 124 F.3d 1309 (D.C. Cir. 1997), *cert. denied*, 522 U.S. 1085 (1998)

Uberoi v. EEOC, 36 F. App'x 457 (D.C. Cir. 2002), *cert. denied*, 538 U.S. 947 (2003)

United States Air Tour Ass'n v. FAA, 298 F.3d 997 (D.C. Cir. 2002), *cert. denied*, 538 U.S. 977 (2003)

United States ex rel. New v. Rumsfeld, 448 F.3d 403 (D.C. Cir. 2006), *cert. denied*, 550 U.S. 903 (2007)

United States ex rel. Totten v. Bombardier Corp., 380 F.3d 488 (D.C. Cir. 2004), *cert. denied*, 544 U.S. 1032 (2005)

United States v. Accardi, 669 F.3d 340 (D.C. Cir. 2012), *cert. denied*, 133 S. Ct. 198 (2012)

United States v. Anderson, 545 F.3d 1072 (D.C. Cir. 2008), *cert. denied*, 556 U.S. 1263 (2009)

United States v. Arnold, 1997 U.S. App. LEXIS 19021 (D.C. Cir. June 17, 1997), *cert. denied*, 522 U.S. 1064 (1998)

United States v. Arrington, 309 F.3d 40 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1241 (2003)

United States v. Bailey, 1998 U.S. App. LEXIS 9760 (D.C. Cir. May 7, 1998), *cert. denied*, 525 U.S. 895 (1998)

United States v. Ballestas, 795 F.3d 138 (D.C. Cir. 2015), *cert. denied*, 136 S. Ct. 1229 (2016)

United States v. Baxter, 761 F.3d 17 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 1477 (2015)

United States v. Bentley, 489 F.3d 360 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1001 (2007)

United States v. Blackson, 709 F.3d 36 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 514 (2013)

United States v. Brodie, 524 F.3d 259 (D.C. Cir. 2008), *cert. denied*, 555 U.S. 1204 (2009)

United States v. Brown, 334 F.3d 1161 (D.C. Cir. 2003), *cert. denied*, 541 U.S. 954 (2004)

United States v. Burwell, 690 F.3d 500 (D.C. Cir. 2012) (en banc), *cert. denied*, 133 S. Ct. 1459 (2013)

United States v. Carter, 2007 U.S. App. LEXIS 6688 (D.C. Cir. Feb. 27, 2007), *cert. denied*, 550 U.S. 964 (2007)

United States v. Cassell, 530 F.3d 1009 (D.C. Cir. 2008), *cert. denied*, 555 U.S. 1155 (2009)

United States v. Christian, 187 F.3d 663 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1030 (2000)

United States v. Cook, 161 F. App'x 7 (D.C. Cir. 2005), *cert. denied*, 546 U.S. 913 (2005)

United States v. Cook, 594 F.3d 883 (D.C. Cir. 2010), *cert. denied*, 560 U.S. 947 (2010)

United States v. Crosland, 20 F. App'x 4 (D.C. Cir. 2001), *cert. denied*, 535 U.S. 990 (2002)

United States v. Cross, 766 F.3d 1 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 963 (2014)

United States v. Crowder, 141 F.3d 1202 (D.C. Cir. 1998) (en banc), *cert. denied*, 525 U.S. 1149 (1999)

United States v. Cunningham, 2006 U.S. App. LEXIS 10568 (D.C. Cir. Apr. 25, 2006), *cert. denied*, 549 U.S. 947 (2006)

United States v. Davis, 127 F.3d 68 (D.C. Cir. 1997), *cert. denied*, 525 U.S. 893 (1998)

United States v. Davis, 711 F.3d 174 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 545 (2013)

United States v. Day, 524 F.3d 1361 (D.C. Cir. 2008), *cert. denied*, 555 U.S. 887 (2008)

United States v. Dorcely, 454 F.3d 366 (D.C. Cir. 2006), *cert. denied*, 549 U.S. 1055 (2006)

United States v. Ellis, 161 F. App'x 17 (D.C. Cir. 2005), *cert. denied*, 546 U.S. 924 (2005)

United States v. Evans, 216 F.3d 80 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 971 (2000)

United States v. Fahnbulleh, 752 F.3d 470 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 1520 (2015)

United States v. Fonseca, 215 F. App'x 1 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 829 (2007)

United States v. Garcia, 244 F. App'x 376 (D.C. Cir. 2007), *cert. denied*, 553 U.S. 1007 (2008)

United States v. Gbemisola, 225 F.3d 753 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 1026 (2000)

United States v. Gilliam, 167 F.3d 628 (D.C. Cir. 1999), *cert. denied*, 528 U.S. 845 (1999)

United States v. Gurr, 471 F.3d 144 (D.C. Cir. 2006), *cert. denied*, 550 U.S. 919 (2007)

United States v. Haire, 2005 U.S. App. LEXIS 15158 (D.C. Cir. July 22, 2005), *cert. denied*, 546 U.S. 1131 (2006)

United States v. Harris, 491 F.3d 440 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1157 (2008)

United States v. Harrison, 2009 U.S. App. LEXIS 25617 (D.C. Cir. Nov. 13, 2009), *cert. denied*, 2010 U.S. LEXIS 2457 (U.S. Mar. 22, 2010)

United States v. Harrison, 204 F.3d 236 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 911 (2000)

United States v. Harrison, 356 F. App'x 423 (D.C. Cir. 2009), *cert. denied*, 559 U.S. 1022 (2010)

United States v. Hemphill, 2009 U.S. App. LEXIS 26613 (D.C. Cir. Dec. 3, 2009), *cert. denied*, 562 U.S. 902 (2010)

United States v. Hemphill, 514 F.3d 1350 (D.C. Cir. 2008), *cert. denied*, 555 U.S. 210 (2008)

United States v. Henry, 472 F.3d 910 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 888 (2007)

United States v. Holmes, 508 F.3d 1091 (D.C. Cir. 2007), *cert. denied*, 554 U.S. 927 (2008)

United States v. Iglesias Cruz, 172 F.3d 921 (D.C. Cir. 1998), *cert. denied*, 525 U.S. 1032 (1998)

United States v. Kosh, 184 F. App'x 4 (D.C. Cir. 2006), *cert. denied*, 549 U.S. 940 (2006)

United States v. Lampkin, 159 F.3d 607 (D.C. Cir. 1998), *cert. denied*, 526 U.S. 1140 (1999)

United States v. Lawson, 410 F.3d 735 (D.C. Cir. 2005), *cert. denied*, 546 U.S. 1055 (2005)

United States v. Leandre, 132 F.3d 796 (D.C. Cir. 1998), *cert. denied*, 523 U.S. 1131 (1998)

United States v. Lewis, 505 F. App'x 1 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 173 (2013)

United States v. Lombard, 424 F. App'x 5 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 534 (2011)

United States v. Mapp, 476 F.3d 1012 (D.C. Cir. 2007), *cert. denied*, 551 U.S. 1156 (2007)

United States v. Marquez, 2006 U.S. App. LEXIS 12545 (D.C. Cir. May 2, 2006), *cert. denied*, 549 U.S. 925 (2006)

United States v. Matthews, 753 F.3d 1321 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 736 (2014)

United States v. McCoy, 242 F.3d 399 (D.C. Cir. 2001) (en banc), *cert. denied*, 534 U.S. 872 (2001)

United States v. McDonald, 194 F.3d 175 (D.C. Cir. 1999), *cert. denied*, 528 U.S. 847 (1999)

United States v. McIver, 82 F. App'x 697 (D.C. Cir. 2003), *cert. denied*, 543 U.S. 854 (2004)

United States v. McLaughlin, 2008 U.S. App. LEXIS 11103 (D.C. Cir. May 21, 2008), *cert. denied*, 555 U.S. 1057 (2008)

United States v. Mejia, 448 F.3d 436 (D.C. Cir. 2006), *cert. denied*, 549 U.S. 1137 (2007)

United States v. Mejia, 597 F.3d 1329 (D.C. Cir. 2010), *cert. denied*, 562 U.S. 1037 (2010)

United States v. Norris, 2000 U.S. App. LEXIS 6976 (D.C. Cir. Mar. 7, 2000), *cert. denied*, 531 U.S. 849 (2000)

United States v. Ogunyale, 2006 U.S. App. LEXIS 5598 (D.C. Cir. Mar. 2, 2006), *cert. denied*, 549 U.S. 898 (2006)

United States v. Pindell, 336 F.3d 1049 (D.C. Cir. 2003), *cert. denied*, 540 U.S. 1200 (2004)

United States v. Powell, 483 F.3d 836 (D.C. Cir. 2007) (en banc), *cert. denied*, 552 U.S. 1043 (2007)

United States v. Samuel, 296 F.3d 1169 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1078 (2002)

United States v. Saro, 252 F.3d 449 (D.C. Cir. 2001), *cert. denied*, 534 U.S. 1149 (2002)

United States v. Simpson, 430 F.3d 1177 (D.C. Cir. 2005), *cert. denied*, 547 U.S. 1128 (2006)

United States v. Slough, 641 F.3d 544 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 2710 (2012)

United States v. Taylor, 497 F.3d 673 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1222 (2008)

United States v. TDC Mgmt. Corp., Inc., 288 F.3d 421 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1048 (2002)

United States v. Thompson, 234 F.3d 725 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 1000 (2001)

United States v. Valdez, 723 F.3d 206 (D.C. Cir. 2013), *cert. denied*, 134 S. Ct. 665 (2013)

United States v. Valencia-Rios, 2006 U.S. App. LEXIS 14053 (D.C. Cir. June 2, 2006), *cert. denied*, 549 U.S. 1158 (2007)

United States v. Walker, 545 F.3d 1081 (D.C. Cir. 2008), *cert denied*, 129 S. Ct. 2887 (2009)

United States v. Washington, 775 F.3d 405 (D.C. Cir. 2014), *cert. denied*, 2015 U.S. LEXIS 4047 (U.S. June 15, 2015)

United States v. Weathers, 186 F.3d 948 (D.C. Cir. 1999), *cert. denied*, 529 U.S. 1005 (2000)

United States v. Williams, 2000 U.S. App. LEXIS 26679 (D.C. Cir. Oct. 13, 2000), *cert. denied*, 531 U.S. 1178 (2001).

United States v. Williams, 212 F.3d 1305 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 1056 (2000)

United States v. Williams, 216 F.3d 1099 (D.C. Cir. 2000), *cert. denied*, 531 U.S. 970 (2000)

United States v. Williams, 38 F. App'x 26 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 852 (2002)

United States v. Williams, 773 F.3d 98 (D.C. Cir. 2014), *cert. denied*, 135 S. Ct. 2336 (2015)

United States v. Young, 428 F. App'x 9 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 1725 (2012)

Uthman v. Obama, 637 F.3d 400 (D.C. Cir. 2011), *cert. denied*, 132 S. Ct. 2739 (2012)

Vanguilder v. United States, 2005 U.S. App. LEXIS 3245 (D.C. Cir. Feb. 23, 2005), *cert. denied*, 545 U.S. 1115 (2005)

Venetian Casino Resort, LLC v. NLRB, 484 F.3d 601 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1296 (2008)

Viray v. Steuer, 1998 U.S. App. LEXIS 1988 (D.C. Cir. Jan. 27, 1998), *cert. denied*, 523 U.S. 1129 (1998)

Wagner v. FEC, 793 F.3d 1 (D.C. Cir. 2015) (en banc), *cert. denied sub nom. Miller v. FEC*, 136 S. Ct. 895 (2016)

Wardell v. United States, 186 F. App'x 4 (D.C. Cir. 2006), *cert. denied sub nom. Tyree v. United States*, 549 U.S. 1155 (2007)

Washington v. Wash. Metro. Area Transit Auth., 160 F.3d 750 (D.C. Cir. 1998), *cert. denied*, 527 U.S. 1038 (1999)

Waterview Mgmt. Co. v. FDIC, 1999 U.S. App. LEXIS 13342 (D.C. Cir. May 20, 1999), *cert. denied*, 529 U.S. 1003 (2000)

Watters v. Wash. Metro. Area Transit Auth., 295 F.3d 36 (D.C. Cir. 2002), *cert. denied*, 538 U.S. 922 (2003)

West v. Cabral, 373 F. App'x 79 (D.C. Cir. 2010), *cert. denied*, 562 U.S. 943 (2010)

Whitehead v. Tenet, 1997 U.S. App. LEXIS 26336 (D.C. Cir. Aug. 22, 1997), *cert. denied*, 522 U.S. 1129 (1998)

Wiesner v. Willkie, Farr & Gallagher, 1999 U.S. App. LEXIS 22367 (D.C. Cir. Aug. 4, 1999), *cert. denied*, 528 U.S. 1139 (2000)

Williams v. D.C. Dep't of Corrections, 2007 U.S. App. LEXIS 931 (D.C. Cir. Jan. 12, 2007), *cert. denied*, 550 U.S. 964 (2007)

Williamson v. Shalala, 1998 U.S. App. LEXIS 20708 (D.C. Cir. July 20, 1998), *cert. denied*, 525 U.S. 915 (1998)

Windstead v. District of Columbia, 2014 U.S. App. LEXIS 909 (D.C. Cir. Jan. 16, 2014), *cert. denied*, 134 S. Ct. 2680 (2014)

World Wide Minerals, Ltd. v. Republic of Kazakhstan, 296 F.3d 1154 (D.C. Cir. 2002), *cert. denied*, 537 U.S. 1187 (2003)

Wright v. Potomac Elec. Power Co., 163 F. App'x (D.C. Cir. 2005), *cert. denied*, 546 U.S. 1208 (2006)

Yamashita v. England, 2002 U.S. App. LEXIS 26824 (D.C. Cir. Dec. 23, 2002), *cert. denied*, 539 U.S. 904 (2003)

Young v. United States, 2000 U.S. App. LEXIS 4019 (D.C. Cir. Feb. 17, 2000), *cert. denied*, 529 U.S. 1078 (2000)

- 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.

None of the opinions I have authored has been reversed, either by the Supreme Court of the United States or by the District of Columbia Circuit sitting en banc.

I wrote the opinion for the court in *United States v. Thomas*, 361 F.3d 653 (D.C. Cir. 2004), *vacated and remanded*, 543 U.S. 1111 (2005) (vacating and remanding in light of *United States v. Booker*, 543 U.S. 220 (2005)). In *Thomas*, the court of appeals reviewed and largely affirmed three defendants' sentences under the then-mandatory provisions of the United States Sentencing Guidelines. After we issued our decision in *Thomas*, the Supreme Court ruled in *United States v. Booker*, 543 U.S. 220 (2005), that the mandatory application of the Guidelines violated the Sixth Amendment. The Supreme Court granted the petition for certiorari and vacated and remanded the case for further proceedings in light of *Booker*.

In addition, I was on the panel but not the author of the opinions in the following cases, in which the judgment of the District of Columbia Circuit was either reversed or vacated by the Supreme Court:

White Stallion Energy Center, LLC v. EPA, 748 F.3d 1222 (D.C. Cir. 2014), *rev'd sub nom. Michigan v. EPA*, 135 S. Ct. 2699 (2015). In denying challenges to the Environmental Protection Agency's final rule setting standards for regulation of hazardous air pollutants, the court of appeals concluded, among other things, that the Clean Air Act did not require EPA to consider costs in making the initial decision whether to regulate power plants, although the statute did require consideration of costs at other points in the process before a final regulatory program could be instituted. The Supreme Court reversed and remanded, holding that EPA was required to consider costs in making the initial decision whether to regulate.

Maine Pub. Utilities Comm'n v. FERC, 520 F.3d 464 (D.C. Cir. 2008), *rev'd in part sub nom. NRG Power Mktg., LLC v. Maine Pub. Utilities Comm'n*, 558 U.S. 165 (2010). The court of appeals held that the *Mobile-Sierra* presumption – under which the Federal Energy Regulatory Commission must presume that a rate set by a freely negotiated wholesale-energy contract is “just and reasonable” under the Federal Power Act – does not apply when non-contracting third parties bring a rate challenge. The Supreme Court reversed in part, holding that the presumption also applies to challenges by non-contracting parties.

Al Odah v. United States, 321 F.3d 1134 (D.C. Cir. 2003), *rev'd and remanded sub nom. Rasul v. Bush*, 542 U.S. 466 (2004). This case involved petitions for writs of habeas corpus filed by foreign nationals captured abroad during hostilities in Afghanistan and detained at Guantanamo Bay Naval Station. Relying on

Johnson v. Eisentrager, 339 U.S. 763 (1950), the court of appeals held that federal courts lacked jurisdiction to grant the detainees habeas relief. Based on its determination that a decision issued after *Eisentrager* had overruled that case's statutory predicate, the Supreme Court reversed, holding that federal courts had jurisdiction under 28 U.S.C. § 2241 to hear the petitioners' habeas corpus challenges.

Amfac Resorts, LLC v. United States Dep't of Interior, 282 F.3d 818 (D.C. Cir. 2002), *vacated in part sub nom. Nat'l Park Hospitality Ass'n v. Dep't of Interior*, 538 U.S. 803 (2003). The court of appeals rejected a challenge to regulations promulgated by the National Park Service governing concession contracts in the national parks. One part of the challenge involved a regulation determining that concession contracts were not covered by the Contract Disputes Act. The Supreme Court vacated the judgment insofar as it addressed the validity of that regulation, holding that the controversy regarding the Contract Disputes Act was not yet ripe for judicial resolution.

United States v. Miller, 395 F.3d 452 (D.C. Cir. 2005), *vacated and remanded*, 545 U.S. 1101 (2005); *United States v. Weeks*, 388 F.3d 913 (D.C. Cir. 2004), *vacated and remanded*, 544 U.S. 917 (2005); *United States v. Haire*, 371 F.3d 833 (D.C. Cir. 2004), *vacated and remanded*, 543 U.S. 1109 (2005). In these cases, the court of appeals reviewed and affirmed defendants' sentences under the then-mandatory provisions of the United States Sentencing Guidelines. The Supreme Court vacated and remanded the cases for further proceedings in light of *United States v. Booker*, 543 U.S. 220 (2005).

- 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.

On the District of Columbia Circuit, panels traditionally issue unpublished opinions per curiam, instead of under one judge's name. Based on a review conducted by the Clerk's Office and a search of Westlaw, of the approximately 2640 merits decisions (as defined by the Administrative Office of the U.S. Courts) in which I have participated, approximately 1550 are unpublished opinions (59%). Of the latter, 214 were decided after oral argument. These unpublished opinions are available on Westlaw or Lexis, or from the District of Columbia Circuit Clerk's Office.

- 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.

The following list includes opinions that I have written containing more than cursory discussions of constitutional issues.

Am. Bus. Ass'n v. Rogoff, 649 F.3d 734 (D.C. Cir. 2011)

Barbour v. Wash. Metro. Transit Auth., 374 F.3d 1161 (D.C. Cir. 2004)

Daniel v. Fulwood, 766 F.3d 57 (D.C. Cir. 2014)

Fund for Animals, Inc. v. Norton, 322 F.3d 728 (D.C. Cir. 2003)

Gorman v. Ameritrade Holding Corp., 293 F.3d 506 (D.C. Cir. 2002)

Horning v. SEC, 570 F.3d 337 (D.C. Cir. 2009)

Hunter-Boykin v. George Wash. Univ., 132 F.3d 77 (D.C. Cir. 1998)

Hutchins v. District of Columbia, 188 F.3d 531 (D.C. Cir. 1999) (en banc)
(Garland, J., et al., concurring in part and concurring in the result)

In re Sealed Case No. 96-3167, 153 F.3d 759 (D.C. Cir. 1998)

In re Sealed Case No. 99-3096 (Brady Obligations), 185 F.3d 887 (D.C. Cir. 1999)

In re Zambrano, 433 F.3d 886 (D.C. Cir. 2006)

Info. Handling Servs., Inc. v. Def. Automated Printing Servs., 338 F.3d 1024
(D.C. Cir. 2003)

Initiative & Referendum Inst. v. U.S. Postal Serv., 417 F.3d 1299 (D.C. Cir. 2005)

Intercollegiate Broad. Sys., Inc. v. Copyright Royalty Bd., 796 F.3d 111 (D.C. Cir. 2015)

Judicial Watch, Inc. v. U.S. Secret Service, 726 F.3d 208 (D.C. Cir. 2013)

LaRouche v. Fowler, 152 F.3d 974 (D.C. Cir. 1998)

Lee v. Dep't of Justice, 428 F.3d 299 (D.C. Cir. 2005) (Garland, J., dissenting
from denial of rehearing en banc)

Mpoy v. Rhee, 758 F.3d 285 (D.C. Cir. 2014)

Muldrow ex rel. Estate of Muldrow v. Re-Direct, Inc., 493 F.3d 160 (D.C. Cir. 2007)

Mwani v. bin Laden, 417 F.3d 1 (D.C. Cir. 2005)

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United States v. Hanson, 339 F.3d 983 (D.C. Cir. 2003)
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United States v. Mejia, 448 F.3d 436 (D.C. Cir. 2006)
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United States v. Pindell, 336 F.3d 1049 (D.C. Cir. 2003)
United States v. Riley, 376 F.3d 1160 (D.C. Cir. 2004)
United States v. Rubio, 677 F.3d 1257 (D.C. Cir. 2012)
United States v. Samuel, 296 F.3d 1169 (D.C. Cir. 2002)
United States v. Shabban, 612 F.3d 693 (D.C. Cir. 2010)
United States v. Simpson, 430 F.3d 1177 (D.C. Cir. 2005)
United States v. Swangin, 726 F.3d 205 (D.C. Cir. 2013)
United States v. Taylor, 339 F.3d 973 (D.C. Cir. 2003)
United States v. Turner, 119 F.3d 18 (D.C. Cir. 1997)
United States v. Weathers, 186 F.3d 948 (D.C. Cir. 1999)
United States v. Webb, 255 F.3d 890 (D.C. Cir. 2001)

United States v. Wesley, 293 F.3d 541 (D.C. Cir. 2002)

United States v. West, 458 F.3d 1 (D.C. Cir. 2006)

Wagner v. FEC, 793 F.3d 1 (D.C. Cir. 2015) (en banc)

Watters v. Wash. Metro. Area Transit Auth., 295 F.3d 36 (D.C. Cir. 2002)

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have never sat by designation on another federal court of appeals.

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

In the District of Columbia Circuit, judges are automatically recused from cases subject to clear recusal, such as where they hold stock in a party or have close relatives or friends who are parties or partners in law firms representing parties.

Litigants have filed motions to recuse me in the following cases. The motions were resolved by the panel as described below.

- No. 96-3083, *United States v. Bernard Sheldon Levi*: A pro se prisoner appealed the district court’s dismissal of his § 2255 petition (district court no.

92-cr-110). The appellant moved to compel the Bureau of Prisons to return certain legal papers to him. A panel of which I was a member (along with Judges Ginsburg and Rogers) denied the motion. On December 29, 1997, the appellant sought reconsideration of that ruling and moved to recuse the judges on the panel, alleging that our actions demonstrated bias and prejudice. We denied reconsideration and the motion to recuse because it was unwarranted, and a subsequent panel (Judges Williams, Sentelle, and Henderson) affirmed the district court.

- No. 97-7047, *ILAN GAT Engineers, LTD., A.G./S.A. v. Stanley Zelman Siegel*: The defendant appealed a default judgment entered against him in a lawsuit stemming from a breach of contract claim (district court no. 79-cv-2639). I recused myself and did not participate in the appeal because in private practice I had represented a party adverse to the appellant's attorney (in an unrelated case). A panel (Judges Ginsburg, Henderson, and Tatel) granted the appellee's motion to dismiss for lack of prosecution and awarded other relief. Subsequently, an order disposing of one of several post-judgment motions submitted by appellant's counsel erroneously listed me as a member of the panel. Appellant's counsel wrote a letter objecting to my participation. In response, the Clerk of the Court wrote a letter to appellant's counsel explaining that the Clerk's Office had erred; the Clerk issued an amending order that substituted the correct judge and noted that I had not participated in any stage of the case. On March 14, 2000, appellant's counsel moved for leave to file a motion seeking recusal of the panel and me because the court's orders had not expressly stated that I was recused, but only stated that I did not participate in the appeal. The panel denied the motion for leave to file as moot; its order again explained that the listing of my name on an order had been a mistake.
- No. 98-8023, *In re Ruchell Cinque Magee*: A pro se prisoner filed a mandamus petition seeking to compel the district court to allow him discovery in his challenge to the Anti-Terrorism and Effective Death Penalty Act (AEDPA) (district court no. 97-cv-2203). A panel (Chief Judge Edwards and Judges Sentelle and Rogers) directed the petitioner to comply with the Prison Litigation Reform Act (PLRA). On June 22, 1998, petitioner responded with a conditional consent to collection of fees and moved to disqualify all judges of the D.C. Circuit on the ground that they allegedly associated him with the 1970 death of a California judge. A subsequent panel (Chief Judge Edwards and Judges Ginsburg and Tatel) denied the motion to disqualify and dismissed the mandamus petition.
- No. 99-1382, *James L. Martin v. U.S. Tax Court*: A pro se litigant appealed Tax Court orders revoking his admission to practice and denying

reconsideration. On October 20, 1999, the appellant sought summary reversal and recusal of all active judges of the D.C. Circuit. A panel (Chief Judge Edwards and Judges Ginsburg and Sentelle) denied the motion to recuse because the appellant failed to demonstrate bias, and it summarily affirmed the Tax Court's orders.

- No. 99-5209, *Stephen H. Rosenberg v. Louis Freeh, et al.*: A pro se litigant appealed the district court's order granting the FBI's motion for summary judgment on his FOIA complaint (district court no. 97-cv-476). On July 15, 1999, the appellant moved to recuse all federal judges because they were "racially bigoted, corrupt, and/or vindictive." A panel (Chief Judge Edwards and Judges Sentelle and Henderson) denied the motion. A subsequent panel (Chief Judge Edwards and Judges Silberman and Tatel) later granted the government's motion for summary affirmance.
- No. 99-5297, *Robert Calvin Craig, Jr. v. DOJ, et al.*: A pro se prisoner appealed the district court's sua sponte dismissal of his *Bivens*/FTCA/FOIA complaint and the denial of his Rule 60(b) motion (district court no. 99-cv-1302). A panel of which I was a member (along with Chief Judge Edwards and Judge Sentelle) determined that the appeal from the dismissal order was untimely and affirmed the denial of the Rule 60(b) motion. We also denied a subsequent petition for rehearing. Thereafter, on April 19, 2000, appellant filed a motion to recall the mandate; a motion to recuse the members of the panel, which did not specify any reasons; and a petition for rehearing en banc. All were denied because they were unwarranted.
- No. 00-5247, *James L. Martin v. Dep't of Education, et al.*: A pro se plaintiff appealed the district court's refusal to reopen a ten-year-old case, one of many stemming from the refusal of various Bars to admit the appellant as an attorney (district court no. 90-cv-2492). The district court dismissed the complaint on res judicata grounds. On August 15, 2000, the appellant moved for recusal of all judges of the D.C. Circuit, and the parties subsequently cross-moved for summary disposition. A panel of which I was a member (along with Chief Judge Edwards and Judge Tatel) denied the motion to recuse because it was unwarranted and summarily affirmed the district court.
- No. 00-7148, *Scott Joseph Rafferty v. Nathan Associates, Inc.*: A pro se attorney appealed the district court's order confirming an arbitration award in favor of the defendant in a breach of contract action (district court no. 99-cv-585). On July 27, 2000, the appellant moved to recuse all judges of the D.C. Circuit. The motion to recuse was presented to a panel of which I was a member and which was composed of the only judges who were not already recused from considering the appeal (Judges Ginsburg, Tatel, and Garland).

The members of the panel recused themselves as well because of the recusal of the remainder of our colleagues, and the appeal was referred outside the Circuit. The intercircuit panel (Judges Stafford, Kiser, and Keenan) dismissed the appeal for lack of jurisdiction.

- No. 01-5414, *Charles Russell Twist v. John D. Ashcroft*: A pro se attorney appealed the district court's refusal to reopen his employment case challenging his dismissal from the Justice Department's Antitrust Division (district court no. 86-cv-3220). On September 26, 2002, the appellant moved to recuse the entire court due to Chief Judge Ginsburg's alleged role in the termination while serving as Assistant Attorney General. All but three members of the court recused ourselves because of the allegations against our judicial colleague, and a panel of the remaining three (Judges Sentelle, Randolph, and Silberman) affirmed the challenged orders.
- No. 04-5186, *Keith Russell Judd v. Harley Lappin*: A pro se prisoner appealed the district court's order denying various motions, including a request for a temporary restraining order concerning prison mail (district court no. 02-cv-2389). Because the appellant was subject to the filing restrictions of 28 U.S.C. § 1915(g), a panel (Chief Judge Ginsburg and Judges Henderson and Roberts) denied his motion to proceed on appeal in forma pauperis. The appellant renewed the motion, alleging imminent danger of serious bodily injury. That motion was denied by a different panel (Chief Judge Ginsburg and Judges Sentelle and Henderson). When the appellant failed to remit the filing fee, another panel, of which I was a member (along with Chief Judge Ginsburg and Judge Roberts), dismissed the appeal and subsequently denied a petition for panel rehearing. On August 18, 2005, Judd filed a motion to recuse Chief Judge Ginsburg, Judge Roberts, and me, which was dismissed by Clerk's order as moot.
- No. 04-5309, *Charles Russell Twist v. Alberto Gonzales*: A pro se attorney appealed the district court's denial of a motion to recuse and grant of summary judgment for the Justice Department in his FOIA/Privacy Act case (district court no. 01-cv-1163). On December 29, 2004, the appellant moved to recuse the entire court due to Chief Judge Ginsburg's alleged involvement in the events underlying the case (Twist's dismissal from the Antitrust Division). Several members of the court, including me, did recuse because of the allegations against our judicial colleague. A panel composed of judges who did not recuse (Judges Henderson, Randolph, and Brown) denied the recusal motion as to themselves and affirmed the district court.
- No. 04-5324, *Anthony P. Keyter v. George Bush*; No. 04-5365, *In re Anthony P. Keyter*; No. 04-5392, *In re Anthony P. Keyter*: A pro se litigant appealed

the district court's dismissal, on immunity grounds, of his complaint alleging that the President had disregarded his duties by failing to respond to crimes being committed by Washington State and federal officials (district court no. 03-cv-2496). A panel of which I was a member (along with Chief Judge Ginsburg and Judge Henderson) summarily affirmed the district court. The appellant also filed mandamus petitions seeking to compel the President to fulfill his duties, which another panel (Chief Judge Ginsburg and Judges Sentelle and Rogers) denied. The appellant petitioned for panel rehearing of the decision in No. 04-5324. On March 25, 28, and 30, 2005, he moved to disqualify the five judges who had acted on the appeal and mandamus petitions from considering the rehearing petition, alleging bias. The panel that reviewed the motion to recuse, of which I was a member (along with Chief Judge Ginsburg and Judge Henderson), denied the motion because it was unwarranted and denied rehearing.

- No. 04-5337, *Keith Russell Judd v. Harley Lappin*: A pro se prisoner appealed the district court's disposition of various motions and the dismissal of his challenge to a Bureau of Prisons policy (district court no. 02-cv-2389). Because the appellant was subject to the filing restrictions of 28 U.S.C. § 1915(g), his motion to proceed in forma pauperis on appeal was denied by a panel (Chief Judge Ginsburg and Judges Sentelle and Rogers). When the appellant did not remit the filing fee, another panel, of which I was a member (along with Chief Judge Ginsburg and Judge Roberts), dismissed the appeal on April 14, 2005. On August 18, 2005, the appellant filed a motion to recuse me and the other members of the latter panel, which was dismissed by Clerk's order as moot.
- No. 04-5432, *Keith Russell Judd v. Harley G. Lappin, et al.*: A pro se prisoner (see above) appealed the district court's denial of certain motions and the dismissal of his challenge to a Bureau of Prisons policy (district court no. 02-cv-2389). Because the appellant was subject to the filing restrictions of 28 U.S.C. § 1915(g), on April 14, 2005, a panel of which I was a member (along with Chief Judge Ginsburg and Judge Roberts) ordered him to pay the fee before the court could consider the appeal. On August 18, 2005, the appellant filed a motion to recuse us "for prejudice and conflict of interest," which a different panel (Judges Henderson, Randolph, and Brown) denied. The second panel also dismissed the appeal for failure to prosecute because Judd had failed to remit the fee. The appellant then petitioned for rehearing en banc. Chief Judge Ginsburg and I recused ourselves from further participation, and the petition for rehearing en banc was denied.
- No. 05-3188, *United States v. Melinda Monet*; No. 05-3189, *United States v. Melinda Monet*: A pretrial detainee, who was represented by counsel in

district court, filed pro se interlocutory appeals from a district court order that directed her not to file any more pleadings in her criminal case except through her court-appointed lawyer (district court no. 05-cr-0016). On October 31, 2005, the appellant moved to recuse all D.C. Circuit judges because they “might be . . . lunch buddies” with the district judge. A panel (Judges Randolph, Tatel, and Brown) denied the motion to recuse as to its members and granted the government’s motion to dismiss the appeal for lack of a final order. Monet sought rehearing en banc and again requested disqualification of the entire court, which was denied because it was unwarranted.

- No. 05-5183, *Keith R. Judd v. U.S. District Court for the Western District of Texas, et al.*: A pro se prisoner noted an appeal from an interlocutory order in his damages action against a Texas district court (district court no. 05-cv-780). The appellant’s motion for voluntary dismissal of the appeal was granted by Clerk’s order. The appellant subsequently sought reconsideration of that order, filed a petition for rehearing and rehearing en banc, and moved to proceed on appeal in forma pauperis. Those pleadings were dismissed as moot by Clerk’s order. On August 18, 2005, appellant filed a motion to recuse Chief Judge Ginsburg, Judge Roberts, and me. That motion was dismissed as moot by Clerk’s order. Judd then filed another motion to reconsider the Clerk’s order dismissing the appeal and moved to transfer the appeal to the Federal Circuit. On May 31, 2006, a panel of which I was a member (along with Chief Judge Ginsburg and Judge Brown) denied the motion to reconsider and dismissed as moot the motion to transfer.
- No. 05-5342, *Anthony Andrews v. William Suter, et al.*: A pro se prisoner appealed the district court’s dismissal of his *Bivens* action against two Supreme Court clerks (district court no. 05-cv-1173). On March 1, 2006, the appellant filed a motion to recuse three D.C. Circuit judges including me (along with Judges Henderson and Edwards) from this case and any future case he might file, based on the judges’ rulings in a prior case (No. 04-5261). A panel of which I was a member (along with Chief Judge Ginsburg and Judge Brown) denied the motion as to me because it was unwarranted, and the en banc court subsequently denied the motion as to any member of the court.
- No. 05-5420, *Ronald Mitchell v. BOP*: A pro se prisoner appealed the district court’s orders revoking his in forma pauperis status and dismissing his Privacy Act complaint (district court no. 05-cv-512). On August 4, 2008, after filing several motions, the appellant moved to disqualify the entire D.C. Circuit. He alleged that the court had conspired with the appellee to torture and murder him and should therefore be recused. A panel of which I was a member (along with Judge Ginsburg and Judge Rogers) denied the motion to recuse as to its members because there was no such conspiracy.

Subsequently, another panel denied appellant's motion to proceed in forma pauperis, and the appeal was dismissed by Clerk's order when Mitchell did not remit the filing fee.

- No. 05-5457, *Betty Ann Newby v. George W. Bush*: A pro se litigant appealed the district court's dismissal of her complaint seeking to enjoin the confirmation of John G. Roberts, Jr. as Chief Justice (district court no. 05-cv-1877). On January 30, 2006, the appellant moved to recuse all judges of the D.C. Circuit due to the judges' association with Chief Justice Roberts. A panel (Chief Judge Ginsburg and Judges Randolph and Tatel) denied the motion to recuse as to its members. On April 3, 2006, the appellant filed a renewed motion to recuse. A panel of which I was a member (along with Chief Judge Ginsburg and Judge Rogers) denied the renewed motion because it was unwarranted and dismissed the appeal as moot because Chief Justice Roberts had already been confirmed. The en banc court declined to review the panels' decisions on recusal and denied the motion to recuse the en banc court.
- No. 07-5025, *Betty Newby v. George Bush, et al.*; No. 07-5412, *Betty Newby v. George Bush, et al.*: A pro se litigant appealed two interlocutory orders issued by the district court and the final judgment that dismissed her action to enjoin the confirmation proceedings of Samuel Alito as Associate Justice and Michael Hayden as CIA Director (district court no. 06-cv-160). The appellant filed several motions that were submitted to different panels of D.C. Circuit judges and, on November 29, 2007, moved to disqualify all judges of the Circuit. The motion to recuse was denied as to two panels of which I was a member (along with Judges Randolph and Tatel on one panel and Judges Tatel and Brown on the other) because it was unwarranted. A panel of which I was a member (along with Judges Tatel and Brown) dismissed the interlocutory appeal because the district court's denial of preliminary relief merged into the final judgment, and dismissed the appeal from the final judgment as moot because the confirmation proceedings had concluded.
- No. 07-5366, *R. Wayne Johnson v. U.S. Dep't of Veterans Affairs*: A pro se prisoner appealed the district court's dismissal of his complaint (district court no. 07-cv-00818) against the Board of Veterans Appeals. On March 31, 2008, the appellant filed a motion to recuse the entire court. On December 8, 2008, the appeal was dismissed by Clerk's order for failure to prosecute.
- No. 07-7041, *Eddie L. Andrews, et al. v. William F. Downes, et al.*: Pro se litigants appealed a district judge's order denying their motion to recuse and dismissing their complaint under Fed. R. Civ. P. 8 and 41 (district court no. 06-cv-1900). On April 30, 2007, appellants moved to recuse the entire D.C.

Circuit, alleging that all the judges were incompetent and dishonest and had aided and abetted felony extortion. A panel (Judges Sentelle, Henderson, and Tatel) denied the motion to recuse as to its members and affirmed the district court.

- No. 08-5069, *Gerald L. Rogers v. Mary L. Schapiro, et al.*: A pro se prisoner appealed the district court's dismissal of his claims against the Chairs of the SEC, the CFTC, and the U.S. Parole Commission, stemming from his prosecutions, convictions, and incarceration for mail and securities fraud, various administrative enforcement proceedings, and the revocation of his parole (district court no. 07-cv-687). Following the issuance of several orders by D.C. Circuit panels, Rogers moved to recuse five members of the Circuit (Chief Judge Sentelle and Judges Ginsburg, Henderson, Griffith, and Kavanaugh). A panel of which I was a member (along with Judges Ginsburg and Kavanaugh) denied the motion to recuse as to its two members who were the subject of the motion to recuse and revoked Rogers' in forma pauperis status. A subsequent panel of which I was a member (along with Judges Griffith and Kavanaugh) affirmed the district court. On December 28, 2009, Rogers sought rehearing of the dispositive order and alternatively moved to disqualify the members of the panel that had issued that order, alleging, inter alia, that we had engaged in a seditious conspiracy to deprive him of his due process rights and had denied him the constitutional rights accorded to terrorists. We denied the petition for rehearing and the motion to disqualify because it was unwarranted.
- No. 08-5469, *Betty Newby v. George Bush, et al.*: A pro se litigant appealed the district court's order granting her motion to voluntarily dismiss her complaint against numerous federal and private defendants (district court no. 08-cv-983). In her brief on appeal filed January 8, 2009, the appellant moved to disqualify all judges of the D.C. Circuit, arguing that Judge Ginsburg and Judge Randolph were involved with previous Republican administrations, that Judge Tatel and I were close friends of Chief Justice Roberts, that all members of the court had professional and personal friendships with the Chief Justice, and that the judges were biased against her as evidenced by their rulings in her prior cases. A panel (Judges Tatel, Brown, and Griffith) denied the motion to recuse as to its members and affirmed the district court's order.
- No. 08-5523, *In re Henry T. Sanders*: A pro se litigant filed a mandamus petition to, inter alia, overturn a filing injunction that the district court had entered against him (district court no. 87-mc-121). The petitioner requested initial hearing en banc, which was denied. A panel (Chief Judge Sentelle and Judges Ginsburg and Rogers) subsequently denied the mandamus petition. On March 13, 2009, the petitioner sought rehearing and rehearing en banc and

sought disqualification of the en banc court, contending the court had wrongly decided several of his earlier cases. The court denied the petition for review and the motion for disqualification because it was unwarranted.

- No. 08-7124, *Lisa F. Wallace, et al. v. Patricia W. Hastings, et al.*: Pro se litigants appealed the district court's order denying the removal of their case from the Oklahoma Supreme Court to the District Court for the District of Columbia and sanctioning one of them pursuant to Fed. R. Civ. P. 11 (district court no. 06-cv-1264). Following the disposition by the en banc court of a request for initial hearing en banc, and by separate panels of various matters submitted by the parties, a third panel (Judges Tatel, Griffith, and Kavanaugh) summarily affirmed the district court's order. On October 16, 2009, appellants sought rehearing en banc and recusal of all members of the en banc court. The court denied the rehearing petition and the motion for recusal because it was unwarranted.
- No. 09-5069, *Montgomery Blair Sibley v. Samuel Alito, Jr., et al.*: A pro se attorney appealed the district court's dismissal of his complaint against the Justices of the Supreme Court and a Court employee (district court no. 08-cv-1797). A panel of which I was a member (along with Judges Ginsburg and Kavanaugh) denied the appellant's motion to proceed in forma pauperis, concluding that the district court correctly certified that the appeal was not taken in good faith. On August 24, 2009, the appellant moved to recuse the members of the panel due to our ruling on his motion, and also moved for reconsideration. We denied both motions because they were unwarranted and summarily affirmed the district court's order.
- Nos. 09-5080/09-5161, *Gregory Hollister v. Barry Soetoro, et al.*: The appellant appealed the district court's order dismissing as frivolous his interpleader action requiring President Obama and Vice President Biden to provide proof of President Obama's constitutional eligibility to serve as president (district court no. 08-cv-2254). In a consolidated appeal, the appellant's attorney appealed the district court's order reprimanding the attorney for his conduct during the lawsuit. A panel of the court of which I was a member (along with Judges Henderson and Tatel) affirmed the district court in all respects. Both appellant and appellant's attorney sought rehearing and rehearing en banc. On May 31, 2010, they moved for recusal of the district court judge for bias and moved for recusal of the panel members for embracing the district court's bias or for the appearance of bias. The motion for recusal of the panel members was denied because it was unwarranted, and the petitions for rehearing were denied.

- No. 09-5262, *Barry Ceminchuk v. Barack Obama*: A pro se litigant appealed the district court’s order dismissing his complaint for lack of standing (district court no. 08-cv-1742). The government moved for summary affirmance, and on September 3, 2009, the appellant moved to disqualify “Democratic Party appointed judges,” contending they were corrupt and protected the interest of dishonest politicians. A panel of which I was a member (along with Chief Judge Sentelle and Judge Brown) denied the motion for disqualification as unwarranted and affirmed the district court.
- No. 11-5027, *In re Don Benny Anderson*: A federal parolee proceeding pro se filed a petition for writ of habeas corpus directly with the D.C. Circuit, challenging the jurisdiction of the United States to prosecute him under federal law and seeking termination of his supervision by the United States Parole Commission. A panel of the court (Chief Judge Sentelle and Judges Henderson and Tatel) concluded that the petition had to be filed in the district court in the first instance and dismissed it for lack of jurisdiction. The petitioner’s petitions for rehearing and rehearing en banc were denied. On November 7, 2011, the petitioner filed a motion to recuse for bias the “federal corporation judges” who had ruled on his petition for rehearing en banc. The en banc court of which I was a member denied the recusal motion because it was unwarranted.
- No. 12-5296, *William Bond v. Dep’t of Justice, et al.*: A pro se litigant appealed the district court’s dismissal of his complaint alleging civil rights violations by (inter alia) the Justice Department stemming from (inter alia) the Department’s alleged failure to investigate his claims of criminal conduct (district court no. 10-cv-1617). A panel of which I was a member (along with Judges Henderson and Tatel) granted the Department’s motion for summary affirmance. On March 26, 2013, the appellant sought panel rehearing on the merits, but also questioned whether the panel members had a conflict and should recuse because current or potential parties to the litigation included “powerful” individuals and because I was formerly a “high ranking DOJ official.” The panel denied rehearing and denied the recusal request because it was unwarranted.
- No. 12-5338, *In re Daniel Dydzak*: Proceeding pro se, a California resident petitioned for review of the district court’s decision to transfer to California his RICO suit against over 100 defendants, including the California attorney general and former governor, state judges and legislators, and state bar officials (district court no. 12-cv-1534). A panel of which I was a member (along with Judges Rogers and Griffith) dismissed the mandamus petition because the district court’s record had already been transferred to the Central District of California and the D.C. Circuit therefore lacked jurisdiction to

review the transfer. On February 7, 2013, appellant petitioned for panel rehearing and rehearing en banc, contending that I should have disqualified myself for conflict and bias due to my alleged association with lawyers at the firm of Arnold & Porter and Attorney General Holder. The petitions were denied. I did not participate in the disposition of either rehearing petition.

- No. 13-1038, *Isidoro Rodriguez v. Commissioner of IRS*: Pro se litigants appealed a U.S. Tax Court decision finding them liable for tax deficiencies and penalties. On March 21, 2013, the appellants sought disqualification of all judges of the D.C. Circuit and Fourth Circuit, as well as judges of other courts, contending that all of those courts had erroneously disbarred one of the appellants. A panel (Judges Rogers, Brown, and Kavanaugh) denied the recusal motion to the extent it sought recusal of the panel members, and the panel granted the Commissioner's motion to transfer the appeal to the Fourth Circuit on venue grounds. The appellants did not seek rehearing en banc.
- No. 13-7025, *Jacqueline Robinson-Reeder v. Christine Kearns*: A pro se litigant appealed the district court's order dismissing her complaint, which alleged that an attorney and numerous judges had interfered with her employment contract at the International Monetary Fund (district court no. 12-cv-1975). I was not one of the judges named in the complaint. On September 30, 2013, the appellant filed a "motion for self-recusal" by Judge Tatel and me based on our decisions in an appeal she had filed in an earlier case. Neither of us was assigned to the panel (Judges Henderson, Brown, and Srinivasan) that decided the merits of the appeal in No. 13-7025, which remanded the case for further proceedings. The appellant did not seek rehearing en banc.
- No. 13-8520, *In re Stephen Yelverton*: On April 3, 2015, in a D.C. Circuit attorney disciplinary proceeding predicated on the litigant's suspension by the D.C. Court of Appeals, the litigant moved to recuse all D.C. Circuit judges. The motion contended that D.C. Circuit judges were incapable of making independent evaluations of D.C. disciplinary matters because they always deferred to the D.C. Court of Appeals and the D.C. Bar. A panel (Judges Tatel, Brown, and Millett) denied the recusal motion to the extent that it sought recusal of the panel members and dismissed as moot an accompanying request for out-of-circuit assignment. A subsequent panel (Judges Henderson, Rogers, and Pillard) imposed a reciprocal 30-day suspension from the Bar of the D.C. Circuit. Appellant sought reconsideration of that order en banc, but did not renew his recusal request.
- No. 14-5180, *Kenneth Smith v. Antonin Scalia*: A pro se plaintiff sued the United States and 23 federal judges in a case stemming from the Colorado Supreme Court's denial of his application for admission to the Colorado Bar

(district court no. 13-cv-298). The complaint named, among others, Chief Justice Roberts; Justices Scalia and Thomas; and D.C. Circuit Judges Rogers, Brown, and Sentelle. The plaintiff appealed the district court's orders granting the defendants' motions to dismiss, imposing a filing injunction, and denying reconsideration. On September 2, 2014, the appellant moved to recuse the entire D.C. Circuit, arguing that judges cannot be impartial when their colleagues are parties. A panel (Judges Griffith, Kavanaugh, and Wilkins) denied the recusal motion as to the panel. The appellant's petition for en banc review did not seek recusal. The petition was denied; only the judges named in the complaint recused themselves.

- No. 14-5207, et al., *Larry Klayman v. Barack Obama*; No. 14-5212, *Rand Paul v. Barack Obama*: Seeking \$4 trillion in damages, pro se litigant David Christenson appealed the district court's orders denying his motions to intervene in these two lawsuits, which challenged the collection of telephone record metadata (district court nos. 14-cv-92 and 14-cv-262). On December 5, 2014, in both cases, Christenson moved to recuse all current and former federal judges. A panel (Judges Rogers, Srinivasan, and Pillard) denied the motions and dismissed as frivolous the appeals, in which Christenson had (inter alia) listed government officials who should be assassinated. Christenson sought en banc rehearing, alleging, inter alia, that the Justice Department was trying to kill him and that the government had committed genocide by releasing biological weapons in New Orleans after Hurricane Katrina. The en banc petition did not seek recusals, and it was denied.
- No. 15-7045, et al., *United States of America ex rel. Stephen Yelverton & Stephen Yelverton v. Federal Insurance Company*: A pro se attorney appealed the district court's orders striking his bankruptcy appeals for failure to comply with a filing injunction (district court no. 15-cv-277). On June 15, 2015, the appellant moved to designate a panel of judges from another circuit to hear his appeal. He maintained that the case should be heard outside the circuit in light of alleged ethical misconduct involving a Justice Department component, the U.S. Trustee Program, which is geographically located within the circuit. A panel (Judges Henderson, Rogers, and Pillard) denied the motion to the extent that it sought recusal of members of the panel. The case was argued on March 8, 2016 and is currently pending.

In addition to the automatic system and the recusal motions described above, D.C. Circuit judges look for less apparent conflicts in cases that are tentatively calendared for days on which they are scheduled to sit on either motions or merits panels. I have recused myself sua sponte not only from cases involving clear conflicts (such as cases the automatic recusal system may have missed), but also where I was concerned about appearance-of-conflict issues, even when not

technically required by Code of Conduct rules. These issues may not be sufficiently apparent to warrant recusal at the beginning of a case, and they may also dissipate before the end of a case. My sua sponte recusals fall into the categories set forth below:

Cases involving matters, issues, or individuals from my time at the Department of Justice or U.S. Attorney's Office:

Case Number	Case Name
96-3127	<i>United States v. Rezaq</i>
96-5317	<i>Clifford, et al. v. United States, et al.</i>
96-7003 & Cons. Cases	<i>Yager et al. v. Carey, et al.</i>
97-1114	<i>Pharaon v. Board of Governors of the Federal Reserve System</i>
97-1648 & Rel. Cases	<i>People's Mojahedin Organization of Iran v. U.S. Dep't of State, et al.</i>
97-3006 & Cons. Cases	<i>In re: Sealed Case</i>
97-5356 & Cons. Cases	<i>Public Citizen, Inc., et al. v. Carlin, et al.</i>
98-cv-0456	<i>U.S. House of Reps. v. U.S. Dep't of Commerce</i>
98-5355	<i>Judicial Watch, Inc. v. FEC</i>
97-3072	<i>United States v. Sun-Diamond Growers of California</i>
97-3122	<i>United States v. Jackson</i>
97-3128	<i>United States v. Haynes</i>
97-5097	<i>Kutler, et al. v. Carlin</i>
97-5183	<i>United States, et al. v. Thomson Corp., et al.</i>
97-7005 & Cons. Cases	<i>Paralyzed Veterans of America, et al. v. Ellerbe Becket Architects & Engineers, P.C., et al.</i>
98-3001	<i>United States v. Espy</i>
98-3023	<i>United States v. Shirosaki</i>
98-3031	<i>In re: Sealed Case</i>
98-3032	<i>In re: Sealed Case</i>
98-3036	<i>United States v. Blackley</i>
98-3054	<i>In re: Sealed Case</i>
98-3077 & Cons. Cases	<i>In re: Sealed Case</i>
98-3080	<i>United States v. Hubbell, et al.</i>
98-3094	<i>United States v. Cisneros</i>

98-3123 & Cons. Cases	<i>United States v. Schaffer</i>
98-3131	<i>United States v. Williams</i>
98-3140	<i>United States v. Jones</i>
98-3149	<i>In re: Sealed Case</i>
98-5402	<i>Trinsey v. United States Supreme Court</i>
98-5437	<i>National Ass'n of Criminal Defense Lawyers, Inc., et al. v. U.S. Dep't of Justice</i>
98-5516 & Cons. Cases	<i>Diamond Game Enterprises, Inc. v. Reno, et al.</i>
98-5521	<i>Muka v. The Rutherford Institute, et al.</i>
98-5535	<i>Accuracy in Media v. National Park Service</i>
99-1438 & Cons. Cases	<i>National Council of Resistance of Iran, et al. v. Dep't of State, et al.</i>
99-1442 & Cons. Cases	<i>U.S. Telecom Ass'n v. FCC & United States</i>
99-3009	<i>In re: Grand Jury (Lewinsky)</i>
99-3024	<i>In re: Sealed Case</i>
99-3085	<i>United States v. Five M Farming Enterprises, et al.</i>
99-3090	<i>United States v. Harris</i>
99-3091 & Cons. Cases	<i>In re: Sealed Case</i>
99-3125	<i>In re: Sealed Case</i>
99-3135	<i>United States v. Cisneros</i>
99-3146	<i>In re: United States</i>
99-3149	<i>United States v. Yong Ho Ahn</i>
99-3151	<i>United States v. Sun Growers of California</i>
99-3153	<i>United States v. Schaffer</i>
99-5054	<i>Judicial Watch, Inc. v. Dep't of Commerce</i>
99-5190	<i>Cooperativa MultiActiva De Empleados De Distribuidores De Drogas "Coopservir Ltda.," et al. v. Newcomb, Director, Office of Foreign Assets Control</i>
99-5197 & Cons. Cases	<i>Moore v. United States</i>
99-5217	<i>Jacobs v. Schiffer, Ass't AG, U.S. Dep't of Justice</i>
99-5218	<i>Rockwell International Corp. v. Dep't of Justice</i>
99-5307	<i>Harbury v. Deutch, Director, CIA, et al.</i>
99-5433	<i>Knowlton v. Alouri, et al.</i>
00-3006	<i>United States v. Rashed</i>
00-3020	<i>United States v. Palmer</i>

00-3064	<i>United States v. Weaver</i>
00-3080	<i>United States v. Davis</i>
00-3081	<i>In re: Sealed Case</i>
00-3087	<i>United States v. Johnson</i>
00-3096	<i>United States v. Spinner</i>
00-3112 & Cons. Cases	<i>United States v. Schaffer</i>
00-5016	<i>McBryde v. Committee to Review Circuit Council Conduct and Disability Orders of the Judicial Conference of the United States, et al.</i>
00-5187	<i>Judicial Watch, Inc. v. Deutsche Bank, A.G., et al.</i>
00-5352	<i>In re: Tripp</i>
00-5354	<i>Tripp v. Executive Office of the President, et al.</i>
00-5386	<i>U.S. Telecom Ass'n v. FBI, et al.</i>
01-3011	<i>United States v. Gale</i>
01-3013	<i>United States v. Hsia</i>
01-3076	<i>In re: Edmond</i>
01-3097	<i>United States v. Hylton</i>
01-3103 & Cons. Cases	<i>United States v. Pollard</i>
01-5022	<i>Matin v. Clinton, et al.</i>
01-5142	<i>Hall v. Clinton, et al.</i>
02-3082	<i>United States v. Toms</i>
02-3108	<i>In re: Harris</i>
02-5026	<i>Ortloff v. U.S. Dep't of Justice, et al.</i>
02-5066	<i>Accuracy in Media, Inc. v. Office of the Independent Counsel, In re: Madison Guaranty Savings & Loan Ass'n</i>
02-5170	<i>Ortloff v. U.S. Dep't of Justice, et al.</i>
03-3111	<i>United States v. Diggs</i>
03-5019	<i>United States v. Judicial Watch, Inc.</i>
03-5144	<i>In re: Moore</i>
03-5221	<i>Johnson v. Williams, et al.</i>
03-5241	<i>Moore v. Hartman, et al.</i>
04-3165	<i>United States v. Smith</i>
04-5014	<i>Muckle v. Gonzales, Attorney General of the United States</i>
04-5313	<i>In re: Sealed Case</i>
05-3034	<i>United States v. Alberto-Genao</i>

05-3074	<i>In re: Monet</i>
05-5366	<i>Judicial Watch, Inc. v. U.S. Department of Commerce</i>
06-3037	<i>In re: Harris</i>
07-1456	<i>O'Connor v. Comm'r Internal Revenue Service</i>
08-5370 & Cons. Cases	<i>Moore v. Hartman, et al.</i>
10-5140 & Cons. Cases	<i>Alexander v. FBI</i>
10-5334	<i>Moore v. Hartman</i>
11-5296	<i>Negley v. FBI</i>
12-3034 & Cons. Cases	<i>United States v. Wyche</i>

Cases involving matters, issues, or individuals from my time in private practice:

Case Number	Case Name
97-1116	<i>Lutheran Church-Missouri Synod v. FCC & United States</i>
97-5257	<i>Berry v. Funk, et al.</i>
97-5287	<i>Lepelletier, Jr. v. FDIC, et al.</i>
98-7006	<i>Geier, et al. v. America Honda Motor Co., et al.</i>
98-8519	<i>In re: Bowser</i>
99-8508	<i>In re: Pullings</i>
00-1094 & Cons. Cases	<i>MD/DC/DE Broadcasters Ass'n, et al. v. FCC & United States</i>
00-5128	<i>Center for Auto Safety v. NHTSA</i>
02-5052 & Cons. Cases	<i>Pigford, et al. v. Veneman, Secretary of Dep't of Agriculture</i>
02-5210	<i>United States v. Philip Morris, Inc; British American Tobacco (Investments) Ltd.</i>
02-8505	<i>In re: Arneja</i>
03-1304	<i>Public Citizen, Inc., et al. v. NHTSA, et al.</i>
03-5079 & Cons. Cases	<i>Pigford, et al. v. Veneman, Secretary, U.S. Dep't of Agriculture</i>
04-5171 & Cons. Cases	<i>Pigford, et al. v. Johanns, Secretary, U.S. Dep't of Agriculture</i>
04-5209 & Cons. Cases	<i>Pigford, et al. v. Veneman, Secretary, U.S. Dep't of Agriculture</i>
04-5315 & Cons. Cases	<i>Fields v. Office of Eddie Bernice Johnson, Employing Office, U.S. Congress</i>

04-5351	<i>Stewart, et al. v. Holder</i>
04-5352	<i>Shays, et al. v. FEC</i>
05-5017	<i>Gonzalez-Vera, et al. v. Kissinger, et al.</i>
07-7138	<i>Richardson v. District of Columbia, et al.</i>

Cases potentially affecting my financial holdings:

Case Number	Case Name
94-1683 & Cons. Cases	<i>American Petroleum Institute v. EPA</i>
97-1020	<i>Ass'n of American Railroads v. STB & United States</i>
97-1528	<i>In re: Radio-Television News Directors Ass'n, et al.</i>
98-1039	<i>Riggs National Corp. v. Comm'r of Internal Revenue Service</i>
98-1245 & Cons. Cases	<i>Washington Water Power Co. v. FERC</i>
98-1409	<i>Panhandle Eastern Pipe Line Co. v. FERC</i>
98-1561	<i>American Petroleum Institute v. EPA</i>
98-1583	<i>ASA Investering Partnership v. Comm'r of the IRS</i>
99-1329	<i>Henderson v. EPA, et al.</i>
99-1452 & Cons. Cases	<i>National Wildlife Federation, et al. v. EPA, et al.</i>
99-1502	<i>In re: Bluewater Network, et al.</i>
99-3136	<i>United States v. Adoesun</i>
99-5048	<i>Warner-Lambert Co. v. Shalala, HHS, et al.</i>
00-1069	<i>American Petroleum Institute v. EPA</i>
00-1084	<i>Sierra Club v. EPA</i>
00-1165	<i>Paducah & Louisville Railway, Inc. v. STB & United States</i>
00-1246 & Cons. Cases	<i>National Public Radio, Inc., et al. v. FCC & United States</i>
00-1258	<i>National Wildlife Federation, et al. v. EPA, et al.</i>
00-1262	<i>Sierra Club, et al. v. EPA, et al.</i>
00-1462	<i>Golub v. Comm'r of IRS</i>
00-5404 & Cons. Cases	<i>Independent Petroleum Ass'n of America v. DeWitt, Acting Ass't Secretary for Land & Minerals, et al.</i>
01-1020	<i>Reliant Energy Gas Transmissions Co. v. FERC</i>
01-1121	<i>Riggs Nat'l Corp. v. Comm'r of Internal Revenue Service</i>
01-1144	<i>Public Service Electric & Gas Co. v. FERC</i>

01-1149 & Cons. Cases	<i>Motion Picture Ass'n of America, Inc., et al. v. FCC & United States</i>
01-1213	<i>Ass'n of American Railroads v. STB & United States</i>
01-1216	<i>American Chemistry Council v. EPA</i>
01-1296	<i>American Forest and Paper Ass'n, Inc. v. EPA</i>
01-1345	<i>Consolidated Edison Co. of New York, Inc., et al. v. FERC</i>
01-1461	<i>Z-Tel Communications, Inc. v. FCC</i>
01-5029	<i>Pharmaceutical Research and Manufacturers of America v. Thompson, et al.</i>
01-5107	<i>Consolidated Edison Co. of New York, Inc., et al. v. Ashcroft, Attorney General, et al.</i>
02-1014 & Cons. Cases	<i>Newfield Exploration Co. v. FERC</i>
02-1089 & Cons. Cases	<i>Crete Carrier Corp., et al. v. EPA, et al.</i>
02-1135 & Cons. Cases	<i>Sierra Club v. EPA, et al.</i>
02-1152	<i>AT&T Corp. v. FCC</i>
02-1282	<i>Mossville Environmental Action Now, et al. v. EPA, et al.</i>
02-1374 & Cons. Cases	<i>Southern California Edison Co., et al. v. FERC</i>
02-5110	<i>Pharmaceutical Research and Manufacturers of America v. Thompson, HHS, et al.</i>
03-1032	<i>Blumenthal v. FERC</i>
03-1035	<i>AT&T Corp. v. FCC & United States</i>
03-1042	<i>AT&T Wireless Services, Inc., et al. v. FCC</i>
03-1133 & Cons. Cases	<i>PanAmSat Corp. v. FCC</i>
03-1191	<i>Cellco Partnership d/b/a Verizon Wireless v. FCC & United States</i>
03-1408	<i>Z-Tel Communications, Inc. v. FCC</i>
03-5098	<i>National Ass'n of Chain Drug Stores, et al. v. Thompson, Secretary HHS, et al.</i>
03-5117 & Cons. Cases	<i>Pharmaceutical Research and Manufacturers of America v. Thompson, Secretary HHS, et al.</i>
03-5345 & Cons. Cases	<i>Spirit of Sage Council, et al. v. Norton, Secretary, Dep't of the Interior, et al.</i>
04-1200 & Cons. Cases	<i>South Coast Air Quality Management District v. EPA</i>

04-1300	<i>Chamber of Commerce of the United States v. SEC</i>
04-5079	<i>Ranbaxy Laboratories Limited, et al. v. FDA, et al.</i>
05-7007	<i>Pharmaceutical Care Management Ass'n v. District of Columbia, et al.</i>
05-7134	<i>Galvin v. Eli Lilly & Co.</i>
06-1023	<i>Nat'l Ass'n of Clean Air Agencies v. EPA</i>
06-1034	<i>PNC Financial Services Group, Inc. d/b/a Riggs Nat'l Bank v. Comm'r, Internal Revenue Service</i>
06-1148 & Cons. Cases	<i>State of New York, et al. v. EPA</i>
06-1369	<i>Free Press v. FCC</i>
07-1040	<i>Natural Resources Defense Council v. EPA, et al.</i>
07-1425 & Cons. Cases	<i>Cablevision Systems Corp. v. FCC & United States</i>
08-1030 & Cons. Cases	<i>South Coast Air Quality Management District v. EPA, et al.</i>
09-7063	<i>Mead v. City First Bank of DC, N.A.</i>
10-1380	<i>Grocery Manufacturers Assoc. v. EPA</i>
10-5022	<i>The Coalition For Common Sense v. United States</i>
11-7088	<i>Sherrod v. Breitbart</i>
12-1225	<i>Nat'l Ass'n of Broadcasters v. FCC</i>
12-7017	<i>3M Company v. Boulter</i>

Cases in which I recused based on a relationship or contact with an attorney, party, potential party, or witness in the proceedings:

Case Number	Case Name
96-7228 & Cons. Cases	<i>Smith v. Sheraton Washington Hotel, Inc., et al.</i>
97-7047	<i>ILAN GAT Engineers, LTD., A.G./S.A. v. Siegel</i>
99-7230	<i>Drysdale Design Associates v. Frist, et al.</i>
00-1328 & Cons. Cases	<i>Saba Partnership, et al. v. Comm'r of IRS</i>
02-5325	<i>Albrecht, et al. v. Committee on Employee Benefits of the Federal Reserve Employee Benefits System, et al.</i>
02-5407	<i>Ass'n of American Physicians and Surgeons, Inc., et al. v. FDA, et al.</i>
03-5134	<i>Jackson v. U.S. Dep't of Justice, et al.</i>
03-7162	<i>Pro Football, Inc. v. Harjo, et al.</i>
03-7193	<i>Pilates, Inc. v. Green, et al.</i>

04-3112 & Cons. Cases	<i>In re: Grand Jury Subpoena, Matthew Cooper</i>
04-3138 & Cons. Cases	<i>In re: Grand Jury Subpoena, Judith Miller</i>
04-5003	<i>Merrill Lynch Mortgage Capital, Inc. v. FDIC, as Receiver for Superior Bank, FSB</i>
05-1404 & Cons. Cases	<i>American Council on Education v. FCC & United States</i>
05-5131	<i>CSX Transportation, Inc. v. Williams, et al.</i>
05-5375	<i>Bader v. Federal National Mortgage Ass'n, et al.</i>
07-1011	<i>In re: Raines</i>
07-1024	<i>In re: Spencer</i>
07-5119	<i>Richards v. Duke University, et al.</i>
07-5257	<i>Wilson v. Libby, et al.</i>
08-5014	<i>In re: Fannie Mae Securities Litigation</i>
08-5407 & Cons. Cases	<i>Anna Jaques Hospital, et al. v. Sebelius, Secretary, HHS</i>
08-5458	<i>Ass'n of American Physicians & Surgeons, Inc., et al. v. FDA, et al.</i>
08-7029 & Cons. Cases	<i>Pugh, et al. v. Socialist People's Libyan Arab Jamahiriya, et al.</i>
10-5232	<i>El-Mashad v. Obama</i>
10-7053 & 10-7054	<i>Sturdza v. United Arab Emirates</i>
14-5293	<i>In re: Jordan</i>
14-7038 & Cons. Cases	<i>Sturdza v. United Arab Emirates</i>

Cases in which a recent former law clerk or the fiancé of a recent former law clerk appeared as an attorney:

Case Number	Case Name
00-3129	<i>United States v. Smith</i>
08-7121	<i>In re: Sibley</i>
10-5357	<i>Voinche v. Obama</i>

Cases in which I or my judicial colleagues were defendants or subjects of allegations:

Case Number	Case Name
99-5314	<i>Veteto v. Wald</i>

00-7148 & Cons. Cases	<i>Rafferty v. Nathan Associates Inc., N.A.</i>
01-5414	<i>Twist v. Ashcroft</i>
02-5174	<i>Brown v. U.S. Atty's Office for the Dist. of Columbia</i>
02-7135	<i>Savage v. District of Columbia, et al.</i>
04-5309	<i>Twist v. Gonzales</i>
04-5432	<i>Judd v. Lappin</i>
06-7169	<i>Karim-Panahi v. Burgess Niple, Inc. et al.</i>
12-5056	<i>Malone v. Barry</i>
12-5340	<i>Klayman v. Kollar-Kotelly</i>
13-5258	<i>In re: Klayman</i>
15-7102	<i>Hao Liu v. Hopkins Cnty. Sulphur Spring</i>

The District of Columbia Circuit does not require judges to list their reasons for sua sponte recusals, which are left to each judge's discretion. As a consequence, and because the court's data systems often do not contain the reasons for recusals, I am unable to reconstruct with sufficient certainty the reasons for recusals in the following cases:

Case Number	Case Name
93-3026	<i>United States v. Veney</i>
94-7203	<i>Crawford-El v. Britton, et al.</i>
96-5177	<i>Tucker v. Branker, et al.</i>
96-5292	<i>Watson v. United States</i>
97-3135 & Cons. Cases	<i>United States v. Wade</i>
97-7201	<i>Carpenter v. Federal National Mortgage Ass'n</i>
98-7097	<i>Croixland Properties Limited Partnership v. Corcoran, et al.</i>
98-7193	<i>Lanier v. Federal National Mortgage Ass'n</i>
99-5313	<i>Southwest Center for Biological Diversity, et al. v. Babbitt, et al.</i>
00-3076	<i>In re: Sealed Case</i>
00-5164	<i>Daly v. U.S. Dep't of Justice</i>
00-5217	<i>Arbelaez, et al. v. Newcomb, Director of the Office of Foreign Assets Control, et al.</i>
00-5230	<i>Allen v. United States & Reno</i>
00-5233	<i>Board of Governors of the Federal Reserve System v. Interfinancial Services, Limited</i>

01-1228	<i>Sierra Club, et al. v. EPA, et al.</i>
01-1258	<i>Nuclear Energy Institute, Inc. v. EPA</i>
01-5104	<i>Lomont, et al. v. O'Neill, Secretary U.S. Dep't of the Treasury, et al.</i>
02-1387 & Cons. Cases	<i>State of New York, et al. v. EPA</i>
03-1122	<i>In re: American Rivers, et al.</i>
03-1128	<i>NLRB v. Laborers' International Union of North America</i>
03-1189	<i>In re: NRG Power Marketing, Inc.</i>
03-1361 & Cons. Cases	<i>Commonwealth of Massachusetts, et al. v. EPA</i>
03-5107	<i>In re: Browning, et al.</i>
03-5140	<i>Barr v. U.S. Dep't of Justice</i>
03-5302	<i>Wyoming Outdoor Council, et al. v. Dale Bosworth, Chief U.S. Forest Service, et al.</i>
03-7047	<i>Barr v. Clinton, et al.</i>
03-7154	<i>Manion v. American Airlines, Inc.</i>
04-5203	<i>In re: Medicare Reimbursement Litigation, Baystate Health Systems, et al. v. Leavitt, Secretary HHS</i>
04-5424 & 05-5066	<i>Miranda v. Gonzales</i>
04-7006	<i>Fox, et al. v. American Airlines, Inc.</i>
05-1097 & Cons. Cases	<i>State of New Jersey, et al. v. EPA</i>
05-1356	<i>Dayton Power and Light Co. v. FERC</i>
05-1379	<i>Borset v. Librarian of Congress</i>
05-1382	<i>Canadian Ass'n of Petroleum Producers v. FERC</i>
05-5302	<i>Consolidated Edison Co. of New York, et al. v. Bodman, Secretary Dep't of Energy</i>
05-5401 & Cons. Cases	<i>Teva Pharmaceuticals, USA, Inc. v. FDA, et al.</i>
05-7009	<i>Kalodner v. Public Service Electric & Gas Co., et al.</i>
05-7038	<i>Wilcox v. Sisson, et al.</i>
05-7080	<i>United States ex rel. Taylor v. Gabelli, et al.</i>
05-7140	<i>Stewart, et al. v. National Education Association, et al.</i>
05-7184	<i>Chia v. Fidelity Investments a/k/a Fidelity Brokerage Services</i>
06-5101	<i>Consolidated Edison Co. of New York, et al. v. Bodman, Secretary of Dep't of Energy, et al.</i>
06-5105	<i>Apotex, Inc. v. FDA</i>

06-5154	<i>Ranbaxy Laboratories Limited, et al. v. Leavitt, Secretary HHS, et al.</i>
07-1015	<i>Washington Gas Light Co. v. FERC</i>
07-1336	<i>Public Service Gas & Electric Co, et al. v. FERC</i>
07-1426 & Cons. Cases	<i>Ad Hoc Telecommunications Users Committee v. FCC & United States</i>
07-5066	<i>O'Dell v. U.S. Federal Government, et al.</i>
08-7074	<i>Nader, et al. v. Democratic National Committee, et al.</i>
10-5330	<i>Williams & Connolly v. SEC</i>
11-1066 & Cons. Cases	<i>Nat'l Ass'n, Reg. Util Commiss v. Department of Energy</i>

15. Public Office, Political Activities and Affiliations:

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

I have never held or sought elected office. Other than judicial offices, I have held the following public offices:

Special Assistant to the Attorney General, United States Department of Justice, 1979-81, appointed by Attorney General Benjamin Civiletti.

Associate Independent Counsel, In re Nofziger (Wedtech), 1987-88, appointed by the United States Court of Appeals for the District of Columbia Circuit, Special Division for the Purpose of Appointing Independent Counsels.

Assistant United States Attorney, United States Attorney's Office for the District of Columbia, 1989-92, appointed by Attorney General Richard Thornburgh.

Deputy Assistant Attorney General, Criminal Division, United States Department of Justice, 1993-94, appointed by Attorney General Janet Reno.

Principal Associate Deputy Attorney General, United States Department of Justice, 1994-97, appointed by Attorney General Janet Reno.

- 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.

I was a volunteer for presidential candidates William J. Clinton in October 1992, Michael Dukakis in October 1988, and Walter Mondale in 1983-84. As a student, I worked parts of two summers in 1972 and 1974 for the campaign of Representative Abner Mikva in my congressional district.

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;

1978-79 Supreme Court of the United States
Law Clerk, Justice William J. Brennan, Jr.

1977-78 United States Court of Appeals for the Second Circuit
Law Clerk, Judge Henry J. Friendly

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

I have never 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.

1993-97 United States Department of Justice
Principal Associate Deputy Attorney General, 1994-97
Deputy Assistant Attorney General,
Criminal Division, 1993-94
950 Pennsylvania Avenue, NW
Washington, DC 20530

1992-93 Arnold & Porter
Partner
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001

1989-92 United States Attorney's Office for the

District of Columbia
Assistant United States Attorney
555 4th Street, NW
Washington, DC 20530

- 1981-89 Arnold & Porter
Partner, 1985-89
Associate, 1981-85
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
- 1987-88 In re Nofziger (Wedtech)
Associate Independent Counsel (part time)
(Then at) 1201 Pennsylvania Avenue, NW
Washington, DC 20530
- 1979-81 United States Department of Justice
Special Assistant to the Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530
- 1978 Arnold & Porter
Summer Associate
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
- 1977 Arnold & Porter
Summer Associate
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001

- 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 never 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.

After completing my clerkships, I served from 1979-81 as Special

Assistant to the Attorney General. In that position, I was the point of contact for the Civil and Antitrust Divisions, and had some miscellaneous responsibilities in other areas, including some criminal matters.

From 1981-85 I was an associate and from 1985-89 a partner at Arnold & Porter. I had a general litigation practice that included administrative, antitrust, civil, criminal, and appellate matters. During that period, I participated as a defense counsel (primarily arguing legal motions) in a 2-month criminal bid-rigging trial and as a trial counsel for the Maryland Deposit Insurance Fund in a 4.5-month civil trial against the officers and directors of a failed savings & loan. While at Arnold & Porter, I also served, from 1987-88, as a part-time associate independent counsel in the Nofziger investigation and trial. During my career in private practice, I participated in every phase of complex civil and criminal litigation, including initial complaints, discovery, depositions, motions, trial, and appeal.

In 1989, I left Arnold & Porter to become an Assistant United States Attorney in the District of Columbia, serving until the late summer of 1992. As an AUSA, I investigated and prosecuted narcotics trafficking, public corruption, and government fraud cases. During that period, I tried 12 jury cases. I also participated in the full range of other judicial proceedings, including preliminary examinations, detention hearings, arraignments, motions hearings, pleas, and sentencings. I also planned and approved investigations, search warrants, and undercover operations. Among the investigative matters in which I was involved were the investigation of the Bank of Credit and Commerce International (BCCI), which led to a guilty plea by the bank, and of Mayor Marion Barry, which led to the indictment of the Mayor. (The case was tried by two of my colleagues.)

I briefly returned to Arnold & Porter as a partner in 1992-93. My practice involved general litigation and counseling in the civil, criminal, and antitrust fields.

From 1993-94, I served as a Deputy Assistant Attorney General in the Criminal Division of the Department of Justice, where my responsibilities included supervision of the Division's Appellate and Fraud Sections. I also shared responsibility for the approval of Title III (wiretap) applications nationwide. In addition, I helped develop a structure for coordinating the work of Justice Department investigative agencies.

From 1994-97, I served as Principal Associate Deputy Attorney General.

In that position, my responsibilities spanned the work of the Department of Justice, including criminal, civil, antitrust, appellate, espionage, and national security matters. The majority of my work focused on criminal and law enforcement issues. This included supervision of some of the Department's most significant criminal investigations and prosecutions, including the Oklahoma City bombing and UNABOM cases. In the spring of 1995, I was the lead Justice Department prosecutor on site in Oklahoma City, responsible for nationwide prosecution efforts and the initial proceedings against Timothy McVeigh and Terry Nichols. After helping to put together the trial team, I returned to Washington, where I continued to supervise the case. Upon my return, I drafted the Department's critical incident response plan, worked on intra- and inter-agency plans for responding to terrorist attacks, and oversaw the United States Marshals Service's vulnerability assessment of federal facilities.

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

As an attorney for the Department of Justice, my client was the United States. As Principal Associate Deputy Attorney General, my areas of responsibility cut across the work of the Department. As noted above, the majority of my work focused on criminal and law enforcement matters, but it also included civil, antitrust, appellate, espionage, and national security matters. As Deputy Assistant Attorney General in the Criminal Division, my work was limited to criminal matters, including supervision of the Division's Appellate and Fraud sections. As an Assistant United States Attorney, I prosecuted narcotics trafficking, public corruption, and government fraud cases. As a Special Assistant to the Attorney General, my focus was on civil and antitrust matters.

As an attorney in private practice, my clients were corporations, individuals, and the State of Maryland. My areas of concentration included administrative, antitrust, civil, criminal, and appellate law. My practice primarily involved litigation, but also included counseling.

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

As a Department of Justice employee, the percentage of my practice that involved litigation and the frequency of my court appearances varied. From 1993-97, about 15% of my time involved supervision of matters in litigation. In April and May of 1995, I regularly appeared in federal district court in Oklahoma in

proceedings relating to the Oklahoma City bombing case. From the fall of 1993 through 1994, I appeared in court twice (once in the United States Court of Appeals for the District of Columbia Circuit and once in the United States District Court for the District of Columbia). As an Assistant United States Attorney for the District of Columbia from 1989-92, almost 100% of my work involved litigation, and I appeared in court very frequently, at times almost daily. As an Associate Independent Counsel from 1987-88, I appeared in court frequently. As Special Assistant to the Attorney General from 1979-81, I appeared once in the United States Court of Appeals for the Ninth Circuit.

As an associate and then partner at Arnold & Porter during 1981-89, about 75% of my practice involved litigation, and the frequency of my court appearances varied. I appeared frequently in 1983-84 and in 1987-88, and occasionally in other years.

- i. Indicate the percentage of your practice in:
 1. federal courts:
 2. state courts of record:
 3. other courts:
 4. administrative agencies:

Overall, approximately 90% of my practice was in federal court, except during 1989-92 when the appearances were 100% in federal court, and during 1987-88 when the appearances were approximately 80% in state court and 20% in federal court. A small percentage of my practice in the early years involved administrative proceedings.

- ii. Indicate the percentage of your practice in:
 1. civil proceedings:
 2. criminal proceedings:

As a prosecutor from 1989-92, 100% of my practice was criminal. The same was true during my service in the Criminal Division from 1993-94. During my time in the Office of the Deputy Attorney General, about 70% of my work involved criminal and law enforcement matters. At Arnold & Porter, less than 20% of my practice was criminal, and the balance was civil.

- 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 fifteen cases total, including one case as chief counsel for the United States; nine cases as sole counsel for the United States (including one case in which the defendant pleaded to the indictment mid-trial); three cases as associate counsel for the United States; one case as associate counsel for the State of Maryland Deposit Insurance Fund; and one case as associate counsel for Commonwealth Electric Co., where I was responsible for legal arguments.

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury: 0%

- 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.

While I was at Arnold & Porter, my practice did not focus on Supreme Court litigation, but I did participate in four matters before the Supreme Court. I have provided copies of all of the following:

- 1. Brief in Opposition to Petitions for Writs of Certiorari, and Brief of Respondents State Farm Mutual Automobile Insurance Company in *Motor Vehicle Mfrs. Ass'n of U.S. v. State Farm Mut. Auto. Ins.*, 463 U.S. 29 (1983).

The National Highway Traffic Safety Administration rescinded its regulation requiring automakers to install passive restraints (automatic seatbelts or airbags) in all automobiles by 1984. The question before the Court was whether the agency's rescission of its regulation was arbitrary and capricious. We argued, on behalf of respondent State Farm, that the agency's decision was arbitrary and capricious because it ignored existing effective restraints and inappropriately relied instead on automakers' assertions that they would install seatbelts that could be easily detached and hence would not increase safety. The Supreme Court held that the agency's action was arbitrary and capricious.

- 2. Reply to Motion to Dismiss on behalf of Wisconsin Elections Board in *Wisconsin Elections Board v. Republican Party of Wisconsin*, 469 U.S. 1081 (1984).

As of counsel for the appellant Elections Board, I was on a Reply to a motion to dismiss this case. The appellees had advised the Court that there was no longer a matter in controversy before the Court and suggested that the judgment below be vacated. The Reply advised the Court that the appellants did not oppose entry of

an order vacating the judgment and remanding with instructions to dismiss appellees' complaint. The Supreme Court issued that order.

3. Brief, and Motion and Response, for the Speaker of the House of Representatives and Chairman of the Committee on the Judiciary as Amici Curiae in *Nat'l Org. for Women v. Idaho*, 459 U.S. 809 (1982).

A district court had declared that Congress' extension of time for the ratification of the Equal Rights Amendment was null and void, and that any state could rescind its prior ratification of the amendment without regard to a possible decision by Congress. On behalf of the Speaker and Chairman, our brief argued that the Court should reverse the decision of the district court because the two issues upon which it had ruled presented non-justiciable political questions. Thereafter, the Court invited responses to the suggestion that the judgment of the district court be vacated on grounds of lack of ripeness, and we filed a motion on behalf of the Speaker and Chairman for leave to file as amici curiae in support of that suggestion. The Supreme Court ultimately vacated the decision of the district court and remanded for dismissal of the case as moot.

4. Petition for Writ of Certiorari on behalf of Betty G. Browning in *Browning v. Clerk, United States House of Representatives*, No. 86-547, *cert. denied*, 479 U.S. 996 (1986).

Betty Browning was the first African-American Official Reporter employed by the United States House of Representatives. When she was dismissed from her position, she filed suit under the Fifth Amendment, alleging that she had been dismissed because of racial animus. The District of Columbia Circuit held that the dismissal was shielded from judicial review by the Speech or Debate Clause because Browning's duties were directly related to the due functioning of the legislative process. We argued in the petition for certiorari that the D.C. Circuit's decision was inconsistent with that of other circuits, one of which had held that congressional personnel decisions were not immunized by the Clause and another of which had held that only personnel decisions involving employees with meaningful input into the legislative process were immunized. We also argued that the Circuit's decision failed to strike a balance between the Speech or Debate Clause and the Fifth Amendment. The Supreme Court denied the petition. Twenty years later, in *Fields v. Office of Eddie Bernice Johnson*, 459 F.3d 1 (D.C. Cir. 2006) (en banc), a case in which I did not participate, the D.C. Circuit rejected the test it had employed in *Browning*.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of

the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *United States v. Kaczynski*, No. MCR 96-6-H-CCL (D. Mont. 1996); No. CR S-96-259 (E.D. Cal. 1997). I was the supervising attorney for the prosecution of Theodore Kaczynski, the “Unabomber,” until I became a Circuit Judge. Kaczynski carried out sixteen bombings (two of which were defused before explosion) over a seventeen-year period, killing three people and injuring twenty-nine. On June 28, 1995, he also threatened to attack a flight out of Los Angeles International Airport. He was apprehended in Montana on April 3, 1996, and charged with federal weapons violations in Montana the following day. On June 18, 1996, he was indicted in California for four bombings that had occurred in Sacramento, and on November 30, 1996, he was indicted in New Jersey for a 1994 bombing that killed an advertising executive. My participation in the case ended when I became a judge of the District of Columbia Circuit in April 1997. On January 22, 1998, after the district court (E.D. Cal.) rejected his request to represent himself, Kaczynski pled guilty to all charges and was sentenced to life imprisonment without the possibility of parole.
- a. I worked on the case from 1995 through March 1997.
 - b. The District Judges were Garland Burrell (E.D. Cal.), Charles Lovell (D. Mont.), and Dickinson Debevoise (D.N.J.).
 - c. Co-counsel:
Robert Cleary
Then – United States Attorney’s Office for the District of
New Jersey
Now – Proskauer Rose
Eleven Times Square
New York, NY 10036
(212) 969-3340

Stephen Freccero
Then – United States Attorney’s Office for the Northern
District of California

Now – Marin County Superior Court
3501 Civic Center Drive
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(415) 444-7020

Steven Lapham
Then – United States Attorney’s Office for the Eastern
District of California
Now – Sacramento County Superior Court
9605 Kiefer Boulevard
Sacramento, CA 95827
(916) 875-5108

Opposing counsel: Quin Denvir
Then – Federal Public Defender of Sacramento
Now – Lightfoot Steingard & Sadowsky LLP
800 Wilshire Boulevard – Suite 1050
Los Angeles, CA 90017
(213) 260-9449

Judy Clarke
Then – Federal Public Defender of Eastern Washington and
Idaho
Now – Clarke & Rice
1010 Second Avenue – Suite 1800
San Diego, CA 92101
(619) 308-8484

Gary Sowards
McBreen & Senior
1900 Avenue of the Stars – 11th Floor
Los Angeles, CA 90067
(312) 552-5300

2. *United States v. McVeigh*, 896 F. Supp. 1549, No. M-95-98 (W.D. Okla. 1995), and *United States v. Nichols*, 897 F. Supp. 542, No. M-95-105 (W.D. Okla. 1995). These cases involved the investigation and prosecution of the perpetrators of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City. Beginning two days after the bombing in April 1995, through the end of May, I was the lead Department of Justice prosecutor on site in Oklahoma City, responsible for emergency coordination of nationwide prosecution efforts and for handling court proceedings in Oklahoma City, including the preliminary hearings of Timothy McVeigh and Terry Nichols.

The magistrate judge found probable cause with respect to both defendants and held both without bond. Thereafter, I helped put in place a long-term prosecution team for the indictment and trial of the case and returned to Washington where I continued to supervise the prosecution. My participation in the case ended when I became a judge of the District of Columbia Circuit in April 1997. McVeigh was subsequently convicted, sentenced to death, and executed. Nichols was convicted and sentenced to life imprisonment.

- a. The bombing occurred on April 19, 1995; the preliminary hearings were held in April and May 1995; the grand jury returned indictments on August 10, 1995. I worked on the case through March 1997.
- b. The preliminary hearings were conducted before United States Magistrate Judge Ronald Howland (W.D. Okla.); the district court proceedings in Oklahoma City were before Judge David L. Russell (W.D. Okla.).

c. Co-counsel: Arlene Johnson (then Joplin)
Then – United States Attorney’s Office for the Western
District of Oklahoma
Now – Oklahoma Court of Criminal Appeals
Oklahoma Judicial Center
2100 North Lincoln Boulevard
Suite 2
Oklahoma City, OK 73105
(405) 556-9600

Donna Bucella
Then – United States Department of Justice
Now – Guidepost Solutions
1130 Connecticut Avenue, NW – Suite 520
Washington, DC 20036
(202) 499-4237

Joseph Hartzler
Then – United States Attorney’s Office for the Western
District of Oklahoma
Now – Office of the Governor
State of Illinois
Springfield, IL 62706
(217) 782-0244

Beth Wilkinson
Then – United States Department of Justice

Now – Wilkinson, Walsh, and Eskovitz
1900 M Street, NW – Suite 800
Washington, DC 20036
(202) 847-4000

Opposing counsel: Stephen Jones
Then – Jones, Wyatt & Roberts
Now – Jones, Otjen & Davis
214-A North Independence
Enid, OK 73701
(580) 242-5500

Michael Tigar
Then – University of Texas School of Law
Now – Duke Law School
210 Science Drive – Box 90360
Durham, NC 27708
(202) 549-4229

3. *United States v. Kelley*, Crim. No. 92-152 (D.D.C. 1992), *aff'd*, 36 F.3d 1118 (D.C. Cir. 1994). This case involved the investigation, prosecution, and appeal of a senior official of the United States Agency for International Development (AID) for a transnational conspiracy to bribe, to defraud the United States, and to obstruct justice in connection with two AID computer contracts in Guatemala and Washington. The bribes were laundered from Guatemalan subcontractors to black-market currency traders to Panamanian shell corporations and, through further financial transactions in the United States, to Kelley. I was the sole prosecutor at trial and argued the appeal in the District of Columbia Circuit. Kelley was convicted after trial and his conviction was affirmed on appeal. Three other participants in the crimes pled guilty.
 - a. I investigated the case during 1990-92 and tried it during July and August of 1992. I argued the appeal in 1993.
 - b. The case was tried before United States District Judge Stanley S. Harris (D.D.C.). The appeal was argued before Circuit Judges Douglas H. Ginsburg and A. Raymond Randolph (D.C. Cir.), and District Judge Hubert Will (N.D. Ill.).
 - c. Opposing counsel: Charles F.C. Ruff (deceased)

Carol Elder Bruce
Then – Covington & Burling
Now – K&L Gates
1601 K Street, NW

Washington, DC 20006
(202) 778-9426

4. *United States v. Richardson et al.*, Crim. Nos. 92-117 through 92-126 (D.D.C. 1992). This case involved a long-term undercover investigation (FBI Operation Inside Track) and prosecution of ten District of Columbia corrections officers and one civilian for smuggling narcotics to inmates in the District of Columbia Jail. The case involved the use of undercover agents and inmate informants, as well as audiotaped and photographed stings. I was the lead prosecutor. Ten of the eleven defendants pled guilty. One went to trial and was convicted after I left the United States Attorney's Office.

a. The case was investigated during 1991-92; the defendants were indicted, pled guilty, and were sentenced in 1992.

b. The case was litigated before United States District Judge Royce Lamberth (D.D.C.).

c. Co-counsel: Wendy Wysong
Then – United States Attorney's Office for the District of Columbia
Now – Clifford Chance
2001 K Street, NW
Washington, DC 20006
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Opposing counsel: Nathan Silver
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5. *United States v. Whitehead, et al.*, Crim. No. 89-231 (D.D.C. 1991), *aff'd*, No. 91-3176, 1992 WL 20639 (D.C. Cir. Feb. 5, 1992). This case involved the investigation and trial of a New York gang trafficking in cocaine and heroin in the District of Columbia. I was sole counsel for the United States at trial. The gang's enforcer went to trial and was convicted of conspiracy to distribute cocaine; the conviction was upheld on appeal. Seven other gang members, including the leader and his principal lieutenant, pled guilty or were convicted in related cases.

- a. The case was investigated during 1989-91 and tried during April 1991.
- b. The case was tried before United States District Judge John H. Pratt (D.D.C.).

- c. Co-counsel: Eileen Mayer
Then – United States Attorney's Office for the District of Columbia
Last Known Address – Internal Revenue Service, Criminal Investigation Division
1111 Constitution Avenue, NW
Washington, DC 20224
(202) 514-7063

Daniel Bernstein (Retired)
Then – United States Attorney’s Office for the District of
Columbia
555 4th Street, NW
Washington, DC 20001
(202) 514-7059

Opposing counsel: Samuel Edgar Wilhite (Deceased)

Michael Olshonsky
1757 U Street, NW
Washington, DC 20009
(202) 276-0046

6. *United States v. Yansane*, Crim. No. 89-240 (1990), *aff’d in substantial part*, No. 90-3235, 1991 WL 216865 (D.C. Cir. Oct. 25, 1991). This case involved the investigation and trial of bank fraud by a Nigerian national. Victims included Riggs Bank and the Embassy of Nigeria. I was sole counsel for the United States at trial. The defendant was tried and convicted, and the conviction was affirmed in substantial part on appeal.
 - a. The case was tried in July 1990.
 - b. The case was tried before United States District Judge June L. Green (D.D.C.).
 - c. Opposing Counsel: Patrick Donahue
18 West Street
Annapolis, MD 21401
(410) 280-2023

7. *United States v. Palmer, et al.*, Crim. No. 89-036 (D.D.C. 1989), *aff’d in substantial part sub nom. United States v. Harris*, 959 F.2d 246 (D.C. Cir. 1992). This case involved the prosecution and trial of a large-scale, violent narcotics organization that imported crack cocaine from New York City and distributed it in District of Columbia housing projects. This was the first mandatory life Continuing Criminal Enterprise case tried in the District. I represented the United States at trial with lead counsel Judith Retchin. The kingpin (Michael Palmer) and four lieutenants were all convicted at trial. Four other members of the organization pled guilty. The case was affirmed in substantial part on appeal. Some of the defendants later had some counts of their convictions vacated and sentences reduced based on intervening judicial decisions concerning firearms offenses and changes to relevant provisions of the U.S. Sentencing Guidelines.

- a. The case was tried during June and July of 1989.
- b. The case was tried before United States District Judge Harold Greene (D.D.C.).
- c. Lead counsel: Judith Retchin
Then – United States Attorney’s Office for the District of Columbia
Now – Superior Court of the District of Columbia
500 Indiana Avenue, NW – Room 6750
Washington, DC 20001
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Opposing counsel: Kenneth Mundy (deceased)

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Michael J. McCarthy
Then – McCarthy & Sullivan
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Christopher Davis
Davis & Davis
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Washington, DC 20036
(202) 234-7300

- 8. *State of Md. Deposit Ins. Fund (MDIF) v. Billman, et al.*, No. 11073 (Cir. Ct., Montgomery County MD 1988), *aff’d in substantial part*, 593 A.2d 684 (Md. Ct. Spec. App. 1991). This case involved the investigation and trial of six former officers and directors of a Maryland savings and loan for breach of fiduciary duty in connection with the operation of a complex tax shelter syndication scheme known as EPIC. Funds were siphoned from the bank to the two principal defendants through a series of payments to parent companies and loans to subsidiaries and limited partnerships. I represented the plaintiff Maryland Deposit Insurance Fund during the investigation and at trial; Neil Dilloff of Piper & Marbury was lead counsel. After a more than four-month jury trial, the six defendants were held liable for \$112 million

in damages to the savings and loan. The jury verdict was affirmed in substantial part on appeal. The United States Attorney's Office for the District of Maryland later convicted the principal defendant of fraud.

a. The case was investigated during 1986-88, and was tried from May until October of 1988.

b. The case was tried before Montgomery County (MD) Circuit Judge James McKenna.

c. Co-counsel: Neil Dilloff
Then – Piper & Marbury
Now – DLA Piper LLP
100 Light Street – Suite 1350
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Alexander Bennett
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Opposing counsel: Mark Tuohey III
Then – Reed Smith
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9. *United States v. Fischbach & Moore, Inc., et al.*, No. CR 83-169C (W.D. Wash.). This case involved the criminal prosecution of the country's five largest electrical contracting companies and their chief executives for an alleged conspiracy to fix prices on nuclear power plants. As an attorney at Arnold & Porter, I argued the legal motions for defendant Commonwealth Electric Company; lead counsel was Richard Wertheimer. All defendants were acquitted on all counts.

a. The case was tried from November 1983 until January 1984.

b. The case was tried before United States District Judge John C. Coughenour (W.D. Wash.).

c. Co-counsel: Richard Wertheimer (Retired)
Then – Arnold & Porter
Now – P.O. Box 1121
Davidson, NC 28036
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Ronald Meister
Cowan, Liebowitz & Latman
114 West 47th Street

New York, NY 10036
(212) 790-9255

Gordon B. Spivack (deceased)
Then – Locke Day & Lord

Jeffrey Slade
Last Known Address – 777 Third Avenue
New York, NY 10007
(212) 935-0800

Opposing counsel: Anthony Nanni
Then – United States Department of Justice, Antitrust
Division
Now – Cadwalader, Wickersham & Taft LLP
700 Sixth Street, NW
Washington, DC 20001
(202) 862-2413

10. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Ins. Co.*, 463 U.S. 29 (1983), *vacating and remanding State Farm Mut. Auto Ins. Co. v. Dep't of Transp.*, 680 F.2d 206 (D.C. Cir. 1982). This case involved a challenge by automobile insurers to the Department of Transportation's decision to rescind a rule requiring the installation of passive restraints (airbags or automatic seatbelts) in automobiles. I represented State Farm Mutual Insurance Company and was on the brief in both the Supreme Court and the District of Columbia Circuit, and on the papers in the agency. James Fitzpatrick of Arnold & Porter was lead counsel and argued the cases. The Supreme Court upheld State Farm's challenge to the rescission, holding that the agency's action was arbitrary and capricious and remanding the case to the agency for further consideration. A modified airbag rule was ultimately issued.

- a. The case was decided by the Department of Transportation in 1981, decided by the D.C. Circuit in 1982, and decided by the Supreme Court in 1983.
- b. The case was litigated before the Supreme Court, the United States Court of Appeals for the D.C. Circuit, and the Department of Transportation.

c. Co-counsel: James F. Fitzpatrick
Arnold & Porter
(Now at) 601 Massachusetts Avenue, NW
Washington, DC 20001
(202) 942-5000

Opposing counsel: Rex Lee, in Supreme Court (deceased)

Lloyd Cutler, in Supreme Court (deceased)

David W. Allen

Last Known Address – National Highway Traffic Safety
Administration

(Now at) 1200 New Jersey Avenue, SE
Washington, DC 20590

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.)

My most significant legal activities are described in the answers above. I have no recollection of ever having performed lobbying activities.

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 taught Advanced Antitrust at Harvard Law School in the 1986 Winter Term. The course covered such topics as antitrust objectives, state action, political speech and petitioning, regulated industries, extraterritorial jurisdiction, antitrust standing, and remedial issues. I have provided the syllabus.

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.

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.

No.

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 Financial Disclosure Report.

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

a. & b. If confirmed, I would resolve any conflict of interest by looking to the letter and spirit of the Code of Conduct for United States Judges (although it is not formally binding on members of the Supreme Court of the United States); the Ethics Reform Act of 1989, 28 U.S.C. § 455; and any other relevant prescriptions. I would seek guidance from judicial ethics officials to structure my financial investments to minimize the potential for conflicts. And I would recuse myself from matters in which I participated while a judge on the court of appeals.

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.

For the past 18 years I have tutored second through fifth grade students at J.O. Wilson Elementary School, 660 K Street, NE, Washington, DC 20002. I have driven to the school approximately twice each month to tutor students in reading and math.

While I was in private practice, I was involved in pro bono matters providing professional assistance to disadvantaged individuals. These included: representation of an African-American stenographer in a claim of racial discrimination against her former employer, the House of Representatives; representation of a mother in a custody dispute; representation of an individual in connection with a minor criminal matter; representation of a prisoner at the request of the United States Court of Appeals for the Fourth Circuit; and representation of anti-apartheid demonstrators arrested outside the Embassy of South Africa. As part of Arnold & Porter's pro bono program, I also advised junior lawyers in their representations on such matters.

In addition, while I was at Arnold & Porter in the 1980s, a young man who worked as a photocopier operator at the firm asked me to help him with his writing. I worked with and mentored him over many years, both while I was in private practice and in the government, from the time we met through his successful graduation from law school and entry into the legal profession.

Finally, when I served as Principal Associate Deputy Attorney General in 1995-96, I helped develop a new pro bono policy for the Justice Department that encouraged and facilitated pro bono and other volunteer service by Department employees, including attorneys, on their own time. The policy subsequently served as the model for policies issued by other federal agencies.

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 29, 2016, I was called by Neil Eggleston, White House Counsel, and Brian Deese, Senior Advisor to the President, to ask whether I was willing to be considered for nomination as an Associate Justice of the Supreme Court. Later that day, I was called by Michael Bosworth, Deputy Counsel to the President; Sarah Baker, Associate Counsel to the President; and Janet Kim, Deputy

Associate Counsel to the President. Between that day and the day of my nomination, I had frequent contact with those individuals, as well as occasional contact with Eric Schultz, Principal Deputy Press Secretary; Jacek Pruski, Principal Deputy Associate Counsel to the President; Rakesh Kilaru, Associate Counsel to the President; and Zealan Hoover, Special Assistant to the Senior Advisor to the President. On March 4, I met with Mr. Eggleston, Mr. Deese, and Mr. Bosworth. Later that day, I also met with Ms. Kim and Mr. Pruski. I was interviewed by the President on March 9. On March 14, 2016, the President called to say that he intended to nominate me to the Supreme Court.

- 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.

AFFIDAVIT

I, MERRICK BRIAN GARLAND, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

5/9/2016
(DATE)

Merrick Brian Garland
(NAME)



Victoria Priscoli
(NOTARY)

District of Columbia : SS
Subscribed and Sworn to before me, in my presence,
this 9th day of May, 2016

Victoria Priscoli
Victoria Priscoli, Notary Public, D.C.
My commission expires 12-14-2019